

**Constitution of the  
Tomaree Museum  
Association  
Incorporated**

**Version 6.0**

**31st January 2020**

## Version Control

<b>Version</b>	<b>Date</b>	<b>Change</b>
1.0	20 December 2019	First draft version
2.0	27 December 2019	Amended version
3.0	4 January 2020	Amended version
4.0	28 January 2020	Amended version
5.0	29 January 2020	Changed residence of committee membership requirement
6.0	31 January 2020	Incorporate feedback from 30Jan20 meeting including deleting para 4.16 (topic covered in para 6)

## 1. Preliminary

1.1 The name of the organisation shall be “The Tomaree Museum Association Incorporated”.

### 1.2 Definitions

In this Constitution unless the contrary intention appears:

**‘Act’** means the *Associations Incorporation Act 2009 (NSW)* together with the *Associations Incorporation Regulation 2016 (NSW)*.

**‘Association’** means the Tomaree Museum Association.

**‘Constitution’** means this Constitution of the Association.

**‘Committee’** means the body managing the Association and consisting of the Committee Members.

**‘Committee Member’** means a member of the Committee and includes any person acting in that capacity appointed in accordance with this Constitution.

**‘General Meeting’** means the annual or any special general meeting of the Association.

**‘Intellectual Property’** means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Association or any activity of or conducted, promoted or administered by the Association.

**‘Member’** means a Member of the Association under Clause 4.

**‘Objectives’** means the Objectives of the Association in Clause 2.

**‘Public Officer’** means the person appointed to be the public officer of the Association in accordance with the Act.

**‘Register’** means a register of Members kept and maintained by the Secretary.

**‘Regulations’** means the rules and/or resolutions that are of a continuing nature, which deal with administrative matters and functions under the umbrella of this Constitution and which are developed, changed and approved by the Committee.

**‘Secretary’** means (a) the person holding office under this Constitution as Secretary of the Association, or (b) if no such person holds that office, the public officer of the Association.

**‘Special General Meeting’** means a general meeting of the Association other than an annual general meeting.

**‘Special Resolution’** means a Special Resolution defined in Clause 13.

### 1.3 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes Regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and

- (h) a reference to "writing" shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

#### 1.4 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

#### 1.5 The Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Model rules under the Act are expressly displaced by this Constitution.

## 2. Objectives of the Association

2.1. The primary objective of the Association is to develop a Tomaree Museum which:

- (a) Documents, protects and promotes the history and the changing natural environment of Port Stephens;
- (b) Identifies challenges, risks, opportunities and a sustainable future for the region; and
- (c) Advances the culture of the region.

2.2. Sub-objectives are:

- (a) To encourage the study of history of the Tomaree Peninsula and Port Stephens.
- (b) To continue to develop, manage and maintain the Tomaree Museum.
- (c) To promote the compilation of authentic records relating to the Tomaree Peninsula and Port Stephens and of Australia in relation to it.
- (d) To acquire either by purchase, donations or otherwise, and present for use of the Association, books, manuscripts, stamps, coins, print pictures, lantern slides, relics and all such objects and materials as may be considered by the Association to have a bearing on the history of the Tomaree Peninsula and Port Stephens and form, furnish and maintain libraries, picture galleries and archives as adjuncts to the Tomaree Museum.
- (e) To raise funds publicly and through government and local government sources for the purchase, management and housing of such collections and records.
- (f) To make the collections and records available for research by students in accordance with the Association's access policy.
- (g) To promote interchange of information among members of the Association and of the general community by lectures, readings, discussions and exhibitions of historical treasure.
- (h) To stimulate community involvement in the preservation and presentation of Port Stephens heritage.
- (i) To print, publish and circulate journals, periodicals, books, pamphlets and other literary publications as may be seen conducive to the objects of the Association and for educational purposes.
- (j) To publicise the Tomaree Museum and the Association's activities generally.
- (k) To provide social intercourse for members.

- (l) To support other areas of the arts.
  - (m) To carry out such other activities as may be determined as conducive to the attainment of the above objectives.
- 2.3. The Association shall act as a not-for-profit organisation. The assets and income of the organisation shall be applied solely to further its objects and no portion shall be distributed directly or indirectly to the members of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation.

### **3. Powers of the Association**

- 3.1. Solely for furthering the Objectives, the Association has, in addition to the rights, powers and privileges conferred on it under section 19 of the Act, the legal capacity and powers of a company as set out under section 124 of the Corporations Act 2001 (Commonwealth).

