



R S L N S W

Plain English guide to the 2018 RSL NSW draft constitution

In November, RSL NSW will recommend a new and improved constitution to our members for their approval at a Special Congress on 4th December 2018.

Reform of the Constitution is long overdue. It has been added to incrementally over the past 50 years, with approximately 42 constitutional amendment motions in the last 10 years alone. Our legal structure looks much the same as it did in 1965.

With regulations and by-laws, the current Constitution is 716 pages long. It has inconsistencies, errors of fact and law, and is no longer compliant with legislation and regulations that apply to RSL NSW. It is impossible for members to follow and needs to be fixed urgently. The RSL NSW Bill 2018, introduced into the NSW Parliament on 14 August 2018, also mandates some compulsory changes to the way RSL NSW operates.

The Constitution provides the foundation upon which RSL NSW operates. It need not – and cannot – describe every policy, process, or scenario. The 2018 Constitution outlines the purpose of RSL NSW, its structure, what power members and office-holders have to make decisions, and how disputes are resolved.

We also need to fix the current legal structure of the League, which is complex and unworkable, and exposes committee members and trustees to significant personal risk. We have too many layers of administration, which wastes time and money, and deters younger veterans from joining the league. Most importantly, in the current legal structure, everyone is responsible, but no one is accountable. That makes it hard to resume fundraising.

The 2018 RSL NSW Constitution aims to fix these problems, allowing the League to resume fundraising, operate in a more effective and efficient way, and preserve the balance of independence and local control that sub-Branches currently have. If approved by the members, it will let us get on with what we joined the League to do – respect, support, and remember veterans and their families.

This plain English guide will outline the recommended improvements to the Constitution.

Compulsory changes arising from the RSL NSW Act 2018

The Board and directors. RSL NSW State Council will become a Board of Directors, subject to greater conflict of interest scrutiny as well as clearer accountability under the law for governing the League.

- There will be up to eight elected Service Member Directors, and up to two appointed independent Directors. One of the Directors will be elected from amongst the Board as Deputy Chairman.
- The President will be a Service Member director elected to that specific position by individual Service Members of the League (one member-one vote). The President will serve a term of three years and is not be permitted to serve more than two terms as President.
- Directors must have successfully completed company director training, either before joining the Board or within six months of joining the Board. One Director must have accounting qualifications – there will no longer be a separately elected Treasurer.
- Directors will serve a term of three years and will not be permitted to serve more than three terms – nine years in total.
- Once elected, Directors will not hold office at sub-Branch or district level.
- Directors will not be elected to represent a region. Their duty is to act in the best interests of the whole of RSL NSW and their focus will be on strategy, leadership, and governance.

The proposed amendments to the RSL NSW Act 2018 stipulate that the current State Council will become the initial Board of Directors of RSL NSW. Time already served by current State Councillors will be counted towards the maximum total term of Directors.

One member-one vote elections. Elections for leadership positions in RSL NSW will no longer be conducted by a one sub-Branch-one vote system. By no later than 2020, Service Member Directors will be elected by a vote of individual Service Members within the League. To maintain continuity and stability of the Board, Service Member elections will be staggered with a third of Directors vacating their positions on the Board each year. Transitioning to this new system will take some time and additional resources. Membership fee subsidies will no longer be permitted as this could potentially corrupt the integrity of the election process.

Voting at state congress on constitutional and policy matters will continue to be based on the one sub-Branch-one vote system.

Transparency measures. RSL NSW will be required to submit an annual report to the Minister for Veterans Affairs with copies of audited financial statements. Directors of RSL NSW will be subject to a pecuniary interest disclosure process, which ensures that any potential conflicts of interest are declared and appropriately managed.

Execution of RSL NSW documents. Provisions such as the way in which documents are executed have been amended to be consistent with the legislation and modern practice.

RSL National. The constitutional improvements remove inappropriate linkages to the RSL National Constitution and blurred accountabilities. Whilst RSL NSW intends to maintain its association with RSL National, the RSL NSW Board is independently accountable for the League to RSL NSW members and the NSW Parliament.

Remuneration. If RSL NSW members approve, the Act enables the remuneration of Directors at an appropriate rate. Remuneration of Directors is allowed by this Constitution, but only if Congress has approved the payment of remuneration.

Transitional arrangements: Current RSL NSW State Councillors will become the Directors of the RSL NSW Board. Implementation of a one member-one vote system will require the verification of all existing RSL NSW membership records and the contracting of an independent election provider such as the NSW Electoral Commission. The first election under this system will occur in the latter half of 2020 with an election for President and one-third of the Board.

