

Kiama

Art

Society

Incorporated

Constitution

Under the Associations Incorporation Act 2009

December 2013

Part 1 - Preliminary

1. Definitions

(1) In this constitution:

Director-General means the Director-General of the Department of Services, Technology and Administration.

president means: the person holding office under this constitution as president of the Kiama Arts Society Incorporated.

ordinary committee member means a member of the committee who is not an office-bearer of the society.

Secretary means:

- (a) the person holding office under this constitution as secretary of the society, or
- (b) if no such person holds that office - the public officer of the society.

society means Kiama Art Society Incorporated

special general meeting means a general meeting of the society other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*

the Regulation means the *Associations Incorporation Regulation 2010*.

(2) In this constitution:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

2. Objects and Activities

(1) The object of the Kiama Art Society Incorporated is to foster and encourage the development of fine arts and plastic arts and to serve as a meeting body for those interested in such arts.

(2) The activities of the Kiama Art Society Incorporated include:

- holding meetings of members for discussion sessions,
- holding exhibitions of works of members,
- arranging lecturers and demonstrations,
- holding social functions, and
- arranging other activities as deemed relevant to supporting an arts culture within Kiama and district.

Part 2 - Membership

2. Membership generally

(1) A person is eligible to be a member of the society if:

- (a) the person is a natural person, and
- (b) the person has been approved for membership of the society in accordance with clause 3.

(2) A person is taken to be a member of the society if:

- (a) the person is a natural person, and
- (b) the person was:
 - (i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or
 - (ii) in the case of an association that is amalgamated to form the relevant association- a member of that other association immediately before the amalgamation, or
 - (iii) in the case of a registrable corporation that is registered as an association- a member of the registrable corporation immediately before that entity was registered as an association.

(3) A person is taken to be a member of the society if the person was one of the individuals on whose behalf an application for registration of the society under section 6 (1) (a) of the Act was made.

3. Application for membership

(1) An application for membership of the society must be:

- (a) in writing, or in another form approved by the committee, demonstrating commitment to the society, and
- (b) lodged with the secretary of the society.

(2) The secretary must, on payment by the applicant of the annual membership fee as provided for in Clause 8, advise the applicant that their application has been accepted and enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the society.

4. Cessation of membership

A person ceases to be a member of the society if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the society, or
- (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.

5. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the society:

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- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

6. Resignation of membership

(1) A member of the society may resign from membership of the society by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.

(2) If a member of the society ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

7. Register of members

(1) The public officer of the society must establish and maintain a register of members of the society specifying the name and postal or residential address of each person who is a member of the society together with the date on which the person became a member.

(2) The register of members must be kept in New South Wales:

- (a) at the main premises of the society, or
- (b) if the society has no premises, at the society's official address, or
- (c) at the address of the public officer.

(3) A member of the society may seek to obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied for:

- (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the society or other material relating to the society, or
- (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

(4) An officer bearer of the committee will determine whether the request complies with subclause (3), and if so, provide the member with the copy.

8. Fees

A member of the society must pay to the society an annual membership fee of \$2 or, if some other amount is determined by the committee, that other amount:

- (a) except as provided by paragraph (b), before 1 March in each calendar year, or
- (b) if the member becomes a member on or after 1 March in any calendar year - on becoming a member and before 1 March in each succeeding calendar year.

9. Members' liabilities

The liability of a member of the society to contribute towards the payment of the debts and liabilities of the society or the costs, charges and expenses of the winding up of the society is limited to the amount, if any, unpaid by the member in respect of membership of the society as required by clause 8.

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10. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the society, or a dispute between a member or members and the society, is to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

11. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the society:
 - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has wilfully acted in a manner prejudicial to the interests of the society.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the society or suspend the member from membership of the society if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12.
- (6) The expulsion or suspension does not take effect:
 - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the society confirms the resolution under clause 12, whichever is the later.

12. Right of appeal of disciplined member

- (1) A member may appeal to the society in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.

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(3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee which is to convene a general meeting of the society to be held within 28 days after the date on which the secretary received the notice.

(4) At a general meeting of the society convened under subclause (3):

- (a) no business other than the question of the appeal is to be transacted, and
- (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
- (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

(5) The appeal is to be determined by a simple majority of votes cast by members of the society.

Part 3 - The committee

13. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the society in general meeting, the committee:

- (a) is to control and manage the affairs of the society, and
- (b) may exercise all such functions as may be exercised by the society, other than those functions that are required by this constitution to be exercised by a general meeting of members of the society, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the society.

14. Composition and membership of committee

(1) The committee is to consist of:

- (a) the office-bearers of the society, and
- (b) at least 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the society under clause 15.

(2) The total number of committee members is to be not more than 12.

(3) The office-bearers of the society are as follows:

- (a) the president,
- (b) the vice-president,
- (c) the treasurer,
- (d) the secretary.

(4) A committee member may hold up to 2 offices (other than both the president and vice-president offices).

(5) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

15. Election of committee members

(1) Nominations of candidates for election as office-bearers of the society or as ordinary committee members:

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(a) must be made in writing, signed by 2 members of the society and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and

(b) must be delivered to the secretary of the society at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

(2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.

(3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.

(4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

(5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.

(6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.

(7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the society must be a member of the society.