### **4. Membership**

- 4.1. Any person shall be entitled to be nominated for membership to the Association; however, the Committee Members will have a residence in Port Stephens. Exceptions to this caveat can apply for persons with specialist skills required by a committee appointment.
- 4.2. Members shall be admitted into one of the following categories:
- (a) Member of the Association; or
  - (b) Associate Member of a Special Purpose Group; or
  - (c) Honorary Life Member of the Association; or
  - (d) Honorary Associate Member of the Association; or
  - (e) Institutional Member of the Association; or
  - (f) Such other class or classes of membership as the Association shall from time to time determine.
- 4.3. An individual person who support the objects of the Association may be admitted as a Member of the Association.
- 4.4. An individual person who support the objects of the Association may be admitted as an Associate Member of a Special Purpose Group.
- 4.5. Honorary Life Members shall be persons who have given outstanding service to the cause of the Association and who are elected to this category of membership by the Committee Members. Honorary Life Members are not required to pay membership fees but retain the privileges of Membership of the Association.
- 4.6. Honorary Associate Members shall be persons invited by the Association, the Chair-Person or his / her delegated nominee to become an Honorary Associate Member for a determined and pre-set period because of service, historical interest or special qualifications likely to assist in carrying out the objects of the Association. Honorary Associate Members shall be exempt from the payment of subscriptions, have all the privileges of membership exclusive of voting and eligibility for office. A register of these members shall be kept, recording the purpose, the date and time commenced and the date and time of completion.
- 4.7. Institutional Members shall be any body corporate or unincorporated association that supports the objects of the Association. An Institutional Member may, by written

- notice, appoint an individual person as its nominee. The nominee shall be eligible to hold office or be a Member of the Association. The nominee shall be entitled to cast the vote and in all other respects represent the Institutional Member at meetings. An Institutional Member is entitled to one vote per membership and membership fees will be payable as pursuant to Clause 4.13.
- 4.8. Members shall have the right to attend, to speak at and vote at any General Meetings of the Association.
  - 4.9. Members shall have the right to be nominated to hold office as a Member of the Committee subject to Clause 4.1.
  - 4.10. Associate Members admitted to Special Purpose Groups within the Association can attend General Meetings of the Association as an observer, but shall have no right to vote at any meeting of the Association, at any election of the Association, or nominate for or hold office as a member of the Committee of the Association. Membership to Special Purpose Groups shall be applied for as in Clause 4.4.
  - 4.11. Special Purpose Groups may be arranged or disbanded at a Meeting of the Committee, by a simple majority.
  - 4.12. Every nomination for any category of membership of the Association shall be dealt with for acceptance or rejection at a Meeting of the Committee following the lodgement of the nomination on the prescribed nomination form.  
The nomination form shall contain the full name, address, contact numbers and e-mail address (where applicable) of the nominee and be signed by the proposer and seconder of the nomination.  
In the event of the rejection of the nomination at a Meeting of the Committee, nominees shall have the right to refer to the matter to a Special Meeting of the Committee for resolution.
  - 4.13. The annual fee for membership of the Tomaree Museum Association Incorporated shall be payable in advance for each ensuing financial year, commencing on the 1st July. Membership fees for the ensuing year will be set at the Annual General Meeting of the Association.
  - 4.14. Where a nomination has been approved at a Meeting of the Committee within the period 1st March to 30th June of any year, and at the discretion of the Committee, the annual fee for membership for the current financial year will be waived.
  - 4.15. All Members whose subscriptions are unpaid by the 30th September in any year, shall thereupon cease to be Members of the Association, except in cases where temporary absence from the district has been notified to the Association, when the Member so absent shall be deemed to be an Honorary Member and so entitled to resume their privileges on renewal of their yearly subscription within three months of their return to the district. Members whose names have been struck off the register for the reason of non-payment of subscription may, however, be re-admitted by consent of the majority of a General Meeting of the Association on payment of all arrears.
  - 4.16. A Register of Members shall be kept by the Association, showing the name, contact details, address and date of commencement of the membership of each Member. Provision for noting the cessation of membership shall also be contained in the register.
  - 4.17. Subject to Clause 4.1, an employee of the Association is entitled to membership of the Association or Associate Membership of any Special Purpose Group established by the Association, but shall have no right to vote at any meeting of the Association, at any election of the Association, or nominate for or hold office as a member of the Committee of the Association.

- 4.18. Staff however may undertake specific duties or be appointed to particular roles as a consequence of their membership of the Association or any Special Purpose Group established by the Association.
- 4.19. A person ceases to be a Member of the Association or of a Special Purpose Group if the person;
  - (a) dies, or
  - (b) resigns membership, or
  - (c) is expelled from the Association or Special Purpose Group as per Section 6.1, or
  - (d) fails to pay the annual membership fee as per Section 4.15.

