

**McLaren Vale & Districts
War Memorial Hospital
Incorporated**

CONSTITUTION

Operational from 2014

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1. Name

The name of the association is the McLaren Vale & Districts War Memorial Hospital Incorporated, referred to herein as 'the Hospital'.

2. Prescribed Association

The Hospital is a 'Prescribed Association' as defined in the Act.

3. Definitions

annual fee means the fee paid by a person to become a Member of the Hospital

board means the board of management of the Hospital

board meeting means a meeting of the Board held in accordance with these rules

board member means a member of the Board elected or appointed under rule 8

chairperson of a general meeting or Board meeting, means the person chairing the meeting as required under rule 10.1

chief executive officer means the person appointed by the Board as responsible for the administration and management of MVDWMH

executive means collectively, the Chief Executive Officer, the Director of Nursing, the Manager of Hospitality and the Manager of Finance and Administration, responsible for the administration and management of relevant divisions of the MVDWMH

financial year means the 12 month period between 1 July and 30 June

general meeting means a general meeting of Members of the Hospital convened in accordance with these rules

MVDWMH means the business operation of the Hospital

member means a member of the Hospital

member entitled to vote means a member who under rule 6.3(c) is entitled to vote at a general meeting

ordinary resolution means an ordinary resolution as defined in Rule 10.7(b)

policy means the policies and procedures as decided by the Board from time to time and advised to Staff members, Executive, contractors and consultants as appointed by the Hospital

prescribed association means an incorporated association that had gross receipts in that associations previous financial year in excess of an amount as prescribed by regulation, or of a class prescribed by regulation

the Act means the *Associations Incorporation Act 1985* and includes any regulations made under that Act

special resolution means a special resolution as defined in Rule 10.7(a)

staff member means those persons appointed by the Hospital to render services to the MVDWMH

term is, subject to these Rules, two (2) years

4. Objects

- a) To remain incorporated as an association pursuant to the Act. To avoid confusion, this means that the Hospital is to remain membership based with any proceeds of the Hospital being used to further its objectives.
- b) To provide the community with a viable and sustainable health care service.
- c) To develop and maintain a program for the maintenance and development of the MVDWMH and its environs.
- d) To effectively and efficiently administer all facets of the health care service.
- e) To provide an effective system of communication with regard to Hospital activities and facilities.

5. Powers of the Hospital

In addition to the powers conferred by section 25 of the Act, the Hospital shall have the following powers:

- a) To purchase, lease, hire, take in or otherwise acquire and to maintain any kind or vehicle, machinery, medical equipment, furniture or any chattels or other items and all manner of office equipment and stationery and all other things required or which may be deemed necessary or convenient for the purposes of the Hospital.
- b) To sell, exchange, lease, mortgage, hire, dispose of, turn to account or otherwise deal with all or any part of the real and personal property of the Hospital. This power is subject to the requirement that the intention of the Hospital to sell, exchange, lease, mortgage, hire or dispose of assets of anticipated value exceeding \$250,000.00 or any real estate disposal, but excluding Hospital equipment, shall be notified by public advertisement in a local newspaper with sufficient time for a special meeting of Members to be called if deemed necessary by Members under the terms of Rule 10.3.
- c) To purchase, take on lease or in exchange hire or otherwise acquire and maintain any real or personal property and any rights and privileges in relation thereto.
- d) To take over or enter into and conclude any agreements and make or do any deed, act, matter or thing in furtherance of the objects of the Hospital.
- e) To apply for, receive and administer any grant, advance or loan from the State or Commonwealth Governments or from any other source.
- f) To raise, collect, receive, have, hold, administer and dispose of monies in the form of fees, charges, subscriptions, donations, legacies, bequests or as a consequence of fundraising activities of all types or otherwise received from any source whatsoever.
- g) To invest, lend and otherwise deal with the money of the Hospital (including income, as well as capital) not immediately required for the purposes of the Hospital in such manner as may from time to time be determined.
- h) To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- i) To appoint, hire, employ, engage, instruct, dismiss and insure the Executive, officers, managers, staff, consultants and contractors and pay them and any persons for services rendered to the Hospital, salaries, wages, bonuses, gratuities, fees and honoraria.

