

# Constitution

**EATON STREET CENTRE INC.**

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## Part 1- PRELIMINARY

### 1 Definitions and Interpretations

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#### 1.1 Definitions

In this constitution:

**Act** means the *Associations Incorporation Act* (NSW) 2009 as amended from time to time.

**Association** means Eaton Street Centre Inc.

**Centre** means the Eaton Street Centre being the independent out-of-school-hours facility for children in Sydney in the State of New South Wales and includes any centre in the future which may incorporate all or any part of the Eaton Street Centre.

**Committee** means the committee of management of the Association as provided for in **clause 14**.

**Committee Member** means a member of the Committee.

**Director-General** means the Director-General of the Office of Fair Trading.

**Member** means a member of the Association and **Membership** has a corresponding meaning.

**Membership Fee** is the annual fee payable by Members pursuant to **clause 9**.

**President** means the person appointed from time to time as president of the Association to carry out the duties referred to in **clause 17**.

**Public Officer** means the person appointed from time to time to hold the position of public officer as referred to in the Act.

**Regulation** means the *Associations Incorporation Regulation* (NSW) 2010 as amended from time to time.

**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** has the meaning given to it in the Act, as spelt out in **clause 35**.

**Subcommittee** means a subcommittee appointed by the Committee pursuant to **clause 25**.

**Subcommittee Member** means a member of a Subcommittee.

**Treasurer** means the person appointed from time to time as treasurer of the Association to carry out the duties referred to in **clause 20**.

**Vice President** means the person appointed from time to time as vice president of the Association to carry out the duties referred to in **clause 18**.

## 1.2 Interpretation

- (a) In this constitution, unless there is something in the subject or context which is inconsistent:
- (i) the singular includes the plural and vice versa;
  - (ii) each gender includes the other two genders;
  - (iii) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;
  - (iv) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
  - (v) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
  - (vi) a reference to any clause or schedule is to a clause or schedule of this constitution;
  - (vii) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
  - (viii) an expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division;
  - (ix) headings do not form part of or affect the construction or interpretation of this constitution;
  - (x) a reference to a function includes a reference to a power, authority and duty; and
  - (xi) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.
- (b) The provisions of the *Interpretation Act* (NSW) 1987 apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution was an instrument made under the Act.

## Part 2 – OBJECTS

### 2 Objects

- 2.1 The objects of the Association are to:
- (a) provide quality out of school hours care facilities for primary school aged children (i.e. kindergarten to year 6);
  - (b) provide a community based, non-profit service in the Balmain locality; and
  - (c) undertake any activity or object ancillary to the objects referred to in **clauses 2.1(a) to 2.1(b)**.

- 2.2 The income and property of the Association will only be applied towards the promotion of the objects of the Association.
- 2.3 No income or property of the Association will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Association. However nothing in this constitution will prevent payment in good faith to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Association;
  - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Association; or
  - (c) of reasonable and proper rent for premises leased by any Member to the Association.
- 2.4 No payment shall be made to any Committee Member (except any executive Committee Member in their capacity as an employee of the Association) other than the payment:
- (a) of out of pocket expenses incurred by the Committee Member in the performance of any duty as a Committee Member where the amount payable does not exceed an amount previously approved by the Committee;
  - (b) for any service rendered to the Association by the Committee Member in a professional or technical capacity, other than in the capacity as Committee Member, where the provision of the service has the prior approval of the Committee and where the amount payable is approved by the Committee and is not more than an amount which commercially would be reasonable for the service; or
  - (c) for any services rendered to the Association by the Committee Member in their capacity as Committee Member where the amount payable does not exceed the amount which has been determined by the Committee and is not more than an amount which would be reasonable for a committee member of an incorporated association to receive for the services rendered.
- 2.5 The Committee may determine that Committee Members shall pay reduced child care fees to the Centre in lieu of payment for services rendered under **clause 2.4(c)**.