Improvements recommended by RSL NSW – Regional Representation

RSL NSW has recommended several improvements to ensure the Constitution is compliant with the law (particularly charities, fundraising, and taxation law), to modernise the Constitution, and to allow the League to make greater progress for veterans and their families.

Representative Council. The Board must focus on the best interests of RSL NSW as a whole, not the best interests of a particular region. To ensure that regional members are appropriately represented within the League, and their concerns heard, a new body will be created called the Representative Council. The Representative Council will be composed of a non-voting chairman as appointed by the RSL NSW Board, and up to 11 Regional Presidents. The primary role of the Representative Council is to provide formal advice to the RSL NSW Board on member issues and regional concerns. The Board may also delegate responsibilities to the Representative Council, for example the awarding of League life memberships and awards. The Representative Council also provides an important check on the power of the RSL NSW Board – it will have the power to compel an Extraordinary Congress if 75% of the Council’s members so approve. The Representative Council will meet at least twice per year.

Regional Presidents. RSL NSW will have 11 Regions. Individual members in each Region will elect a Regional President for a three-year term. Regional Presidents will represent their Region on the Representative Council, represent the League at high level commemorative events within their Region, and coordinate regional League activities. They will not have a vote at Congress in their capacity as Regional Presidents but will be entitled to attend Congress. Regional Presidents will have the discretion to coordinate their Region as formally or informally as they prefer and will be provided with a travel budget from ANZAC House to enable them to consult and coordinate within their Region and to carry out their commemorative functions. Regional Presidents will be provided with governance training and other relevant training as identified by RSL NSW but are not expected to perform at the level of company directors. Regional Presidents may serve up to two terms – a total of six years.

Transitional arrangements: Currently elected District Council Presidents will be responsible for resolving RSL NSW’s current 23 Districts into 11 Regions. The first election of Regional Presidents under the one member-one vote system will occur in the second half of 2019. At that point District Councils will cease to exist, and monies held by District Councils will be redistributed to sub-Branches in that District.

Improvements recommended by RSL NSW – Subsidiaries, Objects, Membership, Conduct Committee, and Definitions

Objects. The League’s objects have been improved to be simpler and more succinct. Additionally, the League’s objects have been updated to ensure consistency with charities legislation, and to comply with tax exemption categories of significant benefit to the League. The League’s objects must also include the aims and objects of RSL Lifecare.

Definitions. The improved Constitution defines ‘veteran’ in accordance with modern usage and legislation and clarifies categories of military service. In accordance with modern practice, by-laws and regulations are abolished and replaced with operational policies and procedures.

Conduct Committee. The League’s tribunal system for disciplinary matters has been adapted to a Conduct Committee and a mediated dispute-resolution system in compliance with modern practice. Ultimate accountability for conduct-related decisions and membership issues rests appropriately with the RSL NSW Board. A dispute-resolution mechanism has been included to comply with fundraising legislation and regulations.

Membership. The constitutional improvements clarify categories of membership and for the first time incorporates existing Auxiliary members.

Subsidiaries. The improved Constitution discontinues Day Clubs and Youth Clubs so that the league can focus on its core purpose.

Transitional arrangements: RSL Day Clubs will become RSL Lifecare Day Clubs. RSL Youth Clubs will be transitioned to an alternative governance structure.

Improvements recommended by RSL NSW – Legal and operational structure of sub-Branches

The current RSL NSW legal structure is antiquated, complex, inefficient, and unworkable when it comes to charitable operations and fundraising particularly. RSL NSW is (and has been since the 1930s) a statutory corporation, incorporated by an act of the NSW Parliament. Sub-Branches are unincorporated associations, existing independently of RSL NSW. RSL NSW and sub-Branches are legally bound together by the Constitution, which is a contract between the two. This complex arrangement is facilitated by the appointment of sub-Branch Trustees, as well as a corporate trustee: RSL Custodian Pty Ltd.

The current legal relationship creates confusion and practical problems. It requires ANZAC House to micromanage the budget, expenditure, and operations of sub-Branches, which leads to delays and blockages when decisions need to be approved by three layers within the League (sub-Branch members, sub-Branch committees and trustees, and State Council). This workload is also unsustainable at ANZAC House and is not appropriately funded.

RSL NSW is recommending an improved legal structure for the League that gives sub-Branches more choice and control over their operations, and improves accountability, efficiency, and good governance across all levels of the League.