- j) To establish, maintain, fund, support and otherwise foster, the objects of any institutions or trusts the functions of which are to support any of the objects of the Hospital.
- k) To raise funds and do all such other lawful things as may be incidental or conducive to the attainment of the objects of the Hospital and to the exercise of the powers of the Hospital.
- l) To apply the income and property of the Hospital towards the promotion of the objects of the Hospital.

6. Membership

6.1. Eligibility

Any person aged 18 years or over, who supports the objects of the Hospital is eligible for membership of the Hospital.

6.2. Application for Membership

To become a Member of the Hospital, a person must:

- a) complete the prescribed application for membership form (at Schedule 1); and
- b) pay the Annual Fee.
- c) On commencement of membership, Members agree to be bound by these rules.

6.3. Member Entitlements

Upon the expiration of four weeks from the date of commencement of membership, Members are entitled to:

- a) nominate for election to the Board;
- b) nominate other Members for election to the Board; and
- c) vote at General Meetings.

6.4. Resignation of Membership

A Member may resign from membership of the Hospital by giving written notice to the secretary or public officer of the Hospital. Any resigning Member shall be liable for any outstanding Annual Fee which may be recovered as a debt due to the Hospital.

6.5. Expulsion of a Member

- a) Subject to giving a Member an opportunity to be heard or to make a written submission, the Board may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Hospital.
- b) Particulars of the charge shall be communicated to the Member at least one month before the meeting of the Board at which the matter will be determined.
- c) The determination of the Board shall be communicated to the Member, and in the event of an adverse determination the Member shall, (subject to 6.5d below), cease to be a Member 14 days after the Board has communicated its determination to the Member.
- d) It shall be open to a Member to appeal the expulsion to the Hospital at a general meeting. The intention to appeal shall be communicated to the secretary or public officer of the Hospital within 14 days after the determination of the Board has been communicated to the Member.

- e) In the event of an appeal under 6.5d above, the appellant's membership of the Hospital shall not be terminated unless the determination of the Board to expel the Member is upheld by the Members of the Hospital in general meeting after the appellant has been heard by the Members of the Hospital, and in such event membership will be terminated at the date of the general meeting at which the determination of the Board is upheld.

6.6. Register of Members

A register of Members must be kept and contain:

- a) the name and address of each Member;
- b) the date on which each Member was admitted to the Hospital; and
- c) if applicable, the date of and reason(s) for termination of membership.

7. Annual Fee

- a) The Annual Fee for membership shall be such sum (if any) as the Board shall determine from time to time.
- b) The Annual Fee shall be payable annually on 1 July or at a time that the Board determines.
- c) Any Member whose Annual Fee is outstanding for more than 3 months after the due date for payment shall cease to be a Member of the Hospital, provided always that the Board may reinstate such a person's membership on such terms as it thinks fit. Any outstanding Annual Fee may be recovered as a debt due to the Hospital.

8. The Board

The Board shall be comprised of eight (8) Board Members. The Executive shall attend ex-officio. Staff members who are Members cannot nominate for, or be elected to the Board.

8.1. Powers and Duties

- a) The Board shall:
 - i. elect the Chairperson and Deputy Chairperson;
 - ii. appoint an honorary Medical Officer who shall be legally qualified medical practitioner and who shall be responsible to the Board;
 - iii. appoint advisory and sub-committees as required.

- b) The Board is empowered to make decisions governing and regulating the:
 - i. keeping and payments of accounts;
 - ii. fees to be charged to patients;
 - iii. administration of the Hospital generally;
 - iv. business meetings and transactions of the Board;
 - v. appointment or dismissal of the Executive, Staff, an official contractor or consultant and the determination of the remuneration to be paid to such person;
 - vi. duties of the Executive, Staff, an official contractor or consultant as appointed at Rule 8.1(b)(v);

- vii. alterations, repeal and rescission of any Policy or part of the Policy from time to time as deemed necessary, provided that no such Policy shall be repugnant to these Rules; and
- viii. any other matters deemed necessary by the Board.