## Part 3 – MEMBERSHIP

### 3 Membership Applications

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- 3.1 A person is qualified to be a Member of the Association if:
- (a) the person is a parent or guardian of a child or children who attend(s) the Centre; and
  - (b) the person is a natural person who has been approved for Membership of the Association by the Committee.

### 4 Application for Membership

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- 4.1 An application by an eligible person for Membership of the Association under **clause 3.1(b)**:

- (a) must be made in writing in the form set out in **Schedule 1** to this constitution; and
  - (b) must be lodged with the Secretary of the Association.
- 4.2 As soon as practicable after receiving an application for Membership, the Secretary must refer the application to the Committee which is to determine whether to approve or to reject the application. The power to approve applications may be delegated to the Secretary.
- 4.3 As soon as practicable after the Committee makes that determination, the Secretary must notify the applicant, in writing, that the Committee approved or rejected the application (whichever is applicable).
- 4.4 As soon as practicable after the Committee makes that determination, the Secretary must, if the Committee approved the application, request the applicant to pay (within the period of twenty eight (28) days after receipt by the applicant of the notification) any sum payable by a Member under this constitution as a Membership Fee and any sum payable as a joining fee, as determined by the Committee from time to time.
- 4.5 If the application has been accepted by the Committee, the Secretary must, on payment by the applicant of any amounts referred to in **clause 4.4** within the period referred to in that provision, enter the applicant's name in the register of Members and, on the name being so entered, the applicant becomes a Member of the Association.

## **5 Cessation of Membership**

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A person ceases to be a Member of the Association if the person:

- (a) dies; or
- (b) resigns, or is deemed to have resigned, from Membership pursuant to **clause 7.2**; or
- (c) is no longer eligible to be a Member as determined by **clause 3.1(a)**; or
- (d) is expelled from the Association pursuant to **clauses 12 and 13**.

## **6 Membership Entitlements**

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- 6.1 A right, privilege or obligation which a person has by reason of being a Member of the Association:
- (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates on cessation of the person's Membership.

## **7 Resignation of Membership**

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- 7.1 A Member of the Association is not entitled to resign that Membership except in accordance with this **clause 0**.
- 7.2 A Member of the Association is deemed to have resigned from Membership of the Association if the Member no longer has a child enrolled at the Centre.

- 7.3 If:
- (a) a Member of the Association has a child enrolled in the Centre and wishes to resign from Membership of the Association; and
  - (b) that Member has paid all amounts payable by the Member to the Association in respect of the Member's Membership, including any outstanding childcare fees;
- the Member may do so by first giving to the Secretary written notice of at least one (1) month (or such other period as the Committee may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- 7.4 If a Member of the Association ceases to be a Member under **clauses 7.2 or 0**, and in every other case where a Member ceases to hold Membership, the Secretary must make an appropriate entry in the register of Members recording the date on which the Member ceased to be a Member.

## **8 Register of Members**

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- 8.1 The Public Officer or Secretary of the Association must establish and maintain a register of Members of the Association specifying the name and address of each person who is a Member of the Association together with the date on which the person became a Member.
- 8.2 The register of Members must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any Member of the Association at any reasonable hour.
- 8.3 A Member of the Association may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the Committee, that other amount.

## **9 Fees**

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- 9.1 A Member of the Association must pay to the Association:
- (a) a joining fee (as the Committee may determine from time to time); and
  - (b) an annual Membership Fee in the amount as determined by the Committee from time to time.
- 9.2 The Committee can determine to charge the Members an additional fee for special festivities or events from time to time.
- 9.3 The Committee may in its discretion:
- (a) determine that no joining fee or annual Membership Fee is payable by a Member or Members (in whole or in part) in a given year; and
  - (b) extend the time for payment of any joining fee or annual Membership Fee by any Member.
- 9.4 No part of any joining fee or annual Membership Fee shall be refunded to a Member who ceases to be a Member in accordance with **clause 5**.



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## 10 Members' liabilities

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The liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, 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, including any outstanding childcare fees.

