

The Returned and Services League of Australia (New South Wales Branch)
ABN 78 368 138 161



R S L N S W

CONSTITUTION

“The Price of Liberty is Eternal Vigilance”

Table Of Contents

| | | |
|-----|---|----|
| 1. | RSL NSW | 4 |
| 2. | DEFINITIONS..... | 4 |
| 3. | PURPOSE | 4 |
| 4. | RSL NSW POWERS | 4 |
| 5. | APPLICATION OF INCOME AND PROPERTY | 5 |
| 6. | LIMITED LIABILITY | 5 |
| 7. | AMENDMENTS TO CONSTITUTION..... | 5 |
| 8. | MEMBERS | 6 |
| 9. | RSL NSW BOARD OF DIRECTORS | 8 |
| 10. | REMUNERATION OF DIRECTORS..... | 15 |
| 11. | EXECUTIVE DIRECTOR..... | 16 |
| 12. | CHIEF EXECUTIVE OFFICER | 16 |
| 13. | REGIONAL REPRESENTATION | 17 |
| 14. | SUB-BRANCHES..... | 21 |
| 15. | DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES | 24 |
| 16. | INDEMNITY AND INSURANCE | 25 |
| 17. | EXECUTION OF DOCUMENTS | 26 |
| 18. | WINDING UP AND DISSOLUTION | 26 |
| 19. | RSL NSW POLICIES AND PROCEDURES | 26 |
| 20. | NOTICES..... | 26 |
| 21. | SAVINGS TRANSITIONAL AND CONTINUING PROVISIONS | 27 |
| | APPENDIX A DEFINITIONS AND INTERPRETATION..... | 31 |
| | APPENDIX B MEMBERSHIP | 36 |
| | APPENDIX C – MEMBERS’ MEETINGS CONDUCT AND VOTING PROCEDURE | 39 |
| | APPENDIX D SUB-BRANCHES | 43 |
| | SUB-BRANCH STRUCTURE AND CONVERSION | 43 |
| | APPENDIX E – DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES | 46 |

PREAMBLE

For more than a hundred years the Returned and Services League of Australia has cared for veterans of the Australian Defence Force and their families, and perpetuated the memory of those who have fought, suffered and died in service of the Commonwealth of Australia.

Formed in 1916 as the Returned Sailors and Soldiers Imperial League of Australia (RSSILA), the League's name subsequently evolved to the Returned Sailors Soldiers and Airman's Imperial League of Australia (1941), the Returned Services League of Australia (1965) and the Returned and Services League of Australia (1990). Membership of the League is for those who have served in the Australian Defence Force.

The League's NSW branch was formed in 1916, became part of the federal RSSILA in 1917, and has maintained its association with the Returned and Services League of Australia for more than a century. The Returned and Services League of Australia (NSW Branch) was incorporated as a statutory corporation by the Parliament of NSW in 1935 and has been an advocate on behalf of veterans and their families since its founding. RSL NSW members commit to continuing the camaraderie of military service, serving each other and serving veterans and their families in need – to ensuring that veterans and their families are respected, supported and remembered.

The League is a grassroots organisation, led by its volunteers. The strong connections between sub-Branchedes and their local communities underpin every aspect of the League's work for veterans and their families.

Since its foundation the League has been a non-partisan and non-sectarian institution, dedicated to the highest patriotic ideals. League members are committed to advancing Australia's interests, upholding the Australian constitution, ensuring Australia's national security and promoting the good name and standing of the members of the Australian Defence Force and their families. The League binds Australians to the promise of never forgetting the service and sacrifice of those who have served before us. The price of liberty is eternal vigilance.

1. RSL NSW

- 1.1 The Returned and Services League of Australia (New South Wales Branch) is a corporation constituted under the RSL NSW Act and is called The Returned and Services League of Australia (New South Wales Branch) or RSL NSW.
- 1.2 RSL NSW is a not-for-profit statutory corporation which was established, and continues to operate, as a charity.
- 1.3 RSL NSW is entitled to be and to remain a member of RSL National, and a part of the League as defined in the constitution of RSL National.

2. DEFINITIONS

- 2.1 Defined terms used in this Constitution have the meaning set out in Appendix A.

3. PURPOSE

RSL NSW's purpose is:

- 3.1 providing assistance, care and relief for current and former members of the Australian Defence Force and their families who are suffering from physical or mental ill health, social disadvantage and isolation, distress, poverty, homelessness or destitution including without limitation those who are elderly;
- 3.2 providing support and assistance for current and former members of the Australian Defence Force and their families including without limitation to obtain compensation, benefits and assistance to which they are entitled and in relation to all aspects of transitioning from military service to civilian life, particularly where the member has been detrimentally affected by their service;
- 3.3 providing validation of service and sacrifice by commemorating those who have served and preserving the memory of those who have suffered and died;
- 3.4 doing all other things necessary, ancillary or incidental to pursuing and implementing its benevolent charitable purpose including without limitation:
 - (a) researching, promoting and publicly advocating for the interests of former and current members of the Australian Defence Force and their families on matters of public policy;
 - (b) facilitating and promoting community engagement and social connection by and between former and current members of the Australian Defence Force and their families;
 - (c) establishing and maintaining literary, social, educational and benevolent activities for the benefit, promotion and advancement of former and current members of the Australian Defence Force and their families particularly where the member has been detrimentally affected by their service; and
 - (d) promoting the defence of the Commonwealth of Australia and guarding the good name, interests and standing of serving members of the Australian Defence Force.