8.2. Term of Office

- a) The Term of a Board Member is two (2) years.
- b) Subject to this Constitution, four (4) Board members will retire annually, being the four Board Members who have completed the Term.
- c) Board Members will be eligible for re-election at the end of the Term.

8.3. Appointment

- a) Board Members will be appointed by election at an Annual General Meeting and in the circumstance where there are more nominated candidates than vacant positions, election will be by secret ballot.
- b) Nominations for election or re-election of Members must be on the form included in these Rules at Schedule 2 and be received by the Chief Executive Officer a minimum of fourteen (14) days prior to the Annual General Meeting.
- c) Both the nominators and the person nominated must be Members of the Hospital.
- d) All Members present and entitled to vote shall be entitled to exercise one (1) vote.
- e) In the event of a tie, the position will be decided by lot.
- f) Members who are unable to attend the Annual General Meeting may apply in writing to the Chief Executive Officer for a voting paper up to four (4) days prior to the Annual General Meeting.
- g) Such application must be in writing and signed by the applicant and witnessed by another Member.
- h) The application must be lodged at the offices of the Chief Executive Officer by 5.00pm on the day prior to the Annual General Meeting.

8.4. Casual Vacancies

The Board shall have the power to appoint a Member to fill any casual vacancy occurring on the Board. The appointed Member will hold office, subject to these Rules, for the remainder of the Term of the vacancy being filled. The appointed Member shall be eligible for re-election at the completion of the Term.

8.5. Proceedings of Board

- a) The Board shall meet at least 10 times per year.
- b) A quorum for a meeting of the Board shall be half plus one (1) of the Board Members.
- c) Questions arising at any meeting of the Board shall be decided by a majority of votes, and in the event of equality of votes, the Chairperson shall have a casting vote in addition to a deliberative vote.
- d) No motion shall be carried which has the effect of rescinding a previous resolution of the Board, unless notice of such a motion is given to the Board by including it in the agenda of the next meeting.

- e) A Board Member having a direct or indirect pecuniary interest in a contract or proposed contract with the Hospital must disclose the nature and extent of that interest to the Board as required by the Act, and shall not vote with respect to that contract or proposed contract. The Board Member must disclose the nature and extent of his or her interest in the contract at the next Annual General Meeting of the Hospital.

8.6. Vacation of Office

A Board Member's position will be declared vacant if the member:

- a) dies;
- b) reaches the end of the Term;
- c) resigns by notice in writing to the Chairperson; or
- d) is otherwise disqualified pursuant to Rule 8.7.

8.7. Disqualification of Board Members

The office of a Board Member shall become vacant if a Board Member:

- a) is disqualified from being a Member by the Act
- b) is expelled as a Member under these rules
- c) is absent for three (3) consecutive Board meetings without prior approval of the Board;
- d) becomes of unsound mind;
- e) is convicted of an indictable offence;
- f) fails to disclose any interest in any contract or proposed contract to which the Hospital is a party;
- g) conducts themselves in a manner which the remainder of the Board regards as being contrary to the interests of the Hospital and/or the Board.

9. The Seal

The Hospital shall have a common seal which shall be in the safekeeping of the Chief Executive Officer. The common seal will not be affixed to any document unless by order of the Board. The affixing of the seal will be witnessed by the Chairperson or his duly appointed representative and one other person as authorised by the Board to use the common seal.

10. General Meetings

10.1. Chairperson

The Chairperson, or in his/her absence, the Deputy Chairperson shall preside at all Annual and Special General Meetings of the Hospital and at all meetings of the Board. In the absence of both the Chairperson and the Deputy Chairperson, the Members present at the meeting shall elect a Chairperson to preside at the meeting. The Chairperson shall have a deliberative as well as casting vote.

10.2. Annual General Meetings

- a) The Board shall call an Annual General Meeting in accordance with the Act and these rules to be held no later than 31 October each year.