## 11 Resolution of Internal Disputes

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- 11.1 Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, are to be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act (NSW) 1983*.
- 11.2 At least seven (7) days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

## 12 Disciplining Members

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- 12.1 A complaint may be made to the Committee by any person that a Member of the Association:
- (a) has persistently refused or neglected to comply with a provision or provisions of this constitution; or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association.
- 12.2 The Committee may refuse to deal with such a complaint if it considers the complaint to be trivial or vexatious in nature.
- 12.3 On receiving such a complaint, the Committee:
- (a) must cause notice of the complaint to be served on the Member concerned; and
  - (b) must give the Member at least fourteen (14) days from the time the notice is served within which to make submissions to the Committee in connection with the complaint; and
  - (c) must take into consideration any submissions made by the Member in connection with the complaint.
- 12.4 The Committee may, by resolution, expel the Member from the Association or suspend the Member from Membership of the Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- 12.5 If the Committee expels or suspends a Member, the Secretary must, within seven (7) days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Committee for having taken that action and of the Member's right of appeal under **clause 13**.
- 12.6 The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned; or

- (b) if within that period the Member exercises the right of appeal, unless and until the panel referred to in **clause 13.3** confirms the resolution under **clause 12.4**; whichever is the later.

### **13 Right of appeal of disciplined Member**

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- 13.1 A Member may appeal to the panel referred to in **clause 13.3** against a resolution of the Committee under **clause 12.4**, within seven (7) days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to that effect.
- 13.2 The notice may, but need not, be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.
- 13.3 On receipt of a notice from a Member under **clause 13.1**, the Secretary must notify the Committee, which is to refer the notice to an independent panel of three (3) persons, appointed by the Committee, within twenty eight (28) days after the date on which the Secretary received the notice. When the independent panel considers the appeal:
- (a) no business other than the question of the appeal is to be transacted; and
  - (b) the Committee and the Member must be given the opportunity to state their respective cases orally or in writing, or both; and
  - (c) the independent panel must make a majority decision about the appeal and must notify the Secretary of its decision.

## **Part 4 – THE COMMITTEE**

### **14 Powers of the Committee**

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- 14.1 The Committee, subject to the Act, the Regulation and this constitution and to any resolution passed by the Association in general meeting:
- (a) is to control and govern the affairs of the Association; and
  - (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this constitution to be exercised by a general meeting of Members of the Association; and
  - (c) has power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper governance of the affairs of the Association.

### **15 Committee Membership**

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- 15.1 The Committee will at all times consist of at no less than five (5) and no more than eight (8) Members of the Association.
- 15.2 Each Committee Member will have one of the following offices:
- (a) the President;
  - (b) the Vice President;
  - (c) the Secretary;

- (d) the Treasurer;
- (e) the Staff Liaison Officer;
- (f) the Public Officer; and
- (g) two School Liaison Officers from Balmain Public School and Father John Therry School (or any other school whose students the Centre caters for as determined by the Committee from time to time);

and will be elected by the Members in accordance with **clause 16**.

15.3 The offices of President, Secretary and Treasurer are mandatory.

15.4

- (a) If insufficient Committee Members are elected to fill all of the offices listed in **clause 15.2**, any elected Committee Members may hold two offices as follows:
  - (i) the office of Vice President can be held by any Committee Member other than the President; and
  - (ii) the office of Public Officer may be held by any of the Committee Members, or any other person who is not on the Committee, but has been appointed as such by the Committee.
- (b) Any allocation of additional offices pursuant to **clause 15.4(a)** shall be decided by the Committee.

15.5 Each Committee Member is, subject to this constitution, appointed for a fixed term of one (1) year. Committee Members' terms will commence at the end of the annual general meeting at which they were elected and will expire at the end of the immediately succeeding annual general meeting. Retiring Committee Members are eligible for re-election but cannot serve for more than six (6) consecutive years.