4. RSL NSW POWERS

- 4.1 RSL NSW has all the powers:
 - (a) of an individual;

- (b) of a corporation;
 - (c) granted under this Constitution; and
 - (d) granted to it under the RSL NSW Act,
- all of which must only be used to carry out the Charitable Purpose.

5. APPLICATION OF INCOME AND PROPERTY

- 5.1 RSL NSW is a not-for-profit entity and its income and assets:
- (a) must only be used to carry out the objects in pursuit of its Charitable Purpose; and
 - (b) must not be distributed, paid or transferred, directly or indirectly, by way of profit to any RSL NSW Member.
- 5.2 Clause 5.1 does not prevent RSL NSW from making payments in good faith to any person including a person who is an RSL NSW Member if the payment is:
- (a) a payment to an RSL NSW Member or a sub-Branch for the purpose of carrying out, supporting or maintaining RSL NSW's Charitable Purpose;
 - (b) for goods or services supplied or provided to RSL NSW in the ordinary course of business;
 - (c) a commercial rent for property used by RSL NSW which has the prior approval of the Board;
 - (d) reimbursement for out of pocket expenses incurred as a Director, an RSL NSW Member, an employee or contractor of RSL NSW, in connection with RSL NSW business and activities in accordance with any approved expenditure policy issued under this Constitution;
 - (e) a payment made to any RSL NSW Officer under the indemnity provisions in clause 16;
 - (f) a premium for insurance cover to indemnify an RSL NSW Officer; or
 - (g) remuneration for services as a Director or employee of RSL NSW provided any remuneration to a Director is paid in accordance with the provisions of clause 10.

6. LIMITED LIABILITY

- 6.1 The liability of RSL NSW Members is limited to an amount not exceeding \$10 which each RSL NSW Member must contribute to the property of RSL NSW if RSL NSW is wound up. This contribution will be used to pay:
- (a) any debts and liabilities of RSL NSW; and/or
 - (b) the costs associated with the winding up.

7. AMENDMENTS TO CONSTITUTION

- 7.1 This Constitution, and any provision in this Constitution may only be amended, repealed or replaced by a resolution passed by a 75% majority of Delegates present and entitled to vote at a general meeting.
- 7.2 Any amendment to, repeal or replacement of, this Constitution will take effect:

- (a) from the close of the general meeting at which a resolution amending, repealing or replacing the Constitution is passed; or
- (b) from a later date specified in this Constitution or in the resolution passing the amendment, repeal or replacement; and

subject to any condition or requirement imposed by a resolution or under this Constitution being met.

- 7.3 If this Constitution is amended, repealed or replaced, a copy of the amended or replacement Constitution certified under the seal of RSL NSW must be registered by the New South Wales Registrar-General and provided to the ACNC and any other relevant regulatory body.

8. MEMBERS

- 8.1 All matters concerning membership of RSL NSW will be determined and governed by the Board.

Membership

- 8.2 RSL NSW has the following classes of membership:

- (a) Service Member;
- (b) Affiliate Member; and
- (c) Auxiliary Member.

- 8.3 Provisions relating to the following membership matters are set out in Appendix B:

- (a) eligibility criteria for each class of membership;
- (b) membership applications;
- (c) membership awards;
- (d) membership fees (if any); and
- (e) termination, cessation and cancellation of membership.

Membership Register

- 8.4 RSL NSW will establish and maintain a Membership Register.

Continuity of Membership

- 8.5 This Constitution does not affect the continuity of membership of any RSL NSW Member who was an RSL NSW Member at the Commencement Date.

Member Obligations

- 8.6 By continuing to be an RSL NSW Member from the Commencement Date, or upon becoming an RSL NSW Member after the Commencement Date, an RSL NSW Member:
- (a) acknowledges that this Constitution has effect as a contract between:
 - (i) RSL NSW and an RSL NSW Member;
 - (ii) an RSL NSW Member and a sub-Branch; and
 - (iii) each RSL NSW Member.

- (b) agrees to be bound by, and to comply with this Constitution, any Operational Policies and Procedures, any resolution of the Board, or any request or notice issued by RSL NSW or the Board under this Constitution; and
- (c) agrees to support, maintain, uphold and pursue the Charitable Purpose.

Member Voting Rights

- 8.7 Each Service Member has the right to one vote:
- (a) in an election for Elected Directors held in accordance with the Election Procedures;
 - (b) in an election for a Regional Representative Councillor held in the Service Member's Region in accordance with the Election Procedures;
 - (c) on a resolution at a general meeting for the removal of a Director; and
 - (d) on a resolution moved at a general meeting within the Service Member's Region for the removal of a Regional Representative Councillor.
- 8.8 For the purpose of clauses 8.7(b) and 8.7(d), if a Service Member is attached to more than one sub-Branch, a Service Member's entitlement to vote is taken to be in the Region in which the RSL NSW Member's Primary sub-Branch is located as recorded in the Membership Register.

Members' Meetings

- 8.9 An annual general meeting must be held at least once in a calendar year and will take place on a date, and at a time and place to be determined by the Board.
- 8.10 At least six (6) months' notice of the annual general meeting must be given to:
- (a) sub-Branches; and
 - (b) if a resolution for the removal of a Director or Regional Representative Councillor is to be proposed, Service Members.
- 8.11 In addition to the annual general meeting, general meetings may be called by the Board by giving at least three (3) months' notice of the date, time and place of the meeting:
- (a) to sub-Branches; and
 - (b) if a resolution for the removal of a Director or Regional Representative Councillor is to be proposed, Service Members.
- 8.12 A general meeting must be called by the Board if the Board receives a written request from at least:
- (a) 75% of the Regional Representative Council;
 - (b) 10% of Service Members; or
 - (c) 75 sub-Branches.
- 8.13 A request under clause 8.12 must be signed (and may be signed in multiple counter-parts) by each person or body comprising the specified required percentage or number in clause 8.11 making the request and be accompanied by details of any proposed resolution.
- 8.14 The Board must give notice of a general meeting requested under clause 8.12 within one (1) month of receiving the written and signed request:

- (a) to sub-Branches; and
- (b) if a resolution for the removal of a Director or Regional Representative Councillor is to be proposed, Service Members.