## **5. Effect of Membership**

- 5.1. Members acknowledge and agree that:
  - (a) this Constitution forms a contract between each of them and the Association and that they are bound by this Constitution and the Regulations;
  - (b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Committee or other entity with delegated authority;
  - (c) by submitting to this Constitution and Regulations they are subject to the jurisdiction of the Association;
  - (d) the Constitution and Regulations are necessary and reasonable for promoting the Objectives; and
  - (e) they are entitled to all benefits, advantages, privileges and service of Association membership.

## **6. Disciplining of Members**

- 6.1. Where the Association is of the opinion that a Member:
  - (a) has persistently refused or neglected to comply with a provision or provisions of these rules; or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association:

The Association may, by resolution;

- i. Expel the Member from the association, or
  - ii. Suspend the Member from membership of the Association for a specified period.
- 6.2. A resolution of the Association under Clause 6.1 is of no effect unless the Association, at a meeting held not earlier than 14 days and no later than 28 days after service on the Member a notice under Clause 6.1 confirms the resolution in accordance with this rule.
- 6.3. Where the Association passes a resolution under Clause 6.1, the Secretary shall, as soon as practicable, cause a notice in writing to be served on the Member:
  - (a) Setting out the resolution of the Association and the grounds on which it is based;
  - (b) Stating that the Member may address the Association at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;
  - (c) Stating the date, place and time of the meeting; and

- (d) Informing the Member that the Member may do either of the following:
  - i. Attend and speak at that meeting; or
  - ii. Submit to the Association at or prior to the date of the meeting written representations relating the resolutions.
- 6.4. At a meeting of the Association held as referred to in Clause 6.3 the Association shall:
  - (a) Give to the Member an opportunity to make oral representations;
  - (b) Give due consideration to any written representations submitted to the Association by the Member at or prior to the meeting; and
  - (c) By resolution whether to confirm or to revoke the resolution.
- 6.5. Where the Association confirms a resolution under Clause 6, the Secretary shall, within 7 days after that confirmation, by notice in writing inform the Member of the fact and the Member's right of appeal under Clause 7.
- 6.6. A resolution confirmed by the Association in Clause 6 does not take effect:
  - (a) Until the expiration of the period within which the Member is entitled to appeal against the resolution where the Member does not exercise the right of appeal within that period; or
  - (b) Where within that period the Member exercises the right of appeal unless and until the Association confirms the resolution pursuant to the Clause 7.4.

## **7. Right of Appeal of Disciplined Member**

- 7.1. A Member may appeal to the Association in a General Meeting against a resolution, which is confirmed under Clause 6.4 within 7 days after notice is served on the member by lodging with the Secretary a notice to that effect.
- 7.2. Upon receipt of a notice from a Member under Clause 7.1, the Secretary shall notify the Chair Person who shall convene a General Meeting of the Association to be held within 20 days after the date which the Secretary received the notice.
- 7.3. At a General Meeting of the Association convened under Clause 7.2:
  - (a) No business other than the question of the appeal shall be transacted;
  - (b) The Secretary (on behalf of the Association), and the Member shall be given the opportunity to state their respective cases orally or in writing or both; and
  - (c) The Members present shall vote by secret ballot on whether the resolution should be confirmed or revoked.
- 7.4. If at the General Meeting the Association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

## **8. Committee**

### **8.1. Powers of the Committee**

Subject to the Act and this Constitution, the business of the Association shall be managed by, and the powers of the Association shall be exercised by, the Committee. In particular, the Committee shall act in accordance with the Association's Objectives and shall operate for the benefit of the Members.

The Office Bearers of the Committee will have power to exercise majority decisions on routine matters (on behalf of the full Committee) whilst keeping the full Committee informed.



## 8.2. Composition of the Committee

- (a) The total number of Committee Members is to be ten (10), comprising six (6) Office Bearers and four (4) Ordinary Association Members.
- (b) The Office Bearers of the Association shall be the:
  - 1. Chair Person;
  - 2. Deputy Chair Person;
  - 3. Secretary (Public Officer);
  - 4. Treasurer;
  - 5. Database and Web Manager; and
  - 6. Historian.
- (c) The Ordinary Association Members of the Committee shall be the:
  - 1. Assistant Secretary;
  - 2. Assistant Historian;
  - 3. Marketing and Public Relations Manager; and
  - 4. Volunteers Manager.