15.6

- (a) Subject to **clause 15.4**, in the event of a casual vacancy occurring in the membership of the Committee, the Committee may appoint a Member of the Association to fill the vacancy, and any person so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (b) Any person appointed in accordance with **clause 15.6(a)**, will be appointed to the same position of office as that of the Member who vacated the position.

15.7 For the purposes of **clause 15.5**, any Committee Member of the Committee which held office at the time of adoption of this constitution, will not have their time spent on the existing Committee count towards the maximum term stipulated by **clause 15.5**.

## **16 Election of Committee Members**

16.1 Nominations of candidates for election as Committee Members can be in accordance with either of the following processes or a combination of both:

- (a) candidates can be nominated prior to the annual general meeting in which case nominations:

- (i) must be made in writing and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
  - (ii) must be delivered to the Secretary of the Association at least seven (7) days before the date fixed for the holding of the annual general meeting at which the election is to take place; or
- (b) candidates can be nominated at the annual general meeting at which the election is to take place, however the candidates must be present at that meeting.
  - (c) Candidates must be existing Members of the Association and must be nominated for a specific office on the Committee.
  - (d) Nominations must be seconded by two (2) other Members.
  - (e) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
  - (f) If insufficient further nominations are received, any vacant positions remaining on the Committee are taken to be casual vacancies.
  - (g) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
  - (h) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
  - (i) A ballot for the election of Committee Members is to be conducted at the annual general meeting in such usual and proper manner as the Committee may direct.

## **17 President**

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17.1 The President will:

- (a) chair Committee meetings;
- (b) establish the agenda for Committee meetings;
- (c) be the spokesperson for the Association at all general meetings;
- (d) be the major point of contact between the Committee and management;
- (e) be kept fully informed of current events by management on all matters which may be of interest to the Committee; and
- (f) regularly review progress on all important initiatives and significant issues facing the Association.

## **18 Vice President**

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18.1 The Vice President will assume the duties of the President in the President's absence.

18.2 The Vice President will assist the President in the performance of the President's duties.

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## 19 Secretary

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- 19.1 The Secretary of the Association must, as soon as practicable after being elected as Secretary, lodge notice with the Association of his or her address.
- 19.2 It is the duty of the Secretary to keep minutes of:
- (a) all appointments of Committee Members and their offices;
  - (b) the names of Committee Members present at a Committee meeting or a general meeting; and
  - (c) all proceedings at Committee meetings and general meetings.
- 19.3 Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

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## 20 Treasurer

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- 20.1 It is the duty of the Treasurer of the Association to ensure that:
- (a) all money due to the Association is collected and received and that all payments authorised by the Association are made; and
  - (b) correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

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## 21 Public Officer

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- 21.1 The Public Officer does not need to be a Committee Member or a Member of the Association.

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## 22 Casual vacancies

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For the purposes of this constitution, a casual vacancy in the office of a Committee Member occurs if the Committee Member:

- (a) dies; or
- (b) ceases to be a Member of the Association; or
- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
- (d) resigns office by notice in writing given to the Secretary; or
- (e) is removed from office under **clause 23**; or
- (f) becomes a mentally incapacitated person; or
- (g) is absent without the consent of the Committee from three consecutive meetings of the Committee; or
- (h) is convicted of an offence involving fraud or dishonesty; or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* (Cth).

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## **23 Removal of Committee Member**

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- 23.1 The Association in general meeting may by Special Resolution remove any elected Committee Member from the office of Committee Member before the expiration of the Committee Member's term of office and must by resolution appoint another person to hold office until the expiration of the term of office of the Committee Member so removed.
- 23.2 If a Committee Member to whom a proposed resolution referred to in **clause 23.1** relates makes representations in writing to the Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the Members of the Association, the Secretary or the President may send a copy of the representations to each Member of the Association. If the representations are not so sent, the Committee Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **24 Committee meetings and quorum**

