



# **Queanbeyan & District Preschool Association Inc**

## **Constitution**

***Under the Associations Incorporation Act 2009***

**About this constitution:**

The Queanbeyan & District Preschool Association Inc. has adopted a modified version of the model constitution provided by NSW Fair Trading to fit the purposes of the Association's functions and roles.

This constitution was approved by Special General Meeting of the members of the Association on 1 November 2023.

## **Objectives of the Association**

To operate and manage community-based not-for-profit preschool(s) to provide a curriculum of experience which will promote the development and wellbeing of the young children within our community that access our services.

To undertake additional fundraising activities for the purpose of providing funds for additions and/or replacement of equipment, including the operation of a Gift Fund for the purposes of acquisition, construction, and maintenance of preschool buildings.

To encourage parent and community involvement as an essential part of the operation of the preschool(s) so that through frequent and active participation both family and community will work together to achieve the basic aims of the preschool(s).

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# Part 1 Preliminary

## 1 Definitions

(1) In this constitution:

**Association** is the Queanbeyan & District Preschool Association Inc.

**Member** is a member of the Queanbeyan & District Preschool Association Inc.

**Enrolled preschool child** is a child approved to commence, or is currently participating, in the Association's Preschool programs.

**exercise** a function includes perform a duty.

**function** includes a power, authority, or duty.

**office-bearer** means a committee member who is elected to an office referred to in clause 14(1)(a)(i) - (iv).

**ordinary committee member** means a committee member who is not an office-bearer.

**register of members** means the register of members maintained under clause 4.

**secretary**, of the association, means:

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

**Executive officer of the Association** is a person employed by the committee to undertake the management function and operations of all Preschools with the Association.

**Public Officer of the Association** is a person who has responsibilities under the Act for submitting forms and documents to NSW Fair Trading and is the primary contact person for the Association. The Public Officer may but does not need to form part of the committee. The Public Officer is, by virtue of being appointed to that office, an authorised signatory for the Association. The Public Officer must be a resident of NSW. For practical reasons, the Executive Officer may assume this role in accordance with the Act.

**special general meeting**, of the association, means a general meeting of the association other than an annual general meeting.

**subcommittee** means a subcommittee established under clause 20.

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2022*.

**Note:** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this constitution.

(2) The *Interpretation Act 1987* applies to this constitution as if it were an instrument made under the Act.

**Note:** The Act, Part 4 deals with various matters relating to the management of associations.

## **Part 2 Members of association**

### **2 Membership generally**

- (1) An individual is taken to be a member of the association if:
  - (a) the person applied to be a member under clause 3(1) and the application has been approved, or
  - (b) the person was 1 of the individuals on whose behalf an application for registration of the association was made under the Act, section 6(1)(a).
- (2) An individual is eligible to be a member of the Association if:
  - (a) the person is a parent or guardian of an enrolled Preschool child, or
  - (b) the person is a currently employed staff member, or
  - (c) the person is committed to upholding the objectives of the Association and has been nominated and approved for membership of the Association in accordance with clause 3.

### **3 Membership applications**

- (1) An application by a parent or guardian of an enrolled child at Preschool, must be:
  - (a) Made in writing (including by email or other electronic means) by way of enrolment acceptance, and
  - (b) Be accepted once a place for the child is confirmed, and
  - (c) Incur an enrolment levy to be paid in the first payment to the Association for child/children's enrolment.
- (2) An application by a currently employed staff member, must be:
  - (a) Made in writing (including by email or other electronic means) in the form set out in Appendix 1 to this constitution, and
  - (b) Be lodged with the Executive Officer of the Association, and
  - (c) Take effect on payment set out in Clause 5.
- (3) Any other application by a person to be a member of the association must be:
  - (a) made in writing (including by email or other electronic means), and
  - (b) in the form set out in Appendix 2 to this constitution as determined by the committee, and
  - (c) supported by two current members of the Association, and
  - (d) lodged with the executive officer.
- (4) The executive officer must refer an application to the committee as soon as practicable after receiving the application.
- (5) The committee must approve or reject the application.
- (6) As soon as practicable after the committee has decided the application, the executive officer must:
  - (a) give the applicant written notice of the decision, including by email or other electronic means if determined by the committee, and
  - (b) if the application is approved - inform the applicant that the

applicant is required to pay the annual membership fee payable under clause 5 within 28 days of the day the applicant received the notice.