A Committee Member may hold up to two offices, other than both the offices of Chair Person and Deputy Chair Person.

## 8.3. Responsibilities of the Committee

- (a) The responsibilities of the Committee Members will be set down in the Regulations.
- (b) The Committee is authorised to approve expenditure up to a limit of \$5,000. Expenditure above \$5,000 must be approved by Members at a General Meeting of the Association.
- (c) The Committee may allocate specific responsibilities to Ordinary Association Members.

## 8.4. Election and Appointment of Committee Members

- (a) Nominations for Committee positions shall be called for twenty-one (21) days prior to the annual general meeting.
- (b) Nominations must be:
  - i. in writing;
  - ii. certified by the nominee (who must be a voting Member, as defined in Clause 4) expressing their willingness to accept the position for which they are nominated; and
  - iii. delivered to the Secretary not less than seven (7) days before the date fixed for the annual general meeting.
- (c) Elections
  - i. If the number of nominations received is equal to the number of vacancies to be filled, or if there are insufficient nominations received to fill all vacancies on the Committee, then those nominated shall be declared elected, but only if more than half of the votes cast by Members at the Annual General Meeting approve the election.
  - ii. If there are insufficient nominations received to fill all vacancies on the Committee, or if a person is not approved by the majority of Members

under Clause 8.4 (c) i, the positions will be deemed casual vacancies under Clause 15.5.

- iii. If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order for each vacancy on the Committee. The voting will be conducted by secret ballot.

(d) Term of Appointment

- i. Committee Members elected under Clause 8.4 shall be elected for a term of two years. Subject to provisions in this Constitution relating to early retirement or removal of Committee Members, they shall take office on a date after the Annual General Meeting at which they were elected as set down in Regulations, and remain in office until a date after the second Annual General Meeting following as determined by the Committee and set down in Regulations.
- ii. Four (4) Committee Members shall retire in each odd year and four (4) shall retire in each even year until, after two (2) years, the eight (8) original Committee Members have retired after which those Committee Members (or their replacements) who first retired, shall retire and so on. Any retiring member can re-nominate or be re-nominated for any position.
- iii. The sequence of retirements under Clause 8.4 (d) ii to ensure rotational terms shall be determined by the Committee and set down in Regulations.

(e) Vacancies on the Committee

- i. Any casual vacancy occurring in the Committee may be filled from among appropriately qualified persons, on approval by the Committee. Any casual vacancy may only be filled to the next Annual General Meeting under this Constitution.
- ii. Any casual vacancy cannot be filled by a person previously not approved under Clause 8.4 (c).

(f) Vacation of Office

The office of a member of the Committee shall become vacant if the member:

- i. Dies;
- ii. Ceases to be a member of the Association;
- iii. Becomes insolvent under the meaning of the companies (NSW) code;
- iv. Resigns office by notice in writing given to the Secretary;
- v. Becomes of unsound mind or a person or estate is liable to be dealt with in any way under the law relating to mental health; or
- vi. Is absent without notice to the Committee from all meetings of the Committee held during a three-month period.

(g) Committee Members may Act

In the event of a casual vacancy or vacancies in the office of a Committee Member, the remaining Committee Members may act. However, if the number of remaining Committee Members is not sufficient to constitute a quorum at a meeting of the Committee, they may act only for the purpose of increasing the number of Committee Members to a number sufficient to constitute a quorum.

8.5. Meetings of the Committee

(a) Committee to Meet

The Committee shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it may adjourn and otherwise regulate its meetings as it thinks fit. A Committee Member may at any time convene a meeting of the Committee within reasonable time.

(b) Decisions of Association

Subject to this Constitution, questions arising at any meeting of the Committee shall be decided by a majority of votes and a determination of a majority of Committee Members shall for all purposes be deemed a determination of the Committee. All Committee Members shall have one vote on any question (even if they hold two offices under Clause 8.2 (b)). Where voting is equal, the chairperson may exercise a second or casting vote. If the chairperson does not exercise a casting vote, the motion will be lost.

8.6. Notice of Meetings

Unless all Committee Members agree to hold a meeting at shorter notice, not less than fourteen (14) days written notice of the meeting of the Committee shall be given to each Committee Member. The agenda shall be forwarded to each Committee Member not less than four (4) days prior to such meeting.

8.7. Chairperson

The Committee shall appoint a chairperson from among its number. The chairperson shall act as chair of any Committee meeting at which they are present. If the chairperson is not present or is unwilling or unable to preside at a Committee meeting the remaining Committee Members shall appoint another Committee Member to preside as chair for that meeting only.