- b) Members will be notified directly.
- c) The quorum for the Annual General Meeting shall be one-third (1/3) of those Members as recorded on the register of members or twenty (20) Members, whichever is the lesser.
- d) If a quorum is not achieved at the expiration of 20 minutes from the meeting start time as advertised, the meeting shall be deferred to a later date to be determined by the Board.
- e) The order of business at the meeting shall be:
 - i. the confirmation of the minutes of the previous Annual General Meeting and of any Special General Meeting held since that meeting;
 - ii. receive and consider the presented annual report, balance sheet and auditor's report of the Hospital to the year ended 30 June;
 - iii. appoint an auditor;
 - iv. election of Board Members;
 - v. conduct such other business for which fourteen (14) clear days notice in writing has been given by a minimum of twenty (20) Members who are eligible to vote. Any voting as a result of such request shall require a majority of two thirds (2/3) of the vote to prevail;
 - vi. ordinary business shall be decided by a majority of the vote of Members who are eligible to vote. Each Member shall be entitled to vote whether in person or by proxy;
 - vii. correct and full minutes of the Annual General Meeting must be taken and recorded to be available at future meetings.
- f) At least twenty eight (28) days public notice shall be given of the Annual General Meeting by the posting of written notices in public and prominent positions in the Hospital district. In addition one (1) public notice shall appear in the Southern Times Messenger newspaper or its equivalent for the Hospital district at least twenty eight (28) days prior to the Annual General Meeting.

10.3. Special General Meetings

- a) The Board may call a Special General Meeting of the Members at any time.
- b) A Special General Meeting shall be called by resolution of the Board; or
- c) on delivery to the Chief Executive Officer of a request in writing and signed by twenty (20) or more Members. The purpose for holding the Special General Meeting must be specifically stated in the written request and that business only will be discussed at the meeting.
- d) The Special General Meeting shall be publicly advertised in the same manner as the Annual General Meeting.
- e) The Chief Executive Officer shall convene the Special General Meeting within sixty (60) days of receipt of the written request for such meeting.
- f) Members eligible to vote shall have power to deal with any business the subject of which notice has been given.
- g) An eligible Member may vote by proxy at a Special General Meeting in the same manner as for an Annual General Meeting.
- h) The quorum for a Special General Meeting shall be one-third (1/3) of Members as recorded on the register of members or twenty (20) Members eligible to vote, whichever is the lesser.

- i) If a quorum is not achieved at the expiration of 20 minutes from the time specified for commencement of the meeting, the meeting will lapse.
- j) Retention of minutes shall be the same as for the Annual General Meeting.

10.4. Notice of General Meeting

- a) At least 14 days notice of any General Meeting shall be given to Members. The notice shall set out where and when the meeting shall be held, and particulars of the nature and order of the business to be transacted at the General Meeting.
- b) Notice of General Meeting at which a Special Resolution is to be proposed shall be given at least 28 days prior to the date of the meeting.
- c) A notice may be given by the Hospital to any Member by serving the Member with the notice personally, or by sending it by post to the address appearing in the Register of Members.
- d) Where a notice is sent by post:
 - i. the service is effected by properly addressing, prepaying and posting a letter or packet containing the notice; and
 - ii. unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

10.5. Proceedings at General Meetings

- a) Twenty (20) Members present personally or by proxy shall constitute a quorum for the transaction of business at any General Meeting.
- b) If at 20 minutes after the time appointed for the meeting a quorum of Members is not present, a meeting convened upon the requisition of Members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned General Meeting a quorum is not present within 20 minutes of the time appointed for the meeting the Members present shall form a quorum.
- c) Subject to Rule 10.5(d), the Chairperson shall preside as chairperson at a General Meeting.
- d) If the Chairperson is not present within five minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the Members may choose a Board Member or one of their own number to be the chairperson of that meeting.

10.6. Voting at General Meetings

- a) Subject to these Rules, every Member has only one vote at a General Meeting.
- b) Subject to these Rules, a question for decision at a General Meeting, other than a Special Resolution, must be determined by a majority of Members who vote in person or, where proxies are allowed, by proxy at that meeting.
- c) Unless a ballot is demanded by at least five Members, a question for decision at a General Meeting must be determined by a show of hands.
 - i. If a ballot is demanded by at least five Members, it must be conducted in a manner specified by the person presiding and the result of the ballot is the resolution of the meeting on that question.