- (7) The executive officer must enter the applicant's name in the register of members as soon as practicable after the applicant pays the annual membership fee in accordance with clause 5 (1).
- (8) The applicant becomes a member once the applicant's name is entered in the register.

#### **4 Register of members**

- (1) The executive officer must establish and maintain a register of members of the association.
- (2) The register:
  - (a) may be in written or electronic form, and
  - (b) must include, for each member:
    - (i) the member's full name, and
    - (ii) a residential, postal or email address, and
    - (iii) the date on which the person became a member, and
    - (iv) if the person ceases to be a member - the date on which the person ceased to be a member, and
  - (c) must be kept in New South Wales:
    - (i) at the association's main premises, or
    - (ii) if the association has no premises - at the association's official address, and
  - (d) must be available for inspection, free of charge, by members at a reasonable time, and
  - (e) if kept in electronic form, must be able to be converted to hard copy.
- (3) If the register is kept in electronic form, the requirements in subclause (2)(c) and (d) apply as if a reference to the register is a reference to a current hard copy of the register.
- (4) A member may obtain a hard copy of the register, or a part of the register, on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that the information not be made available.
- (6) A member must not use information about a member obtained from the register to contact or send material to the member, unless:
  - (a) the information is used to send the member:
    - (i) a newsletter, or
    - (ii) a notice for a meeting or other event relating to the association, or
    - (iii) other material relating to the association, or
  - (b) it is necessary to comply with a requirement of the Act or the Regulation.

## **5 Fees and subscriptions**

- (1) The annual membership fee to be paid to the association by a person whose application to be a member of the association has been approved is:
  - (a) \$1, or
  - (b) another amount determined by the committee.
- (2) Membership for parents or guardians of enrolled preschool children is taken to be from the acceptance of the enrolment until the Annual General Meeting held in the year following the cessation of the enrolment.
- (3) Where preschool children attend for two or more consecutive years, memberships for parents or guardians of those children is also to be paid within the enrolment levy for the subsequent year, and is in place until the Annual General Meeting held in the year following the cessation of the enrolment.
- (4) Membership for staff is taken to be from the acceptance of their application for membership until the next Annual General Meeting.

## **6 Members' liabilities**

The liability of a member of the association to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 5:

- (a) the debts and liabilities of the association,
- (b) the costs, charges and expenses of the winding up of the association.

## **7 Disciplinary action against members**

- (1) A person may make a complaint to the committee that a member of the association has:
  - (a) failed to comply with a provision of this constitution, or
  - (b) willfully acted in a way prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if the committee considers the complaint is trivial or vexatious.
- (3) If the committee decides to deal with the complaint, the committee must:
  - (a) serve notice of the complaint on the member, and
  - (b) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the committee about the complaint, and
  - (c) consider any submissions made by the member.
- (4) The committee may, by resolution, expel the member from the association or suspend the member's membership if, after considering the complaint, the committee is satisfied that:
  - (a) the facts alleged in the complaint have been proved, and
  - (b) the expulsion or suspension is warranted.
- (5) If the committee expels or suspends the member, the secretary must, within 7 days of that action being taken, give the member written notice

of:

- (a) the action taken, and
  - (b) the reasons given by the committee for taking the action, and
  - (c) the member's right of appeal under clause 8.
- (6) The expulsion or suspension does not take effect until the later of the following:
- (a) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
  - (b) if the member exercises the member's right of appeal within the period - the day the association confirms the resolution under clause 8.

## **8 Right of appeal against disciplinary action**

- (1) A member may appeal against a resolution of the committee under clause 7 by lodging a notice of appeal with the chairperson within 7 days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) The chairperson must notify the committee that the chairperson has received a notice of appeal.
- (4) If notified that a notice has been received, the committee must call a general meeting of the elected committee to be held within 28 days of the day the notice was received.
- (5) At the general meeting:
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the member must be given an opportunity to state the member's case orally or in writing, or both, and
  - (c) the committee must be given the opportunity to state the committee's case orally or in writing, or both, and
  - (d) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the committee members.

## **9 Resolution of internal disputes**

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation where the dispute is unable to be resolved through the Association's policies and procedures:
  - (a) a dispute between 2 or more members of the association, but only if the dispute is between the members in their capacity as members, or
  - (b) a dispute between 1 or more members and the association.
- (2) If the dispute is not resolved by mediation within 3 months of being



referred to the Community Justice Centre, the dispute must be referred to arbitration.