8.8. Conflict of Interest

A Committee Member shall declare their interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise. They shall, unless otherwise determined by the Committee, absent themselves from discussions of such matters and shall not be entitled to vote in respect of such matters. If the Committee Member casts a vote, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Committee Member to absent themselves from discussions and refrain from voting, the issue should be immediately determined by vote of the Committee. If this is not possible, the matter shall be adjourned or deferred.

8.9. Disclosure of Interests

- (a) The nature of the interest of a Committee Member must be declared at the meeting of the Committee at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Committee at the next meeting of the Committee. If a Committee Member becomes interested in a matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Committee held after the Committee Member becomes interested.
- (b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

#### 8.10. General Disclosure

A general notice stating that a Committee Member is a member of any specified firm or company and that they are 'interested' in all transactions with that firm or company is sufficient declaration under Clause 8.8. After the distribution of the general notice, it is not necessary for the Committee Member to give a special notice regarding any particular transaction with that firm or company.

#### 8.11. Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Committee Member in accordance with Clauses 8.8, 8.9 and/or 8.10 must be recorded in the minutes of the relevant meeting.

### 9. General Meetings

9.1. Special General Meetings of Members shall be held at such times and places as shall be directed by the Committee from time to time.

9.2. The Committee shall, on the requisition of not less than 5 per cent of the total number of Members, convene a Special General Meeting of the Association.

9.3. A requisition of Members for a Special General Meeting:

- (a) Shall state the purpose or purposes of the meeting;
- (b) Shall be signed by the Members making the requisitions;
- (c) Shall 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.

9.4. If the Committee fails to convene a Special General Meeting to be held 1 month after the 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 more than 3 months after that date.

9.5. A Special General Meeting convened by a Member or Members as referred to in Clause 9.4 shall be convened in a manner as nearly as is practicable in the same manner as General Meetings are convened by the Committee and any Member who thereby incurs expense is entitled to be reimbursed by the Association for any expense incurred.

### 10. Annual General Meetings

10.1. The Committee shall, at least once in each calendar year and within a period of three months after the expiration of each financial year of the Association, convene an Annual General Meeting of the Members.

10.2. In addition to any other business which may be conducted at an Annual General Meeting, the business of an Annual General Meeting shall be:

- (a) To confirm the minutes of the last preceding Annual General Meeting and any preceding Special General Meeting held since that meeting.
- (b) To receive the Committee Members' reports regarding the activities of the Committee during the last preceding financial year.
- (c) To receive and consider the Treasurer's financial statements for the year ended 30th June preceding.

- (d) Consider and if necessary, take action with reference to any business or motion of which due notice may have been given or which the majority of those present may determine to entertain, not being inconsistent with the rules of the Association.
- (e) Notice of any business or motion to be discussed at the Annual General Meeting shall be considered due if it be sent to the Secretary fourteen days at least before the date on which the Annual General Meeting shall be called.
- (f) To elect Office Bearers and Ordinary Association Members of the Committee as prescribed at Clause 8:
  - i. The Committee is authorised to fill any vacancies that become apparent during their period of elected office; and
  - ii. the person they so appoint, hold office as a Committee Member till the next Annual General Meeting (AGM).
- (g) To appoint an Auditor.
- (h) To appoint a Public Officer.

## **11. Notice of General Meetings**

- 11.1. Except if the nature of the business proposed to be dealt with at a General Meeting requires a special resolution (Clause 13), the Secretary must, at least fourteen (14) days before the date fixed for the holding of the General Meeting, give a notice to each voting Member, as defined in Clause 4, specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 11.2. If the nature of the business proposed to be dealt with at a general meeting requires a special resolution (Clause 13), the Secretary must, at least twenty-one (21) days before the date fixed for the holding of the General Meeting, cause notice to be given to each voting Member, as defined in Clause 4, specifying the intention to propose the resolution as a special resolution.
- 11.3. Notices of all General Meetings shall be sent to the e-mail addresses appearing in the Association's Register (physical addresses will only be used when no e-mail address has been advised). The Public Officer shall also be entitled to receive notice of all General Meetings. No other person shall be entitled, as of right, to receive notices of General Meetings.
- 11.4. A notice of a General Meeting shall be sent together with:
  - (a) the agenda for the meeting;
  - (b) any notice of motion received from Members entitled to vote; and
  - (c) any background and supporting documents for motions to be discussed at the General Meeting.