- ii. A ballot demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other ballot may be conducted at any time before the close of the meeting.

10.7. Special and Ordinary Resolutions

- a) A Special Resolution means a resolution passed at a duly convened meeting of the Hospital or a duly convened meeting of the Board if:
 - i. at least 28 days written notice specifying the intention to propose the resolution as a Special Resolution has been given to all Members of the Hospital or Board Members, as is applicable; and
 - ii. it is passed at a meeting referred to in this paragraph by a majority of not less than three-quarters of such Members or Board Members.
- b) An Ordinary Resolution is a resolution passed by a simple majority at a meeting.

10.8. Proxies

- a) A Member shall be entitled to appoint in writing a natural person who is also a Member of the Hospital to be their proxy, and attend and vote at any general meeting of the Hospital;
- b) Proxy votes for Members eligible to vote must be lodged on the form as included in these Rules at Schedule 3 and be lodged by 5.00pm on the day prior to the meeting at the offices of the Chief Executive Officer.

10.9. Minutes

- a) Proper minutes of all proceedings of General Meetings of the Hospital and of Board Meetings, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- b) The minutes kept pursuant to this rule must be confirmed by the Members of the Hospital or the Board Members (as relevant) at a subsequent meeting.
- c) The minutes kept pursuant to this rule shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting at which the minutes are confirmed.
- d) Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

11. Dispute Resolution

- a) The dispute resolution procedure set out in this rule applies to disputes under these Rules between:
 - i. a Member and another Member;
 - ii. a Member and the Hospital.
- b) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- c) In this rule 'Member' includes any person who was a Member in the six months prior to the dispute.
- d) A dispute may be referred to a community justice centre for mediation.

- e) The rules of natural justice must be observed as provided by section 40 of the Act.

12. Financial reporting

12.1. Financial Year

The financial year shall be a period of 12 months commencing on 1 July and ending on 30 June of each year.

12.2. Accounts to be Kept

The Hospital shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Hospital in accordance with the Act.

12.3. Accounts and Reports

The accounts, together with the auditor's reports on the accounts, the Board's statement and the Board's report, shall be laid before Members at the Annual General Meeting.

12.4. Annual Returns

The annual (periodic) return shall be lodged with Consumer and Business Services within six months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditors report, the Board's statement, and the Board's report.

12.5. Appointment of Auditor

- a) At each Annual General Meeting, the Members shall appoint a person to be auditor of the Hospital which auditor must meet the qualifications pursuant to section 35 of the Act.
- b) The auditor shall hold office until the next Annual General Meeting and is eligible for re-appointment.
- c) If an appointment is not made at an Annual General Meeting, the Board shall appoint an auditor for the current financial year.

13. Public Officer

- a) The Hospital shall have a public officer who shall be the Chief Executive Officer.
- b) If the Chief Executive Officer ceases to hold such office or refuses to act as the public officer the Board shall within fourteen (14) days appoint such other person to be the public officer.
- c) The public officer shall carry out and perform all functions required by a public officer under the Act.

14. Liability of Board Members

Every Board Member shall be indemnified by the Hospital against all liabilities which are incurred in the proper exercise of such persons powers to the extent permissible, under any

relevant law, provided always that this indemnity shall not apply in respect to any act or omission involving dishonest or gross misconduct on the part of the person concerned.

15. Prohibition against Securing Profits for Members

The income and capital of the Hospital shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to Members or their associates except as bona fide remuneration of a Member for services rendered or expenses incurred on behalf of the Hospital.

16. Winding Up

The Hospital may be wound up in the manner provided for in the Act.

17. Application of Surplus Assets

- a) If after the winding up of the Hospital there remains 'surplus assets' as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.
- b) Such organisations shall be identified and determined by a Special Resolution of Members in General Meeting.

18. Rules

These rules may be amended by resolution of three-quarter (3/4) of Members present at an Annual General Meeting or Special General Meeting called for such purpose, provided notice has been given to all Members at least twenty eight (28) days prior to the date of the meeting and in accordance with the procedures specified for Annual General Meetings.