16. Secretary

(1) The secretary of the society must, as soon as practicable after being appointed as secretary, lodge notice with the society of his or her address.

(2) It is the duty of the secretary to keep minutes of:

(a) all appointments of office-bearers and members of the committee, and

(b) the names of members of the committee present at a committee meeting or a general meeting, and

(c) all proceedings at committee meetings and general meetings.

(3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

17. Treasurer

It is the duty of the treasurer of the society to ensure:

(a) that all money due to the society is collected and received and that all payments authorised by the society are made, and

(b) that correct books and accounts are kept showing the financial affairs of the society, including full details of all receipts and expenditure connected with the activities of the society.

18. Casual vacancies

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(1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the society to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

(2) A casual vacancy in the office of a member of the committee occurs if the member:

- (a) dies, or
- (b) ceases to be a member of the society, or
- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 19, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

19. Removal of committee members

(1) The society in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

(2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the society, the secretary or the president may send a copy of the representations to each member of the society or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

20. Committee meetings and quorum

(1) The committee must meet at least 3 times in each period of 12 months at such place and time as the committee may determine.

(2) Additional meetings of the committee may be convened by the president or by any member of the committee.

(3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.

(4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.

(5) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.

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(6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.

(7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

(8) At a meeting of the committee:

- (a) the president or, in the president's absence, the vice-president is to preside, or
- (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

21. Delegation by committee to sub-committee

(1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the society as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:

- (a) this power of delegation, and
- (b) a function which is a duty imposed on the committee by the Act or by any other law.

(2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

(3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.

(5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

(6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

(7) A sub-committee may meet and adjourn as it thinks proper.

22. Voting and decisions

(1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.

(2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Subject to clause 20 (5), the committee may act despite any vacancy on the committee.

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(4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 4 - General meetings

23. Annual general meetings - holding of

(1) The society must hold its annual general meetings:

- (a) within 6 months after the close of the society's financial year, or
- (b) within such later time as may be allowed by the or prescribed by the Regulation.

24. Annual general meetings - calling of and business at

(1) The annual general meeting of the society is, subject to the Act and to Clause 23, to be convened on such date and at such place and time as the committee thinks fit.

(2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- (b) to receive from the committee reports on the activities of the society during the last preceding financial year,
- (c) to elect office-bearers of the society and ordinary committee members,
- (d) to receive and consider any financial statement or report required to be submitted to members under the Act.

(3) An annual general meeting must be specified as such in the notice convening it.

25. Special general meetings - calling of

(1) The committee may, whenever it thinks fit, convene a special general meeting of the society.

(2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the society.

(3) A requisition of members for a special general meeting:

- (a) must state the purpose or purposes of the meeting, and
- (b) must be signed by the members making the requisition, and
- (c) must be lodged with the secretary, and
- (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

(4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

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(5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

26. Notice

(1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the society, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

(2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the society, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

(2) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 24 (2).

(3) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

27. Quorum for general meetings

(1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

(2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.

(3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:

- (a) if convened on the requisition of members, is to be dissolved, and
- (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.

(4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

28. Presiding member

(1) The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the society.

(2) If the president and the vice-president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

29. Adjournment

(1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the society stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

(3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

30. Making of decisions

(1) A question arising at a general meeting of the society is to be determined by either:

- (a) a show of hands, or
- (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot - a written ballot.

(2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the society, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

31. Special resolutions

A special resolution may only be passed by the society in accordance with section 39 of the Act.

32. Voting

(1) On any question arising at a general meeting of the society a member has one vote only.

(2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

(3) A member is not entitled to vote at any general meeting of the society unless all money due and payable by the member to the society has been paid.

(4) A member is not entitled to vote at any general meeting of the society if the member is under 18 years of age.

33. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Note: Schedule 1 of the Act provides that an society's constitution is to address whether members of the society are entitled to vote by proxy at general meetings.

34. Postal ballots

- (1) The society may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 12).
- (2) A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation.

Part 5 - Miscellaneous

35. Insurance

The society may effect and maintain insurance.

36. Funds - source

- (1) The funds of the society are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the society in general meeting, such other sources as the committee determines.
- (2) All money received by the society must be deposited as soon as practicable and without deduction to the credit of the society's bank or other authorised deposit-taking institution account.
- (3) The society must, as soon as practicable after receiving any money, issue an appropriate receipt.

37. Funds - management

- (1) Subject to any resolution passed by the society in general meeting, the funds of the society are to be used in pursuance of the objects of the society in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the society, being members or employees authorised to do so by the committee.

38. Change of name, objects and constitution

An application to the Director-General for registration of a change in the society's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

39. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the society.

40. Inspection of books etc

- (1) The following documents must be open to inspection, free of charge, by a member of the society at any reasonable hour:

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- (a) records, books and other financial documents of the society,
- (b) this constitution,
- (c) minutes of all committee meetings and general meetings of the society.

(2) A member of the society may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

41. Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by facsimile transmission, or
- (d) some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

42. Financial year

The financial year of the society is:

- (a) the period of time commencing 1 January and ending on 31 December 2014, and
- (b) each period of 12 months after the expiration of the previous financial year of the society, commencing on 1 January and ending on the following 31 December.

Note: Schedule 1 of the Act provides that an association's constitution is to address the society's financial year.