8.15 The general meeting referred to in clause 8.14 must be held within two (2) months of the notice being issued.

General Meeting Conduct and Voting Procedures

8.16 Procedures for the conduct and voting at any general meeting are set out in the Appendix C.

Annual Congress

8.17 The Board will hold an Annual Congress immediately before or immediately after the commencement or conclusion respectively of the annual general meeting.

8.18 Annual Congress will include a wreath laying ceremony, pledges of allegiances, awards (if any) and may include presentations, addresses, education and training seminars and strategic planning sessions.

9. RSL NSW BOARD OF DIRECTORS

The Board

9.1 RSL NSW is governed by a board of not less than seven (7) and not more than ten (10) directors. The Board may, in its discretion, prescribe the number of directors within this range from time to time.

9.2 At least one but no more than two directors must be an Independent Director.

9.3 An Independent Director will be appointed by the Board in accordance with clause 9.16.

9.4 One Elected Director will be the Service Member who has been elected by Service Members as President in accordance with the Election Procedures.

9.5 The remainder of the Elected Directors will be elected by Service Members in accordance with the Election Procedures.

9.6 One Director (other than the President) must have tertiary qualifications in accounting, finance or economics and demonstrate recent relevant practical experience, training or skills in one of these professions and will be appointed by the Board to the position of chair of a finance committee.

9.7 The Board may appoint one Director to be Deputy President.

9.8 This section is to be read in conjunction with the savings, transitional and continuing provisions in clause 21.

Eligibility to be an Elected Director

9.9 To hold office as an Elected Director, a person must:

- (a) be a Service Member of at least 18 years of age;
- (b) within six (6) months of being elected, successfully complete a governance training course prescribed by the Board;
- (c) possess and demonstrate a level of appropriate training, study, skills or experience relevant to the position of Elected Director; and

(d) be a Fit and Proper Person.

9.10 To hold office as an Elected Director, a person must not:

- (a) be a sub-Branch Executive, sub-Branch Trustee, District Council President, Regional Representative Councillor, director of a Model A sub-Branch, or member of a Model B sub-Branch management committee;
- (b) subject to clause 9.11, have previously held office as a State Councillor or Director for a total period of more than nine years (either continuously or in separate periods) after the first date of election as a State Councillor or Director;
- (c) have had their RSL NSW membership cancelled at any time;
- (d) have been removed from holding any office within RSL NSW or a sub-Branch at any time;
- (e) be bankrupt, insolvent or have ever been convicted of a serious indictable offence;
- (f) have been disqualified by any means from managing a corporation under the *Corporations Act 2001*, suspended, removed or disqualified as a responsible person under the ACNC Act, fined, convicted or found by the Minister not to be a fit and proper person under the Charitable Fundraising Act.

9.11 An Elected Director who has previously held office as a State Councillor or Director for nine years or more (either continuously or in separate periods) after their first date of election, is eligible, notwithstanding clause 9.10(b), to stand and be elected if a continuous period of at least ten years has lapsed from the date they last ceased to hold office.

Election of Elected Directors

9.12 An election for Elected Directors will be held in the three (3) months prior to the annual general meeting in an Election Year in accordance with the Election Procedures.

Eligibility to be an Independent Director

9.13 To hold office as an Independent Director, a person must:

- (a) within six (6) months of being appointed, successfully complete a governance training course prescribed by the Board;
- (b) possess and demonstrate a level of appropriate professional qualifications, training, skills and experience as the Board considers necessary and desirable;
- (c) be a Fit and Proper Person; and
- (d) consent in writing to be appointed as an Independent Director.

9.14 To hold office as an Independent Director, a person must not:

- (a) currently be an RSL NSW Member;
- (b) have been an RSL NSW Member, or a member of any RSL body in another state or a member of RSL National at any time in the five (5) years preceding an appointment;
- (c) be an employee of RSL NSW;
- (d) have previously held office as a Director for a total period of more than nine years (either continuously or in separate periods) after the date of first appointment as a Director;

- (e) be bankrupt, insolvent or have ever been convicted of a serious indictable offence;
- (f) have been previously removed as a Director under this Constitution; or
- (g) have been disqualified by any means from managing a corporation under the Corporations Act, suspended, removed or disqualified as a responsible person under the ACNC Act, fined, convicted, or found by the Minister not to be a fit and proper person under the Charitable Fundraising Act.

9.15 An Independent Director who has previously held office as a State Councillor or Director for nine years or more (either continuously or in separate periods) after their first date of election, is eligible, notwithstanding clause 9.14(d), to stand and be elected if a continuous period of at least ten years has lapsed from the date they last ceased to hold office.

Appointment of Independent Director

9.16 The Board will appoint an Independent Director from a shortlist of candidates compiled by a committee of the Board based on consultation with, and a recommendation from, an independent expert.

9.17 The appointment of an Independent Director must be ratified by the Regional Representative Council at the next Regional Representative Council meeting following the appointment.