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- 24.1 The Committee must meet at least four times in each period of twelve (12) months at such place and time as the Committee may determine.
- 24.2 Additional meetings of the Committee may be convened by the President or by two (2) Committee Members.
- 24.3 Oral or written notice of a meeting of the Committee must be given by the Secretary to each Committee Member at least forty eight (48) hours (or such other period as may be unanimously agreed on by the Committee Members) before the time appointed for the holding of the meeting.
- 24.4 Notice of a meeting given under **clause 24.3** must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Committee Members present at the meeting unanimously agree to treat as urgent business.
- 24.5 Any four (4) Committee Members present in person or pursuant to **clause 24.9** constitute a quorum for the transaction of the business of a meeting of the Committee. A quorum must be present throughout the entire meeting.
- 24.6 No business is to be transacted by the Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week, or as otherwise agreed by the Committee Members present.
- 24.7 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to proceed.
- 24.8 At a meeting of the Committee:
- (a) the President or, in the President's absence, the Vice President is to preside; or
  - (b) if the President and the Vice President are absent or unwilling to act, such one of the remaining Committee Members as may be chosen by the Committee Members present at the meeting is to preside.
- 24.9 A meeting of the Committee may be convened at two or more venues using any technology that gives the Committee Members a reasonable opportunity to participate in the meeting.

- 24.10 The Committee may act despite any vacancy in their body but if the number falls below the minimum fixed in accordance with **clause 15.1**, the Committee may act:
- (a) for the purpose of:
    - (i) increasing the number of Committee Members to the minimum; or
    - (ii) convening a general meeting; or
  - (b) in emergencies;
- but for no other purpose.

## **25 Delegation by Committee to Subcommittee**

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- 25.1 The Committee may, by instrument in writing, delegate to one or more Subcommittees (consisting of such Member or Members of the Association or other persons as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than:
- (a) this power of delegation; and
  - (b) a function which is a duty imposed on the Committee by the Act or by any other law.
- 25.2 A function the exercise of which has been delegated to a Subcommittee under this **clause 25** may, while the delegation remains unrevoked, be exercised from time to time by the Subcommittee in accordance with the terms of the delegation.
- 25.3 A delegation under this **clause 25** 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.
- 25.4 Despite any delegation under this **clause 25**, the Committee may continue to exercise any function delegated.
- 25.5 Any act or thing done or suffered by a Subcommittee acting in the exercise of a delegation under this **clause 25** has the same force and effect as it would have if it had been done or suffered by the Committee.
- 25.6 The Committee may, by instrument in writing, revoke wholly or in part any delegation under this **clause 25**.
- 25.7 A Subcommittee may meet and adjourn as it thinks proper.

## **26 Voting and decisions**

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- 26.1 Questions arising at a meeting of the Committee or of any Subcommittee are to be determined by a majority of the votes of Committee Members or Subcommittee Members (as the case may be) present at the meeting.
- 26.2 Each:
- (a) Committee Member present at a meeting of the Committee; and
  - (b) Subcommittee Member present at a meeting of a Subcommittee;

(including the person presiding at that 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.

- 26.3 Subject to **clause 24.5**, the Committee may act despite any vacancy on the Committee.
- 26.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the Committee or by a Subcommittee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Committee Member or Subcommittee Member.

## Part 5 – GENERAL MEETINGS

### 27 Annual general meetings

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- 27.1 Following the adoption of this constitution, the Association must convene an annual general meeting of its Members:
- (a) at least once in each calendar year; and
  - (b) within the period of six (6) months after the expiration of each financial year of the Association.
- 27.2 **Clause 27.1** has effect subject to any extension or permission granted by the Director-General under section 37(2)(b) of the Act.