- (3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

## **10 Membership entitlements not transferable**

A right, privilege or obligation that a person has because the person is a member of the association:

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of the association.

## **11 Member resignation**

- (1) A member of the association may resign from being a member by giving the secretary written notice of at least 1 month, or another period determined by the committee, of the member's intention to resign.
- (2) The member ceases to be a member on the expiration of the notice period.
- (3) The executive officer must make an appropriate entry in the register of members recording the date on which the member ceased to be member of the Association.

## **12 Cessation of membership**

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

- (a) dies, or
- (b) resigns from being a member, or
- (c) is expelled from the association, or
- (d) is no longer a parent or guardian of an enrolled child, or
- (e) is no longer a staff member, or
- (f) fails to pay the annual subscription fee payable under clause 5(1) within 3 months of the due date.

# **Part 3 Committee**

## ***Division 1 Constitution***

### **13 Functions of committee**

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

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that may be exercised by the association, other than a function that is required to be exercised by the association in general meeting, and
- (c) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the association, and

- (d) may delegate any of these functions to a staff member of the Association to affect their implementation.

## **14 Composition of committee**

- (1) The committee must have 7 members, as elected in accordance with clause 15, consisting of:
  - (a) the following office-bearers:
    - (i) the chairperson,
    - (ii) the vice-chairperson
    - (iii) the secretary,
    - (iv) the treasurer, and
  - (b) at least 3 ordinary committee members.

**Note** - The Act, section 28 contains requirements relating to membership eligibility and composition of the committee.

- (2) An office-bearer may hold up to 2 offices, other than both the offices of president and vice-president.

## **15 Election of committee members**

- (1) Any member of the association may be nominated as a candidate for election as an office-bearer or ordinary committee member.
- (2) The nomination must be:
  - (a) made in writing, and
  - (b) signed by at least 2 members of the association, not including the candidate, and
  - (c) accompanied by the written consent of the candidate to the nomination, and
  - (d) given to the executive officer at least 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (3) If insufficient nominations are received to fill all vacancies:
  - (a) the candidates nominated are taken to be elected, and
  - (b) a call for further nominations must be made at the meeting.
- (4) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (5) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (6) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (7) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.

## **16 Terms of office**

- (1) There is no maximum number of consecutive terms for which a committee

member may hold office.

- (2) A committee member is expected to retain the role of committee member of the Association for two consecutive years.
- (3) Each member of the committee is, subject to this constitution, to hold office until immediately before the election of the committee members at the Annual General Meeting next following the date of the member's election and is eligible for re-election.

## **17 Vacancies in office**

- (1) A casual vacancy in the office of a committee member arises if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) resigns from office by written notice given to the secretary, or
  - (d) is removed from office by the association under this clause, or
  - (e) is absent from 3 consecutive meetings of the committee without the consent of the committee, or
  - (f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (g) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
  - (i) becomes a mentally incapacitated person.
- (2) The association in general meeting may, by resolution:
  - (a) remove a committee member from office at any time, and
  - (b) appoint another member of the association to hold office for the balance of the committee member's term of office.
- (3) A committee member to whom a proposed resolution referred to in subclause (2) relates may:
  - (a) give a written statement, of a reasonable length, to the president or secretary, and
  - (b) request that the committee send a copy of the statement to each member of the association at least 7 days before the general meeting at which the proposed resolution will be considered.
- (4) If the committee fails to send a copy of a statement received under subclause (3)(a) to each member in accordance with a request made under subclause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (5) The committee may appoint a member of the association to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.
- (6) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

## 18 Secretary

- (1) As soon as practicable after being elected as secretary, the secretary must lodge a notice with the association specifying the secretary's address.
- (2) The secretary must keep minutes of:
  - (a) all elections of committee members, and
  - (b) the names of committee members present at a meeting of the committee or a general meeting, and
  - (c) all proceedings at committee meetings and general meetings.
- (3) The minutes must be:
  - (a) kept in written or electronic form, and
  - (b) for minutes of proceedings at a meeting -signed, in writing or by electronic means, by the Chairperson, and
  - (c) the signature for the chairperson may be transmitted by electronic means.

## 19 Treasurer

The treasurer of the association must ensure—

- (a) all money owed to the association is collected, and
- (b) all payments authorised by the association are made, and
- (c) correct books and accounts are kept showing the financial affairs of the association, including full details of receipts and expenditure relating to the association's activities.