Term of Office

9.18 An Elected Director will hold office until the earlier of:

- (a) the close of the third annual general meeting after the Elected Director was elected;
- (b) their death, incapacity or them becoming of unsound mind;
- (c) their resignation as a Director;
- (d) the Elected Director ceasing to fulfil the eligibility criteria in clauses 9.9-9.11 including but not limited to them no longer being a Service Member; or
- (e) their removal as a Director under this Constitution.

9.19 An Independent Director will hold office, from the date of appointment which is agreed in writing with the Board, until the earlier of:

- (a) the expiration of the fixed term for which they are appointed or re-appointed (which must not be longer than three years);
- (b) their death, incapacity or them becoming of unsound mind;
- (c) their resignation as a Director;
- (d) the Independent Director ceasing to fulfil the eligibility criteria in clauses 9.13-9.15;
- (e) a notification from the Regional Representative Council refusing to ratify the appointment; or
- (f) their removal as a Director under this Constitution.

Resignation of Directors

9.20 A Director may resign by giving a written notice of resignation to the Company Secretary. The resignation will take effect from the date specified in the written notice or, in the absence of a specified date, the date of receipt.

Removal of Directors

9.21 A Director may be removed by:

- (a) a resolution of a 75% majority of a joint meeting of the Board and the Regional Representative Council convened by agreement between the Board and the Regional Representative Council; or
- (b) a resolution of 75% of Service Members at a general meeting.

Elected Director Vacancy

9.22 If an Elected Director:

- (a) ceases to hold office on any of the grounds set out in clauses 9.18 (b)-(e),
- (b) is absent from meetings of the Board for a continuous period of three (3) months without prior consent of the Board; or
- (c) resigns in accordance with clause 9.20,

their position will become vacant and a casual vacancy will be created.

9.23 The Board may fill a vacancy created under clause 9.22 by appointing any person who is eligible to be an Elected Director under clauses 9.9- 9.11. The person appointed to fill the casual vacancy will hold office until the conclusion of the next annual general meeting. The appointment must be ratified by the Regional Representative Council as soon as practicable after the appointment.

9.24 If a vacancy occurs pursuant to clause 9.22 and that vacancy occurs more than 12 months prior to the annual general meeting in an Election Year, a Special Election must be held prior to the next annual general meeting to allow Service Members to elect a new Elected Director. The newly elected Elected Director will take office from the conclusion of the annual general meeting for the remainder of the term of office of the Elected Director creating the vacancy.

9.25 If a vacancy occurs pursuant to clause 9.22 and that vacancy occurs within 12 months of the annual general meeting in an Election Year, a Special Election will not be required.

Independent Director Vacancy

9.26 If an Independent Director:

- (a) ceases to hold office on any of the grounds set out in clauses 9.19(b)-(f);
- (b) is absent from meetings of the Board for a continuous period of three months without prior consent of the Board; or
- (c) resigns in accordance with clause 9.20,

the Board must, as soon as practicable, appoint a new Independent Director if necessary to ensure that there remains at least one Independent Director.

9.27 If the number of Directors falls below five (5) or less than required for a quorum, the remaining Directors can take steps necessary to increase the number of Directors to five (5) or higher if required for a quorum and for calling a general meeting, but for no other purpose.

Powers of the Board

9.28 Subject to the RSL NSW Act, any other applicable act and this Constitution, the Board has the power to manage, control and direct the affairs and conduct of RSL NSW and may

exercise all the powers granted to RSL NSW by this Constitution or any applicable law, except any power which the RSL NSW Act, any other applicable act or this Constitution expressly provide must be exercised by Service Members or Delegates (or Alternate Delegates).

9.29 Without limiting clause 9.28, the Directors have the express power to:

- (a) do all things necessary for carrying out the Charitable Purpose, and all things ancillary or incidental to carrying out the Charitable Purpose;
- (b) govern, control and direct the functions of sub-Branches, and the application, management and use of property and assets held by sub-Branches, to the extent permitted by law, for the purpose of furthering the Charitable Purpose;
- (c) without limiting clause 9.29(b), require sub-Branches to pay the Administrative Services Fee;
- (d) subject to the provisions of clause 5, enter into contracts and agreements with sub-Branches including to ensure that the Charitable Purpose is being supported and carried out;
- (e) make decisions and issue directions to ensure the responsible financial management of RSL NSW and its sub-Branches and to ensure financial and regulatory compliance and accountability of its sub-Branches in accordance with all applicable laws and acts;
- (f) control and govern all matters relating to membership including admission, refusal to admit, conditions, waiver of conditions, eligibility, transfer, suspension, revocation and cancellation;
- (g) govern, limit and determine the rights and obligations of RSL NSW Members, Directors, Regional Representative Councillors and sub-Branches under this Constitution including matters relating to Disputes between any and each of them; and
- (h) determine the rights of RSL NSW Members, Directors, Regional Representative Councillors and sub-Branches in accordance with the Disciplinary Procedures in Appendix E.

9.30 In giving effect to the powers and functions in clause 9.29 and without limiting the general powers in 9.28 the Board may:

- (a) issue Operational Policies and Procedures, notices or requests to sub-Branches; and
- (b) request or direct that a sub-Branch provide to the Board, Documents and other information and a sub-Branch must do so within 21 days of receiving such a request or direction.

Delegation Powers

9.31 Except as provided in clause 9.33, the Board may delegate any of its powers to:

- (a) a committee or committees comprising:
 - (i) Directors;
 - (ii) at least one Director and any other person; or
 - (iii) employees of RSL NSW;

- (b) a single Director;
- (c) the Chief Executive Officer;
- (d) any employee/s of RSL NSW; or
- (e) the Regional Representative Council.