### 28 Calling of and business at annual general meetings

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- 28.1 The annual general meeting of the Association is, subject to the Act and to **clause 27**, to be convened on such date and at such place and time as the Committee thinks fit.
- 28.2 The annual general meeting of the Association may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.
- 28.3 In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
  - (b) to receive from the Committee reports on the activities of the Association during the last preceding financial year;
  - (c) to elect Committee Members; and
  - (d) to receive and consider any financial statement and auditor's report which is required to be submitted to Members under section 44 of the Act (or, if the Association ceases to be a Tier 1 association under the Act, to receive and consider any financial statement which is required to be submitted to Members under section 48 of the Act).
- 28.4 An annual general meeting must be specified as such in the notice convening it.



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## **29 Calling of special general meetings**

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- 29.1 The Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- 29.2 The Committee must, on the requisition in writing of at least 10 per cent (10%) of the total number of Members, convene a special general meeting of the Association.
- 29.3 A requisition of Members for a special general meeting:
- (a) must state the purpose or purposes of the meeting; and
  - (b) must be signed by the Members making the requisition; and
  - (c) must be lodged with the Secretary; and
  - (d) may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.
- 29.4 If the Committee fails to convene a special general meeting to be held within one (1) month after that date on which a requisition of Members for the meeting is lodged with the Secretary, any one or more of the Members who made the requisition may convene a special general meeting to be held not later than three (3) months after that date.
- 29.5 A special general meeting convened by a Member or Members as referred to in **clause 29.4** must be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee.
- 29.6 A special general meeting of the Association may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.

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## **30 Notice**

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- 30.1 Except if the nature of the business proposed to be dealt with at a general meeting requires a Special Resolution of the Association, the Secretary must, at least fourteen (14) days before the date fixed for the holding of the general meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 30.2 If the nature of the business proposed to be dealt with at a general meeting requires a Special Resolution of the Association, 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 Member specifying, in addition to the matter required under **clause 30.1**, the intention to propose the resolution as a Special Resolution.
- 30.3 No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under **clause 28.3**.
- 30.4 A Member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the Member.

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## **31 Procedure**

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- 31.1 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.
- 31.2 Four (4) Members present in person (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.
- 31.3 If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of Members, is to be dissolved; and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the Meeting is adjourned) at the same place.
- 31.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present are to constitute a quorum.

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## **32 President**

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- 32.1 The President or, in the President's absence, the Vice President, is to preside as chairperson at each general meeting of the Association.
- 32.2 If the President, Vice President and any other Committee Member are absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

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## **33 Adjournment**

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- 33.1 The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 33.2 If a general meeting is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned meeting to each Member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 33.3 Except as provided in **clauses 33.1** and **33.2**, notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

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## **34 Making decisions**

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- 34.1 A question arising at a general meeting of the Association is to be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands,

been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

- 34.2 At a general meeting of the Association, a poll may be demanded by the chairperson or by at least three (3) Members present in person or by proxy at the meeting.
- 34.3 If a poll is demanded at a general meeting, the poll must be taken:
- (a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment; or
  - (b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs;
  - (c) and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

## **35 Special Resolution**

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- 35.1 A resolution of the Association is a Special Resolution:
- (a) if it is passed by a majority which comprises at least three-quarters of such Members of the Association as, being entitled under this constitution so to do, vote in person or by proxy at a general meeting of which at least twenty one (21) days' written notice specifying the intention to propose the resolution as a Special Resolution was given in accordance with this constitution; or
  - (b) where it is made to appear to the Director-General that it is not practicable for the resolution to be passed in the manner specified in **clause 35.1(a)**, if the resolution is passed in a manner specified by the Director-General.

## **36 Voting**

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- 36.1 On any question arising at a general meeting of the Association, a Member has one (1) vote only.
- 36.2 All votes must be given personally or by proxy but no Member may hold more than five (5) proxies. Postal ballots are not permitted.
- 36.3 In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- 36.4 A Member or proxy is not entitled to vote at any general meeting of the Association unless all money due and payable by the Member or proxy to the Association has been paid.

## **37 Appointment of proxies**

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- 37.1 Each Member is to be entitled to appoint another Member as proxy by notice given to the Secretary no later than twenty four (24) hours before the time of the meeting in respect of which the proxy is appointed.
- 37.2 The notice appointing the proxy is to be in the form set out in **Schedule 2** to this constitution.