## **12. Quorum for General Meetings**

- 12.1. 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.
- 12.2. Ten (10) Members (including proxy votes), other than Committee 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.
- 12.3. In the event of a quorum not being formed within thirty minutes of the hour for which any meeting shall have been called, it shall be in the power of the Members then

present to adjourn such meeting for any period not exceeding seven days and then sine die if no quorum present on the second occasion.

### **13. Resolutions**

13.1. There are two types of resolutions, ordinary and special.

A special resolution is required for:

- (a) changing the Association's name;
- (b) changing the Association's objectives;
- (c) changing the Association's constitution;
- (d) amalgamating with another registered Association or association
- (e) electing a Life Member; or
- (f) voluntarily winding up the Association and distributing property.

An ordinary resolution is any other resolution.

13.2. Passing resolutions

- (a) An ordinary resolution is passed if more than half of the votes cast support it.
- (b) A special resolution is passed if at least three-quarters of the votes cast support it.

### **14. Following General Meetings**

14.1. Following an Annual General Meeting, the Public Officer must lodge the *Annual Summary of Financial Affairs* (form A12-T2) within one (1) month of the Annual General Meeting and no later than 7 months after the end of the Association's financial year, together with payment of the prescribed lodgement fee.

14.2. Following General Meetings, the Public Officer must lodge an application to register a change of name, objectives or constitution with NSW Fair Trading within twenty-eight (28) days of the special resolution being passed.

### **15. Funds**

15.1. General

- (a) The funds of the Association shall be derived from membership fees as determined in accordance with Clause 4.13 of this Constitution and rules together with any fees paid under a contract with the Association and any admission fees, grants, bequests, donations, interest, profits from the holding of events or from the sale of goods, and subject to any resolution passed by the Association, such other sources as the Association determines.
- (b) All money received shall be deposited as soon as practicable and without deduction to the credit of the Association's General Fund.
- (c) The Association shall, as soon as practicable after receiving any money, issue an appropriate receipt.

15.2. Management

- (a) Subject to any resolution passed by the Association, the funds of the Association shall be used in pursuance of the objects of the Association in a manner as the Association determines.

- (b) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two Members of the Committee or employees of the Association, being Members or employees authorised to do so by the Committee.
- (c) Notwithstanding the requirements of Clause 15.2 (b) payments from the Association's General Fund, can be signed and/or authorised by one member of the Committee or one employee of the Association, being Members or employees specifically authorised to do so by the Committee.
- (d) Notwithstanding the requirements of Clause 15.2 (b) payments from any other account established and maintained by the Association, shall be signed and/or authorised by two members of the Committee or by one member of the Committee and an employee of the Association, being Members or employees authorised to do so by the Committee.
- (e) The assets and income of the Association shall be applied solely in furtherance of its above mentioned objectives and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.
- (f) Notwithstanding the requirements of Clause 15.2 (a) the Association may, by resolution, make gifts or donations, by cash or in kind to:
  - i. any local individual or local community organisation or group that has provided the Association with labour, services or materials at either no cost or at a nominal cost; or
  - ii. any local individual or local community organisation or group that seeks to make a positive contribution to the Tomaree community through various projects, festivals, functions, promotions or initiatives; or
  - iii. any local individual or local community organisation that, in the view of the Association, is seeking to promote or enhance the well-being of the community; and
  - iv. local schools for the purpose of annual student awards.
- (g) In general, a donation or sponsorship will only be approved where there is a net benefit to the Association or the Port Stephens Community and where there is no attempt by any Member of the Association or its employees to obtain any undue or inappropriate influence.

### 15.3. Public Gift Fund

- (a) The Association shall have a Public Gift Fund to receive and disburse gifts that have been made by the public (individuals and organisations) to support the museum activities. The Public Gift Fund must comply with section 78AB of the Income Tax Assessment Act 1936. A separate account shall exist solely for use by the Public Gift Fund.
- (b) All gifts, interest on gifts, income derived from donated property, and money obtained from the sale of donated property are to be deposited as soon as practicable and without deduction to the credit of the Public Gift Fund. Interest derived from deposits in the Public Gift Fund is to be deposited to the credit of the Public Gift Fund. No other moneys (including Corporate Sponsorship moneys) are to be deposited to the credit of the Public Gift Fund.
- (c) When gifted artefacts are received by the museum they shall go immediately to the appropriate person for authentication, assessment, accession and their date of receipt. They shall be added to the museum collection solely for museum exhibition purposes only after approval at a Curatorial Meeting.