9.32 A delegation under clause 9.31 must:

- (a) be given in accordance with a resolution;
- (b) be in writing;
- (c) expressly specify the power delegated, and any limitations, restrictions and conditions on any delegation, including the time for which the delegation will be in force.

9.33 The Board may not delegate the power to delegate.

9.34 The Board may also establish advisory bodies or working parties consisting of any person it thinks fit, but an advisory body or working party must not be given any delegated power under clause 9.31 or otherwise.

Directors' Meetings

9.35 Subject to the provisions of this Constitution, the Board will meet as and when it considers necessary and appropriate.

9.36 Unless the Board resolves otherwise, the quorum for a Directors' meeting is a majority of Directors excluding any Directors who have been granted a leave of absence, provided that the quorum must not be less than three (3).

9.37 A quorum must be present when a vote is taken.

9.38 A Directors' meeting may be called by:

- (a) the President on giving reasonable notice to each Director; or
- (b) any other Director requesting the Company Secretary to convene a Directors' meeting in which case the Company Secretary must convene a meeting at a time and place convenient to the majority of Directors.

9.39 Notice of a meeting may be given by any reasonable means of communication to each Director.

9.40 The chair of a Directors' meeting will be the President, or in the President's absence the Deputy President, or if neither is present within 15 minutes of the appointed start time of the meeting, the Directors present will elect a chair.

9.41 Each Director has one vote and matters for decision by the Board will be determined by resolution passed by a majority of votes cast at the meeting. If the votes cast are equal, the chair will have a second and casting vote.

9.42 The Board may hold its meetings by using any technology (such as video or teleconferencing) that has previously been agreed to by all the Directors, which agreement may be a standing (ongoing) one.

9.43 A Director may only withdraw the consent given pursuant to clause 9.42 within a reasonable period before the meeting.

- 9.44 The Board may pass a written resolution without a meeting being held and such a resolution will be valid as if passed at a meeting if:
- (a) all Directors entitled to receive notice of a meeting and to vote on the resolution are given notice of the resolution; and
 - (b) the resolution is signed by a majority of Directors entitled to receive notice and to vote on the resolution (being at least a quorum).
- 9.45 For the purposes of clause 9.44(b), a Director may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, if the wording of the resolution is identical in each copy.
- 9.46 The Company Secretary may send a resolution by email to the Directors and the Directors may vote on, or abstain from voting on, the resolution by sending a reply email indicating their vote or abstention.
- 9.47 A written resolution is passed when the majority of Directors sign or otherwise agree to the resolution in the manner set out in clauses 9.44 – 9.46.

Conflicts of Interest

- 9.48 A Director must disclose to the Board any pecuniary or other material interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) which raises, or may appear to raise, an actual or perceived conflict of interest.
- 9.49 A Director's disclosure may be a standing one.
- 9.50 If all the Directors have the same conflict of interest, the Directors must disclose the nature of the actual or perceived conflict of interest to Delegates at the next general meeting, or at an earlier time if reasonable to do so.
- 9.51 The disclosure of a conflict of interest by a Director and the particulars of the disclosure must be recorded in the minutes of the meeting at which the disclosure is given.
- 9.52 A Director who has disclosed the nature of an interest in any matter, must not, unless the Board otherwise determines:
- (a) be present during any deliberation of the Board with respect to the matter; or
 - (b) take part in any decision of the Board with respect to the matter.
- 9.53 Whilst the Board is making a determination under clause 9.52, a Director who has disclosed an interest in a matter must not:
- (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making of the determination by the Board.
- 9.54 A contravention of this section does not invalidate any decision of the Board.
- 9.55 A Director is not prevented from taking part in the making of a determination or decision under clause 10 of this Constitution regarding the remuneration of the Directors.

Code of Conduct

9.56 The Board must adopt and adhere to a Code of Conduct for Directors which will be made publicly available.

Directors' Access to documents

9.57 A Director has a right of access at all reasonable times to the financial reports or financial records of RSL NSW however compiled, recorded or stored and working papers and other documents needed to explain the methods by which the financial statements are made up and any adjustments to be made in preparing the financial statements.

9.58 RSL NSW must give a Director or former Director access to all such documents at reasonable times for the purpose of a legal proceeding:

- (a) to which the Director or former Director is a party;
- (b) that the Director or former Director in good faith proposes to bring; and/or
- (c) that the Director or former Director has reason to believe will be brought against them.

9.59 A person authorised to inspect such documents under clause 9.57 for the purposes of a legal proceeding may make copies of the documents for the purpose of those proceedings.

9.60 The right to inspect documents under clause 9.58 or clause 9.59 continues for a period of seven (7) years after the person ceases to be a Director.

9.61 Any request by a Director or former Director for access to documents will be addressed to the Company Secretary or the Chief Executive Officer.

9.62 The Board may resolve to enter into a deed with a Director giving effect to the rights of access to documents in accordance with clause 9.57 or such other documents as the Board may decide.

10. REMUNERATION OF DIRECTORS

10.1 Subject to the provisions of this Constitution, the RSL NSW Act and any other applicable act each Director is entitled to receive remuneration for their services as a Director.

10.2 The total amount of remuneration payable to all Directors for their services as directors in any calendar year must:

- (a) be reasonable and not manifestly excessive having regard to:
 - (i) the amount of remuneration paid to directors of comparable charitable organisations;
 - (ii) the specific role and responsibilities being undertaken by each of the Directors; and
- (b) not exceed the Maximum Aggregate Remuneration.