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## Part 6 – MISCELLANEOUS

### **38 Insurance**

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- 38.1 The Association must effect and maintain the following insurance policies at all times:
- (a) directors' and officers' liability insurance;
  - (b) public risk insurance;
  - (c) professional indemnity insurance;
  - (d) contents insurance;
  - (e) business interruption insurance; and
  - (f) general insurance.

### **39 Source of funds**

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- 39.1 The funds of the Association are to be derived from child care fees, administrative fees, any Membership Fees and any donations, and such other sources as the Committee determines.
- 39.2 All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

### **40 Management of funds**

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- 40.1 Subject to any resolution passed by the Association in general meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Committee determines.
- 40.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by the Public Officer and one other Committee Member or employee of the Association, being a Member or employee authorised to do so by the Committee.

### **41 Alteration of name, objects and clauses**

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- 41.1 The statement of objects and this constitution may be altered, rescinded or added to only by a Special Resolution of the Association.
- 41.2 An application to the Director-General for registration of a change in the Association's name, objects or constitution in accordance with section 10 of the Act is to be made by the Public Officer or a Committee Member.

### **42 Custody of books**

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Except as otherwise provided by this constitution, all records, books and other documents relating to the Association must be kept at the principal place of business of the Association in the custody of the Public Officer or under his or her control.

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## 43 Inspection of books

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- 43.1 The register of Members, this constitution, latest financial reports from the most recent annual general meeting and the minutes of Members' meetings must be open to inspection, free of charge, by a Member of the Association at any reasonable hour.
- 43.2 The Committee will determine from time to time, any additional information that will be open for inspection to a Member of the Association.

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## 44 Service of notices

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- 44.1 For the purpose of this constitution, a notice may be served on or given to a person:
- (a) by delivering it to the person personally; or
  - (b) by sending it by pre-paid post to the address of the person; or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- 44.2 For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee; and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

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## 45 Winding up

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- 45.1 If any surplus remains following the winding up of the Association, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another institution or corporation which has:
- (a) objects which are similar to the objects of the Association;
  - (b) a constitution which requires its income and property to be applied in promoting its objects; and
  - (c) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Association by **clause 2.3**.
- 45.2 The identity of the corporation or institution is to be determined:
- (a) by the Committee; or
  - (b) if the Committee does not decide or does not wish to decide, then by the Members;
- in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court for determination.

## **46 Financial Year**

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The financial year of the Association is each period of twelve (12) months after the expiration of the previous financial year of the Association, commencing on 1 January and ending on the following 31 December.

**Schedule 1**  
**Application for Membership**

**Eaton Street Centre Inc. (*Association*)**

**ABN 23 166 332 159**

(incorporated under the *Associations Incorporation Act (NSW) 2009*)

I, .....  
(full name of applicant)

of .....  
(address)

hereby apply to become a member of the Association. 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, and as subsequently amended from time to time.

.....  
Signature of applicant

Date: .....

**Schedule 2**  
**Eaton Street Centre Inc. (Association)**  
**Form of Appointment of Proxy**

**(Clause 36(2))**

I, .....  
*(full name of applicant)*

of .....  
*(address)*

being a member of Eaton Street Centre Inc.

hereby appoint .....  
*(full name of proxy)*

of .....  
*(address)*

being a Member of that incorporated association, as my proxy to vote for me on my behalf at the general meeting of the Association (annual general meeting or special general meeting, as the case may be) to be held on the

..... day of .....  
*(month and year)*

and at any adjournment of that meeting.

\*My proxy is authorised to vote in favour of/against *(delete as appropriate)* the resolution *(insert details)*.

*\* To be inserted if desired*

.....  
*Signature of Member appointing proxy*

Date: .....

**NOTE:**

A proxy vote may not be given to a person who is not a Member of the Association.