## 20 Delegation to subcommittees

- (1) The committee may:
    - (a) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
    - (b) appoint 1 or more members of the association to be the members of the subcommittee.
  - (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than:
    - (a) this power of delegation, or
    - (b) a duty imposed on the committee by the Act or another law.
- Note:** The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.
- (3) 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.
  - (4) 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.
  - (5) Despite any delegation under this clause, the committee may continue to exercise any function delegated.

- (6) 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.
- (7) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (8) A sub-committee may meet and adjourn as it thinks proper.

## **Division 2    Procedure**

### **21 Committee meetings**

- (1) The committee must meet at least four times in each 12-month period at the place and time determined by the committee.
- (2) Additional meetings of the committee may be called by any committee member.
- (3) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee.

**Note:** The Act, section 30(1) provides that committee meetings may be held as and when the association's constitution requires.

### **22 Notice of committee meeting**

- (1) The executive officer must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business described in the notice, and
  - (b) business that the committee members present at the meeting unanimously agree is urgent business.

### **23 Quorum**

- (1) The quorum for a meeting of the committee is 3 committee members.
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
  - (a) to the same place, and
  - (b) to the same time of the same day in the following week.
- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.
- (5) If the number of committee members is less than the number required to constitute a quorum for a committee meeting, the committee members may appoint 1 or more members of the association as committee members to enable the quorum to be constituted.
- (6) A committee member appointed under subclause (5) holds office,

subject to this constitution, until the next annual general meeting.

- (7) This clause does not apply to the filling of a casual vacancy to which clause 17 applies.

**Note:** The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

## **24 Presiding committee member**

- (1) The following committee member presides at a meeting of the committee:
  - (a) The chairperson,
  - (b) if the chairperson is absent - the vice-chairperson,
  - (c) if both the chairperson and vice-chairperson are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

## **25 Voting**

- (1) 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.
- (2) All members of the committee or sub-committee must declare to the meeting any situation constituting a conflict of interest, or one that could give rise to a conflict of interest.
- (3) A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

## **26 Acts valid despite vacancies or defects**

- (1) Subject to clause 23(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or subcommittee.

## **27 Transaction of business outside meetings or by telephone or other means**

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other

members.

- (4) A committee meeting may be held at two or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.
- (5) A committee member who participates in a committee meeting using any approved means of technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.
- (6) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).
- (7) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

**Note:** The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 4      General meetings of association**

### **28 Annual general meetings**

- (1) The association must hold the association's first annual general meeting within 18 months of the day the association was registered under the Act.
- (2) The association must hold subsequent annual general meetings within:
  - (a) 6 months of the last day of the association's financial year, or
  - (b) the later period allowed or prescribed in accordance with the Act, section 37(2)(b).
- (3) Subject to the Act and subclauses (1) and (2), the annual general meeting is to be held at the place and time determined by the committee.
- (4) An annual general meeting must be specified as that type of meeting in the notice convening it.
- (5) The business that may be transacted at an annual general meeting includes the following:
  - (a) confirming the minutes of the previous annual general meeting and any special general meetings held since the previous annual general meeting,
  - (b) receiving reports from the committee on the association's activities during the previous financial year,
  - (c) electing office-bearers and ordinary committee members,
  - (d) receiving and considering financial statements or reports required to be submitted to members of the association under the Act.

**Note:** The Act, section 37(1) and (2) provides for when annual general meetings must be held.

## **29 Special general meetings**

- (1) The committee may call a special general meeting whenever the committee thinks fit.
- (2) The committee must call a special general meeting if the committee receives a request made by at least 5% of the total number of members.
- (3) The request:
  - (a) must be in writing, and
  - (b) must state the purpose of the meeting, and
  - (c) must be signed by the members making the request, and
  - (d) may consist of more than 1 document in a similar form signed by 1 or more members, and
  - (e) must be lodged with the secretary, and
  - (f) may be in electronic form and signed and lodged by electronic means.
- (4) If the committee fails to call a special general meeting within 1 month of the request being lodged, 1 or more of the members who made the request may call a special general meeting to be held within 3 months of the date the request was lodged.
- (5) A special general meeting held under subclause (4) must be conducted, as far as practicable, in the same way as a general meeting called by the committee.