10.3 The Maximum Aggregate Remuneration is to be determined by an ordinary resolution of Delegates (or Alternate Delegates) at a general meeting.

10.4 Any resolution put to RSL NSW Members proposing the Maximum Aggregate Remuneration (or any increase) must be accompanied by a report by an independent board remuneration consultant and the Board will use its best endeavours to ensure that the independent consultant attends the general meeting at which any such resolution is put.

- 10.5 If the Delegates approve a Maximum Aggregate Remuneration, the Directors must agree and determine the amount of individual remuneration, if any, each Director will receive provided that the aggregate remuneration payable to the Directors will not exceed the Maximum Aggregate Remuneration.
- 10.6 Failing agreement by the Directors pursuant to clause 10.5, an independent board remuneration consultant will be appointed by the Board to assess and report to the Directors on the division of the Maximum Aggregate Remuneration.
- 10.7 Any report of an independent board remuneration consultant will be published as soon as practicable after it is received.
- 10.8 RSL NSW must make superannuation contributions for the benefit of any Director in accordance with legislative requirements. Any such contributions must be paid from the Maximum Aggregate Remuneration.
- 10.9 RSL NSW must publish the total amount of the remuneration and superannuation payable to each Director.
- 10.10 A Director's entitlement to receive remuneration under this clause ceases immediately the Director ceases to hold office.
- 10.11 Prior to receiving any remuneration a Director must seek and obtain all necessary approvals under the Charitable Fundraising Act or any other applicable act.
- 10.12 In addition to remuneration under this clause, the Directors are entitled to be paid all reasonable travel, accommodation and other expenses properly incurred, or to be incurred, in compliance with any expense and reimbursement policy adopted by the Board from time to time.

11. EXECUTIVE DIRECTOR

- 11.1 The Board may, in its discretion, appoint a Director to be employed as an executive director of RSL NSW for a fixed term, and/or for a specific purpose on such terms as the Board determines.

12. CHIEF EXECUTIVE OFFICER

- 12.1 The Board may appoint a person, other than a Director, to be the Chief Executive Officer of RSL NSW for the period and on terms, including as to remuneration, as the Board determines.
- 12.2 The Chief Executive Officer must not be an RSL NSW Member whilst holding the position as Chief Executive Officer.
- 12.3 The Directors may, subject to the provisions of any contract between the person and RSL NSW:
 - (a) define the Chief Executive Officer's powers, fix their remuneration and duties and from time to time, vary any of the powers conferred; or
 - (b) revoke that person's appointment as Chief Executive Officer and appoint another person to that position.
- 12.4 The Directors may delegate to the Chief Executive Officer the power to conduct the day-to-day management and control of the business and affairs of RSL NSW.

- 12.5 The Chief Executive Officer will attend where possible all Board meetings and may be heard on any matter but will not have the right to vote.

13. REGIONAL REPRESENTATION

RSL NSW Regions

- 13.1 From the Regional Consolidation Date, RSL NSW will be divided into 13 Regions or such other number as the Board may decide.

Regional Representative Councillors

- 13.2 Each Region will have a Regional Representative Councillor to be elected (in accordance with the Election Procedures) by Service Members attached to sub-Branches located within the Region.

- 13.3 To hold office as a Regional Representative Councillor, a person:

(a) must:

- (i) be a Service Member of at least eighteen years of age;
- (ii) successfully undertake a governance training program prescribed by the Board, to be funded by RSL NSW;

(b) must not:

- (i) be a Director or employee of RSL NSW;
- (ii) have held office as a Regional Representative Councillor for a total period of more than six years (either continuously or in separate periods) after the first date of election as a Regional Representative Councillor;
- (iii) have had their RSL NSW membership suspended or cancelled at any time or have been removed from holding any office within RSL NSW at any time;
- (iv) be bankrupt, insolvent or have ever been convicted of a serious indictable offence; or
- (v) have been disqualified by any means from managing a corporation under the Corporations Act, suspended, removed or disqualified as a responsible person under the ACNC Act, fined, convicted or found not to be a fit and proper person under the Charitable Fundraising Act.

Powers and Functions of Regional Representative Councillors

- 13.4 A Regional Representative Councillor:

- (a) may appoint or engage other RSL NSW Members to assist with the management and operations of RSL NSW activities in its Region;
- (b) must convene meetings of sub-Branches within their Region as and when they determine but not less than twice a year;
- (c) determine the frequency, location, format and manner in which meetings are held including, at their discretion, whether a meeting can be held using video, teleconferencing or other technology;
- (d) may decide how RSL NSW related activities are coordinated within their Region;

- (e) is responsible for consulting with, and representing the interests of, RSL NSW Members and sub-Branches within their Region;
- (f) will represent the Region on the Regional Representative Council and bring matters to the Regional Representative Council;
- (g) will represent the Region at commemorative events;
- (h) may attend any general meeting of RSL NSW but will not be entitled to a vote in their capacity as a Regional Representative Councillor; and
- (i) will be allocated funds in accordance with an annual budget approved by the Board to be applied and acquitted in accordance with RSL NSW expenditure guidelines issued by the Board.

Term of Office of Regional Representative Councillors

13.5 A Regional Representative Councillor will hold office until the earlier of:

- (a) the end of the third calendar year after being elected;
- (b) their death, incapacity or them becoming of unsound mind;
- (c) their resignation as Regional Representative Councillor;
- (d) the Regional Representative Councillor no longer fulfilling the eligibility criteria in clause 13.3 including but not limited to them ceasing for any reason to be a Service Member;
- (e) their removal as Regional Representative Councillor in accordance with the provisions of clause 13.8.