- (d) The Association shall delegate administration of the Public Gift Fund to the Committee. No member of the Association may receive any payment for any services provided in connection with the administration of the Public Gift Fund.
- (e) All disbursements from the Public Gift Fund shall be made in accordance with the objects of the Association, and shall not be influenced by the expressed preference or interest of a particular donor.
- (f) Statistical data about gifts to the Public Gift Fund are to be made available to the relevant Government Department within four months after the end of the Association's financial year, and in the format required by that Department.
- (g) All payments made by the Association from the Public Gift Fund are to be signed and/or authorised by any two formal signatories as appointed by the Association.
- (h) In the event of the Public Gift Fund being wound up or if endorsement as a deductible gift recipient (if any) is revoked, any surplus assets of the Public Gift Fund, remaining after payment of liabilities attributable to it, shall be transferred to a fund, authority or institution with similar objectives to which income tax deductible gifts can be made and that is on the Register of Cultural or Environmental Organisations maintained by the Australian Government.

#### 15.4. Funds – Other Matters

- (a) Cash or Cheques which incorporate both Gifts and other payments to the Association, are to be initially deposited to the General Fund. The Gift component is to be promptly transferred from the General Fund to the Public Gift Fund.
- (b) All moneys received by the Association shall be deposited without deduction at the earliest possible date to the credit of the Association's General Fund. Receipts for all moneys received shall be issued promptly. Receipts shall show the purpose for which the money was given. Receipts for moneys received into the Public Gift Fund shall include the details necessary to enable taxpayers to substantiate their subsequent claims for tax-deductibility for their gift.

#### 15.5. Authorisation of Accounts for Payment

The status of all accounts that have been received for payment in the current period, shall be presented at each Ordinary Meeting of the Committee and details included in the Minutes of the Meeting.

#### 15.6. Audit

- (a) The Association shall at its Annual General Meeting appoint a person who has not prepared or assisted with the preparation of the accounts and who meets the requirements of the Act, to carry out an annual audit of its financial records, and issue a certificate as to the correctness of such records.
- (b) The appointed auditor shall not:
  - i. Be a member of the Association or any Sub-Committee or Special Purpose Group nor be closely related to a member of the Association, Sub-Committee or Special Purpose Group;
  - ii. Be an employee of the Association;
  - iii. Be a business partner, employer or employee of an Association member; or
  - iv. Be a spouse or dependant of any of the above.
- (c) If a vacancy arises in the position of Auditor before the annual audit has been completed, the Association shall appoint another person who meets the requirements of Clauses 15.6 (a) and 15.7 (b) to carry out the audit.



- (d) The auditor shall examine all accounts, vouchers, receipts, books, etc and furnish a report thereon to the members at the Annual General Meeting. Audits shall be conducted at regular intervals of not more than twelve months.
- (e) The Association shall take reasonable steps to ensure that the audit is completed at least 14 days prior to the Annual General Meeting of the Association
- (f) The financial year of the Association is:
  - i. the period of time commencing on the date of incorporation and ending on the following 30th June; and
  - ii. each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1st July and ending on the following 30th June.

## 16. General

- 16.1. Every Individual Member, Honorary Life Member or the nominee of an Institutional Member shall have one vote. Voting by proxy is permitted.
- (a) Once in every year the accounts of the Association shall be examined and a certificate of correctness shall be given by an auditor, who shall have, at all reasonable times access to all books, papers and documents of the Association. All letters forwarded by the Secretary as a result of a motion passed at a meeting of the Association shall contain an exact copy of such motions in the minute book.
  - (b) No business prospectus, visiting card, advertisement or note heading of a Member of the Association shall bear the title of the Association or a reference to the fact that he is a member thereof. (No member of the Association shall describe him as such or as holding any office or position in connection with the Association or its Sub-Committees upon any printed or published document which does not deal with matter directly concerning the Association or its Sub-Committees).
  - (c) At all meetings, all questions (other than election of Officers) shall be decided by a show of hands, unless a ballot shall be demanded by any five members present. Should any decision by ballot be required, two scrutineers shall be appointed by the meeting.
  - (d) The Statement of Objectives (clause 2), this Constitution and any Regulation made under this Constitution may be altered, rescinded or added to only by special resolution of the Association at an Annual General Meeting or a Special General Meeting called for that purpose, the notice for which resolution having been notified with the call to such meeting.
  - (e) The Association may employ such staff as it considers necessary and under such conditions as are approved by the Association and in accordance with any relevant laws governing employment in the State of NSW. The Association delegates the responsibility for the employment of staff to the Committee.
  - (f) The Association must effect and maintain insurance for Public Liability, Personal Accident / Voluntary Workers, Workers Compensation, Contents and Collection or for any other reason the Association shall from time to time determine or be obliged to hold. The Association delegates the responsibility for insurance to the Committee.
  - (g) As per Clause 10.2 (h) the Association shall appoint a Public Officer at its Annual General Meeting or from time to time in accordance with the requirements of the Act. The Public Officer shall, if not already a Member of the Association, be

entitled to attend meetings of the Association, but if not a Member of the Association, shall have no right to vote. In the event of a vacancy arising in the position of Public Officer whether by removal from office or for any other reason prescribed in the Act, the Association or, if the Association cannot meet, the Committee shall immediately take such steps as are necessary to appoint another person as Public Officer in accordance with the requirements of the Act.