## **30 Notice of general meeting**

- (1) The executive officer must give each member notice of a general meeting:
  - (a) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
  - (b) otherwise - at least 14 days before the meeting.
- (2) The notice must specify:
  - (a) the place and time at which the meeting will be held, and
  - (b) the nature of the business to be transacted at the meeting, and
  - (c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
  - (d) for an annual general meeting - that the meeting to be held is an annual general meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business specified in the notice, and
  - (b) for an annual general meeting - business referred to in clause 28(4).
- (4) A member may give written notice to the chairperson of any business the member wishes to raise at a general meeting.
- (5) If the chairperson receives a notice under subclause (4), the chairperson must specify the nature of the business in the next notice calling a general meeting.



### **31 Quorum**

- (1) The quorum for a general meeting is 5 members of the association entitled to vote under this constitution.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
  - (a) if called on the request of members - is dissolved, or
  - (b) otherwise - is adjourned:
    - (i) to the same time of the same day in the following week, and
    - (ii) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least 1 day before the adjourned meeting.
- (4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least 3 members present, the members present constitute a quorum.

### **32 Adjourned meetings**

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.
- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the executive officer must give each member oral or written notice, at least 1 day before the adjourned meeting, of:
  - (a) the time and place at which the adjourned meeting will be held, and
  - (b) the nature of the business to be transacted at the adjourned meeting.

### **33 Presiding member**

- (1) The following member presides at a general meeting:
  - (a) the chairperson,
  - (b) if the chairperson is absent - the vice-chairperson,
  - (c) if both the chairperson and vice-chairperson are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

### **34 Voting**

- (1) A member is not entitled to vote at a general meeting unless the member:
  - (a) is at least 18 years of age, and
  - (b) has paid all money owed by the member to the association.

- (2) Each member has 1 vote, except as provided by clause 33(2)(b).
- (3) A question raised at the meeting must be decided by:
  - (a) a show of hands, or
  - (b) if clause 36 applies - an appropriate method as determined by the committee, or
  - (c) a written ballot, but only if:
    - (i) the member presiding at the meeting moves that the question be decided by ballot, or
    - (ii) at least 5 members agree the question should be determined by ballot.
- (4) If a question is decided using a method referred to in subclause (3)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method:
  - (a) a declaration by the member presiding at the meeting,
  - (b) an entry in the association's minute book.
- (5) A written ballot must be conducted in accordance with the directions of the member presiding.
- (6) A member cannot cast a vote by proxy.

### **35 Postal or electronic ballots**

- (1) The association may hold a postal or electronic ballot, as determined by the committee, to decide any matter other than an appeal under clause 8.
- (2) The ballot must be conducted in accordance with Schedule 2 of the Regulation.

### **36 Transaction of business outside meetings or by telephone or other means**

- (1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.
- (2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.
- (3) The association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) A committee meeting may be held at two or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.
- (5) A committee member who participates in a committee meeting using any approved means of technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.
- (6) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of:

- (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).
- (7) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the association.

**Note:** The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.

## Part 5 Administration

### 37 Change of name, objects, or constitution

An application for registration of a change in the association's name, objects or constitution made under the Act, section 10 must be made by:

- (a) the public officer, or
- (b) a committee member.

### 38 Funds

- (1) Subject to a resolution passed by the association, the association's funds may be derived from the following sources only:
  - (a) the annual membership fees payable by members,
  - (b) donations,
  - (c) enrolment levies,
  - (d) government funding, and
  - (e) other sources as determined by the committee.
- (2) Subject to a resolution passed by the association, the association's funds and assets must be used to pursue the association's objects in the way that the committee determines.
- (3) As soon as practicable after receiving money, the association must:
  - (a) deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account, and
  - (b) issue a receipt for the amount of money received to the person from whom the money was received.
- (4) A cheque or other negotiable instrument must be signed by 2 authorised signatories.

**Note:** The Act, section 36 provides for the appointment of authorised signatories.

### 39 Insurance

The association may take out and maintain insurance as appropriate for the association's assets and liabilities.

**Note:** Insurance includes: general public liability; workers compensation insurance; volunteers insurance; indemnity of Management Committee members; asset insurance, and other insurance necessary for the operation of the business.

## 40 Non-profit status

Subject to the Act and the Regulation, the association must not conduct the association's affairs in a way that provides a pecuniary gain for a member of the association.