The recommended legal structure preserves the independence of those sub-Branches and does not increase the powers of ANZAC House beyond those already in existence.

The improved Constitution will introduce two models for sub-Branches to choose from. The main difference between these two models is who will be legally accountable for the operations of the sub-Branch. Under both models, funds and property held by sub-Branches will continue to be primarily focused on local communities.

Under both models sub-Branches will continue to hold a charter and will continue to be able to vote on motions at congress on a one sub-Branch-one vote basis.

Model A. Model A sub-Branches have more control over their operations and are fully accountable to authorities and regulators for their own governance. They are called Branches in the draft constitution.

Model A is appropriate for larger sub-Branches that have enough members and resources to be responsible and accountable for their own operations. In order to retain their charter with RSL NSW, Model A sub-Branches must:

- Be accountable for ensuring their own compliance with all legislation and regulations.
- Incorporate as a non-profit, registered charity, company limited by guarantee.
- Elect a Board of three to five Directors who must complete company Director training as designated by RSL NSW. Only Service Members of RSL NSW may be elected as Directors of the company, and only Service Members associated with the sub-Branch may vote for their Directors.
- Set and maintain their own budgets (RSL NSW will no longer review or control Model A sub-Branch budgets).
- Comply with the RSL NSW Constitution and RSL NSW policies.
- Maintain separate registration as a charity with the ACNC, ASIC, and other agencies as appropriate.
- Maintain their own legal, finance, investment, property management, and audit functions – though their Directors may choose to outsource these functions to RSL NSW (or another provider) on a fee-for-service basis.
- Adopt a prescribed Model A sub-Branch constitution, which preserves the existing balance of power between local sub-Branches and ANZAC House.

Once the new Model A sub-Branch Constitution is agreed upon and implemented, two company members of the Model A company limited by guarantee will be appointed: one appointed by the sub-Branch and one appointed by RSL NSW. In this way, future changes to the Model A sub-Branch Constitution can only occur if there is mutual agreement between RSL NSW and the sub-Branch member.

Model B. Model B sub-Branches would prefer to focus on commemoration and welfare activities, and for ANZAC House to be accountable for administration and governance. This model is best for those sub-Branches that may not have enough members or resources to operate as an incorporated company.

Model B sub-Branches will not incorporate but will become chapters within the statutory corporation of RSL NSW. They will not require company directors but will maintain a local organising committee consisting of at least a President, Secretary, and Treasurer. This committee will conduct activities on behalf of the League in their local area. Model B sub-Branches will not be independently registered with ACNC, the Office

of Fair Trading, or ASIC. Administration, legal, finance, investment, property management, and audit functions will be conducted by ANZAC House. In return, the Model B sub-Branch commits to follow the Constitution and policies of RSL NSW and engage in fundraising on the League's behalf.

Common factors to both models. Whichever model sub-Branches choose, they will continue to be required to follow the League's Constitution and policies. Under both models, sub-Branches must use the League's designated accounting and finance system to ensure simple and efficient reports and returns. Model A sub-Branches will retain their own bank accounts, funds, and properties. Model B sub-Branches will have their funds and properties held on their behalf by ANZAC House – but they will remain allocated to the local sub-Branch area.

Congress. Under both Model A and Model B, constitutionally compliant sub-Branches and divisions will retain a charter from RSL NSW which enables them to vote on constitutional and policy issues at the League's annual general meetings. The delegate to congress will be the President of each sub-Branch, who must be a Service Member. Delegates will be able to proxy their vote to another Service or Affiliate Member if required.

Financial Levy. The 60-year-old system of levying fees from sub-Branches based on capitation fees from members is not a sustainable funding model for the League's strategic functions. It will be discontinued. Instead, sub-Branches will be asked to contribute a levy based on annual income to fund key strategic functions of the League delivered by ANZAC House (e.g. membership, head office functions, marketing and recruitment). The amount of this levy will be voted upon annually by delegates to congress based on a recommendation from ANZAC House. It will be in the hands of members to determine what the amount will be.

Transitional arrangements: sub-Branches will have twelve months to choose their preferred model. Sub-Branches will formally elect their preferred option to ANZAC House by late 2019. The new Model A Constitution will commence operations during 2020. Detailed policies and procedures relevant to Model B sub-Branches will also be developed. RSL NSW will require considerable additional resources and staff to assist sub-Branches in transitioning to new arrangements and training sub-Branch and Region leaders.