## **17. Common Seal**

- 17.1. The common seal of the Association shall be kept in the custody of the Public Officer.
- 17.2. The common seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal shall be attested by two members of the Committee or one member of the Committee and the Public Officer.

## **18. Records, Books and Documents**

- 18.1. Except as otherwise provided by herein, the Public Officer shall keep in his custody or under his control all records, books and documents relating to the Association.
- 18.2. The records, books and other documents of the Association shall be opened to inspection, free of charge, by any member of the Association at any reasonable hour.

## **19. Delegation by Association to Special Purpose Groups or Sub-Committees**

- 19.1. The Association may, by resolution or instrument in writing, delegate to one or more Special Purpose Groups or Sub-Committees (consisting of such member or members of the Association as the Association thinks fit) the exercise of such of the functions of the Association as are specified in the Constitution, other than:
  - (a) this power of delegation; and
  - (b) a function which is a duty imposed on the Association by the Act or by any other law.
- 19.2. A function the exercise of which has been delegated to a Special Purpose Group or Sub-Committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the Special Purpose Group or Sub-Committee in accordance with the terms of the delegation.
- 19.3. 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 resolution or instrument of delegation.
- 19.4. Despite any delegation under this Clause the Association may continue to exercise any function delegated.
- 19.5. Any resolutions made by Special Purpose Groups or Sub-Committees acting in the exercise of a delegation under this Clause will not have any force or effect until the minutes of the Special Purpose Group or Sub-Committee containing such resolutions are received and adopted at an ordinary meeting of the Committee.
- 19.6. The Association may, by resolution or instrument in writing, revoke wholly or in part any delegation under this clause.
- 19.7. A Special Purpose Group or Sub-Committee may meet and adjourn as it thinks proper.

## **20. Liability of Members**

- 20.1. The Liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the cost, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of membership of the Association as required in Clause 4.13.

## **21. Dissolution**

- 21.1. The Association shall be dissolved in the event of membership of less than five Members or the vote of a three fourths majority of Members present at a Special General Meeting convened to consider such question.
- 21.2. In the event of the organisation being dissolved, all assets that remain after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes, which is charitable at law and which has rules prohibiting the distribution of its assets and income to its members.
- 21.3. If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made.
- (a) The collection is to be dispersed as follows:
- i. Natural Science objects to the Newcastle or other regional Museum;
  - ii. Artworks to the Newcastle Art Gallery or other regional gallery;
  - iii. Library to the Tomaree Library;
  - iv. Balance of Collection to the Newcastle or other regional Museum; and
  - v. All objects on loan to the Museum at the time of dissolution will be returned to the owner or their designate.
- (b) The assets to be dispersed as follows:
- i. Furniture, equipment, fixtures and fittings sold and proceeds donated as decided by the Association;
  - ii. Conservation equipment and supplies to be distributed as decided by the Association;
  - iii. Retail and Wholesale Stock to be sold and proceeds distributed amongst local not-for-profit organisations as decided by the Association.
- (c) Custodial Archives to be returned to owners where possible.
- (d) Gifts of money or property for the principal purpose of the organisation.
- (e) Contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation.
- (f) Money received by the organisation because of such gifts and contributions for the principal purpose of the organisation.

## **22. Regulations**

- 22.1. The Committee may formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Association and the advancement of the objectives of the Association. Such Regulations must be consistent with the Constitution and any policy directives of the Committee.
- 22.2. All Regulations (Clause 22.1) are binding on the Association and all Members.

- 22.3. All Clauses, rules, by-laws and regulations of the Association in force at the date of the approval of this Constitution (as long as such Clauses, rules, by-laws and regulations are not inconsistent with or have been replaced by, this Constitution) shall be deemed to be Regulations and shall continue to apply.
- 22.4. Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins approved by the Committee and prepared and issued by the Committee. The Committee shall take reasonable steps to distribute information in the bulletins to Members. The matters in the bulletins are binding on all Members.