**Note:** See the Act, section 40.

## 41 Service of notices

- (1) For the purposes of this constitution, a notice may be given to or served on a person:
  - (a) by delivering the notice to the person personally, or
  - (b) by sending the notice by pre-paid post to the address of the person, or
  - (c) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.
- (2) A notice is taken to have been given to or served on a person, unless the contrary is proved:
  - (a) for a notice given or served personally - on the date on which the notice is received by the person, or
  - (b) for a notice sent by pre-paid post - on the date on which the notice would have been delivered in the ordinary course of post, or
  - (c) for a notice sent by electronic transmission:
    - (i) on the date the notice was sent, or
    - (ii) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

## 42 Custody of records and books

Except as otherwise provided by this constitution, all records, books, and other documents relating to the association must be kept in New South Wales:

- (a) at the association's main premises, in the custody of either of the following persons, as determined by the committee:
  - (i) the public officer,
  - (ii) a member of the association, or
- (b) if the association has no premises - at the association's official address, in the custody of the public officer.

## 43 Inspection of records and books

- (1) The following documents must be available for inspection, free of charge, by members of the association on application to the committee, at a reasonable time:
  - (a) this constitution,
  - (b) minutes of committee meetings and general meetings of the association,
  - (c) records, books, and other documents relating to the association.
- (2) A member may inspect a document referred to in subclause (1):

- (a) in hard copy, or
  - (b) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
- (a) that relates to confidential, personal, commercial, employment or legal matters, or
  - (b) if the committee considers it would be prejudicial to the interests of the association for the member to do so.

#### **44 Financial year**

The association's financial year is:

- (a) the period commencing on the date of incorporation of the association and ending on the following 31 December, and
- (b) each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1 January and ending on the following 31 December.

**Note:** The Regulation, section 21 contains a substitute clause 44 for certain associations incorporated under the *Associations Incorporation Act 1984*.

#### **45 Distribution of property on winding up**

- (1) Subject to the Act and the Regulation, in a winding up of the association, the surplus property of the association must be transferred to another organisation:
- (a) with similar objects, and
  - (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause:
- surplus property** has the same meaning as in the Act, section 65.

#### **46 Amending the Constitution**

The constitution may be amended by resolution at a special general meeting called in accordance with clauses 27 and 29 providing:

- (a) the draft amended constitution is available to each member for comment for a period of 14 days, and
- (b) the resolution passes if 75% of the members attending the special general meeting vote in favour of the amendment(s).

**Appendix 1** - Application referred to in clause 3(2)(a)

**Nomination for membership of the  
Queanbeyan & District Preschool Association Inc.  
for currently employed staff members  
(non-voting member)**

I, .....  
[full name of applicant]

of .....  
[address]

apply to become a member of the Queanbeyan & District Preschool Association Inc.  
On acceptance, I agree to be bound by the constitution of the Association for the time  
being in force and I am aware that staff are not eligible to vote on any matter.

I have been employed by the Association since: .....

I can be contacted by email at: .....,

or by phone(s) on: .....

.....  
Signature of applicant Date

\*\*\*\*\*

I, .....  
[full name]

the Executive Officer of the Association, accept the applicant for membership of the  
Association.

.....  
Signature of Executive Officer of the Association Date

Amount paid: \$.....

**Appendix 2** - Application referred to in clause 3(3)(b)

**Nomination for membership of the  
Queanbeyan & District Preschool Association Inc.**

I, .....  
[full name of applicant]

of .....  
[address]

apply to become a member of the Queanbeyan & District Preschool Association Inc. In the event of my admission as a member, I agree to be bound by the constitution of the Association for the time being in force.

I can be contacted by email at: .....

or by phone(s) on: .....

My occupation is: .....

.....  
Signature of applicant Date  
\*\*\*\*\*

I, .....  
[full name]

a member of the Association, nominate the applicant for membership of the Association.

.....  
Signature of proposer Date  
\*\*\*\*\*

I, .....  
[full name]

a member of the Association, second the nomination of the applicant for membership of the Association.

.....  
Signature of seconder Date

*The nomination form is to be lodged with the Executive Officer*

\*\*\*\*\*

Approval by the Management Committee Yes / No Date.....

Amount paid: \$..... Date.....



## Appendix 3

### Queanbeyan & District Preschool Association Inc. Confidentiality Agreement

Queanbeyan & District Preschool Association has a significant responsibility to protect the information it holds and encounters in relation to its services, the work it undertakes and its stakeholders. I recognise the importance of using information appropriately and safeguarding information from unauthorised disclosure or use, whether this information is directly related or incidental to my involvement with Queanbeyan & District Preschool Association.