13.6 Notwithstanding clause 13.5(a), a Regional Representative Councillor who remains eligible to hold office under clause 13.3 is eligible to stand for re-election and may be re-elected for one further term of three (3) years provided that a Regional Representative Councillor must not hold the position of Regional Representative Councillor for a period exceeding six (6) years in total.

13.7 A Regional Representative Councillor may resign by giving a written notice of resignation to the Board. The resignation will take effect from the date specified in the written notice or, in the absence of a specified date, the date of receipt.

Removal of Regional Representative Councillors

13.8 A Regional Representative Councillor may be removed as a Regional Representative Councillor by:

- (a) a 75% majority of a joint meeting of the Board and the Regional Representative Council convened by agreement between the Board and the Regional Representative Council; or
- (b) a 75% resolution of Service Members within the Regional Representative Councillor's Region at a general meeting of the Region.

Regional Representative Council

13.9 The Regions will be represented by a Regional Representative Council which will comprise the Regional Representative Councillors from time to time, one of whom will be elected by the Regional Representative Council as the chair.

13.10 A Regional Representative Councillor will hold their position in an ex officio capacity and not a personal capacity.

Role of Regional Representative Council

13.11 The Regional Representative Council will represent sub-Branches by:

- (a) making submissions, proposals and recommendations and providing reports, guidance and feedback to the Board on matters regarding RSL NSW membership and sub-Branch issues and concerns;
- (b) making representations to the Board on matters of public policy; and
- (c) representing the Regional Representative Council at commemorative events.

13.12 The Regional Representative Council must provide a quarterly report to the Board in a format to be determined and prescribed by the Board.

13.13 The Board must consider all submissions, reports, policy proposals, recommendations and representations made by the Regional Representative Council and consult, provide feedback and provide a written report or response to the Regional Representative Council within a reasonable time on all matters raised.

Delegated Powers

13.14 The Board may delegate powers to the Regional Representative Council in consultation with the Regional Representative Council.

Power to Call General Meeting

13.15 The Regional Representative Council by majority resolution of 75% of Regional Representative Councillors may request that the Board call a general meeting:

- (a) of Service Members, in relation to matters concerning the appointment or removal of Directors; and
- (b) of Delegates (or Alternate Delegates) in relation to matters concerning constitutional amendments.

13.16 A request referred to in clause 13.15 must:

- (a) be in writing; and
- (b) set out the resolution to be proposed at the meeting; and
- (c) must be signed (and may be signed in multiple counter-parts) by not less than 75% of the Regional Representative Councillors.

Regional Representative Council Meetings

13.17 The Regional Representative Council will meet as and when it considers necessary and appropriate, provided that it will meet not less than four times a year at a time and place to be agreed by the Regional Representative Council.

13.18 The Regional Representative Council must provide to the Board a schedule of when and where meetings will be held.

13.19 A Regional Representative Council meeting may be called by:

- (a) the chair on giving reasonable notice to each Regional Representative Councillor; or

- (b) any other Regional Representative Councillor requesting the chair to convene a Regional Representative Council meeting in which case the chair must convene a meeting at a time and place convenient to the majority of Regional Representative Councillors.
- 13.20 Notice of a meeting may be given by any reasonable means of communication to each Regional Representative Councillor.
- 13.21 Each Regional Representative Councillor has one vote and matters for decision by the Regional Representative Council will be determined by resolution passed by a majority of votes cast at the meeting.
- 13.22 The quorum for a Regional Representative Council meeting is a majority of Regional Representative Councillors, excluding those who have been granted a leave of absence.
- 13.23 The Regional Representative Council may hold its meetings by using any technology (such as video or teleconferencing) that has previously been agreed to by all of the Regional Representative Councillors, which agreement may be a standing (ongoing) one.
- 13.24 A Regional Representative Councillor may only withdraw the consent given pursuant to clause 13.23 within a reasonable period before the meeting.
- 13.25 The Regional Representative Council may pass a written resolution without a meeting being held and such a resolution will be valid as if passed at a meeting if:
- (a) all Regional Representative Councillors entitled to receive notice of a meeting and to vote on the resolution receive notice of the resolution; and
 - (b) the resolution is signed by a majority of Regional Representative Councillors who are entitled to vote.
- 13.26 For the purposes of 13.25(b), a Regional Representative Councillor may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, if the wording of the resolution is identical in each copy.
- 13.27 The chair may send a resolution by email to the Regional Representative Councillors and the Regional Representative Councillors may vote on or abstain from voting on the resolution by sending a reply email indicating their vote or abstention.
- 13.28 A written resolution is passed when a majority of Regional Representative Councillors signs or otherwise agrees to the resolution in the manner set out in clauses 13.25 – 13.27.

Board attendance at Regional Representative Council Meetings

- 13.29 The Board, or its nominated Directors, may attend all meetings of the Regional Representative Council.
- 13.30 The Board, or its nominated Directors, must attend at least two Regional Representative Council meetings in a calendar year and report to the Regional Representative Council on RSL NSW issues including issues nominated or raised with the Board by the Regional Representative Council prior to attending a meeting.