I agree to:

- Ensure that confidential information which is acquired in connection with children, staff, the management committee, or the service will not be disclosed to any person or organisation, unless authorised to do so or legally required to do so in which case the committee will be notified within twenty-four hours.
- Take careful and reasonable measures to secure and maintain the confidentiality of all information at all times. This standard of care relates to all forms of information (e.g., verbal, written, and electronic).
- Return all information in your possession promptly to Queanbeyan & District Preschool Association if requested to do so, including all copies of information, and notes of meetings and conversations.
- Comply with these requirements even after ceasing to be involved with Queanbeyan & District Preschool Association.
- Seek advice from the President of the management committee and/or the service Director where any uncertainty exists in relation to the use, storage, distribution, or security of information.

I understand that if this confidentiality agreement is breached, I may be disciplined by, or expelled from, the association as outlined in the service's constitution.

This agreement is made between Queanbeyan & District Preschool Association and the undersigned.

Signatory's Name: \_\_\_\_\_

(Please Print Name in Full)

Signature: \_\_\_\_\_

Service Delegate: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_





## Appendix 4

# Queanbeyan & District Preschool Association Inc. Conflict of Interest Declaration

### Background

Committee/board members are expected to carry out their roles impartially to contribute to the successful achievement of the organisation's goals. Under the *Association Incorporations Act 2009* strong new measures were introduced to encourage improved governance of incorporated associations. These measures include financial penalties and/or imprisonment for undisclosed conflicts of interest.

### Definition

The *NSW Associations Incorporation Act 2009* defines a conflict of interest as an interest that "appears to raise a conflict with the proper performance of the committee member's duties in relation to the consideration of the matter".

A conflict of interest is any situation in which decision making is influenced by personal, family, financial, business, or other concerns.

### Examples of conflicts of interest

A conflict of interest can be actual, potential, or perceived. A "perceived" conflict of interest, where there is the idea (whether true or not) of dishonest behaviour from a committee member, can be just as damaging to the organisation as an actual conflict.

Examples of potential conflicts of interest include:

- purchasing products from a business in which a committee member has a financial interest,
- being a member of the committee while also working for a government agency that provides funding to the service,
- a committee member sitting on a recruitment selection panel when one of the applicants is a family member or close friend,
- a committee member using information gained in the course of their role as a committee member for their own personal gain.

A potential or perceived conflict of interest needs to be properly managed to ensure that it does not become an actual conflict.

### Registering known conflicts of interest

The *Associations Incorporation Act 2009* requires the committee to keep a book that is specifically for the purpose of recording disclosed conflicts of interest. This should include potential or real conflicts of interest that exist when a committee member joins the committee (to be requested at the time of joining), as well as conflicts of interest that may arise after they have joined. A register includes:

- the name of the individual,
- the nature of the interest they hold,
- the date of the record, and
- if an incident arises as a result of the conflict of interest, the date of the incident and details of how it was managed.

### Managing conflicts of interest

The existence of a conflict of interest does not necessarily exclude a person from committee membership, however the conflict of interest must be declared so that the situation can be effectively managed. The conflict of interest needs to be dealt with transparently, and in a way that protects the best interest of the service.

When a conflict of interest is declared or identified, you need a process for ensuring this is managed. As soon as a committee member identifies that they have a direct or

indirect interest in a matter being considered at a committee meeting, they must disclose and register the nature of the interest. Once the conflict has been identified, the committee member should not:

- be present during any deliberation of the committee with respect to the matter, or
- take part in any decision of the committee with respect to the matter.

In some cases, for example if a committee member is directly related to a member of staff, it can be unworkable for that committee member to be an executive committee member, as they would need to absent themselves from all staffing and pay related discussions and decisions.

**Further information**

Refer to the *Associations Incorporation Act 2009* (particularly Sections 31, 32, 33 and 91) and the NSW Department of Fair-Trading website, or call the CCSA Infoline on free call 1800 991 602, for more.

**Conflict of Interest Register**

Date	Employee/Committee Member Name	Other Party	Possible Conflict	Comments

Signatory's Name: \_\_\_\_\_  
 (Please Print Name in Full)

Signature: \_\_\_\_\_

Service Delegate: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_