14. SUB-BRANCHES

Continuity of sub-Branches

- 14.1 All RSL NSW sub-Branches holding a Charter at the Commencement Date will continue to hold that Charter and to be an RSL NSW sub-Branch in accordance with the existing Charter and the terms and conditions attached to that Charter as amended by this Constitution.
- 14.2 By continuing to operate under its Charter from the Commencement Date, a sub-Branch agrees to be bound by this Constitution and the amended terms and to comply with the terms of this Constitution including for the avoidance of doubt:
- (a) to make sure that the sub-Branch's income and assets are only used to further the Charitable Purpose;
 - (b) not to distribute, pay or transfer, directly or indirectly, any income or assets to an RSL NSW Member; and
 - (c) to comply with this Constitution, any direction, notice or request issued by the Board under this Constitution and any Operational Policies and Procedures issued from time to time.

New Charter Applications

- 14.3 Any applications after the Commencement Date to become an RSL NSW sub-Branch will only be granted to either:
- (a) bodies which are constituted as a company limited by guarantee (Model A sub-Branch); or
 - (b) a person or persons who wish to set up and operate a division of RSL NSW (Model B sub-Branch),

both of which must demonstrate to the satisfaction of the Board that they are capable of meeting and complying with the requirements set out in in Appendix D and the Sub-Branch Standard Operating Procedures.

Revocation or Surrender of Charter

- 14.4 The Board may revoke the Charter of any sub-Branch:
- (a) on any of the grounds under the disciplinary powers set out in Appendix E including but not limited to a failure to comply with the provisions of this Constitution;
 - (b) if the sub-Branch fails to attend three (3) or more consecutive annual general meetings; or
 - (c) if the sub-Branch unincorporated association is wound up for any reason (other than for the purpose of the sub-Branch complying with an Option Notice).
- 14.5 A sub-Branch may resolve by special resolution to surrender its Charter and will inform RSL NSW accordingly.
- 14.6 Upon the revocation or surrender of a Charter in accordance with clause 14.4 or clause 14.5, the Charter will be terminated and:
- (a) a sub-Branch must cease operating and holding itself out as an RSL NSW sub-Branch including to cease using the RSL NSW name and logo;

- (b) all property and assets held legally or beneficially by the sub-Branch, or by the sub-Branch Trustees for the sub-Branch at the date of revocation or surrender must be transferred, after payment of any debts and liabilities of the sub-Branch, to RSL NSW or as it may direct;
- (c) the sub-Branch, the sub-Branch Executives and sub-Branch Trustees must do all things necessary to effect the transfer referred to in clause 14.6(b); and
- (d) all property and assets transferred to RSL NSW by a sub-Branch upon revocation or surrender must be applied by RSL NSW to further the Charitable Purpose.

14.7 Upon the termination of a Charter, any RSL NSW Members attached to the sub-Branch will become attached to ANZAC House.

Sub-Branch Voting Rights

14.8 A sub-Branch, provided it has complied with all its obligations, duties and responsibilities under this Constitution is entitled to appoint one Delegate and one Alternate Delegate, one of whom will be entitled to attend the annual general meeting and any general meeting.

14.9 Subject to clause 14.10, each Delegate is entitled to one vote on all Member resolutions, including constitutional resolutions.

14.10 A Delegate is not entitled to vote in their capacity as Delegate:

- (a) in an election for Elected Directors;
- (b) in an election for a Regional Representative Councillor in the Service Member's Region; or
- (c) at a general meeting for the removal of a Director or Regional Representative Councillor.

14.11 A sub-Branch may appoint a Delegate in accordance with the process set out in the Sub-Branch Standard Operating Procedures.

14.12 A sub-Branch may appoint a proxy Delegate in accordance with the provisions set out in Appendix C.

Rights, obligations, conduct and operation of sub-Branches

14.13 Provisions governing the rights, obligations, conduct and operation of sub-Branches from the Commencement Date to the Conversion Date are set out in the Savings, Transitional and Continuing Provisions and Operational Policies and Procedures which may be issued by the Board from time to time.

14.14 Provisions governing the rights, obligations, conduct and operation of Model A sub-Branches are set out in this Constitution, Appendix D, the Sub-Branch Standard Operating Procedures, the Model A sub-Branch Constitution and other Operational Policies and Procedures which may be issued by the Board from time to time.

14.15 Provisions governing the rights, obligations, conduct and operation of Model B sub-Branches are set out in this Constitution, Appendix D, Sub-Branch Standard Operating Procedures and other Operational Policies and Procedures which may be issued by the Board from time to time.

Option Notice

- 14.16 No earlier than six (6) months after the Commencement Date, the Board may issue an Option Notice to a sub-Branch which will require the sub-Branch, within the time specified in the Option Notice (which will not be less than six (6) months) to select an option and take the steps set out in the Option Notice.
- 14.17 The Option Notice will require a sub-Branch, on or before the Conversion Date, to:
- (a) resolve to become either:
 - (i) a company limited by guarantee (Model A sub-Branch); or
 - (ii) a local division of RSL NSW (Model B sub-Branch);
 - (b) notify the Board in writing of the sub-Branch's decision; and
 - (c) take the steps prescribed in the Option Notice.

Non-compliance with Option Notice

- 14.18 If a sub-Branch does not wish to select an option under the Option Notice, it may resolve to surrender its Charter and cease to be an RSL NSW sub-Branch in which case the provisions of clause 14.6 and clause 14.7 will apply.
- 14.19 If sub-Branches resolves to amalgamate, they must do so by a special resolution of each sub-Branch which is a party to the proposed amalgamation and with the prior approval of the Board, before the date required for complying with the Option Notice.
- 14.20 If the Board approves the amalgamation, a new Charter will be issued to the amalgamated sub-Branch and the amalgamated sub-Branch will be bound by the terms of this Constitution.
- 14.21 The Board's approval of the proposed amalgamation will be conditional upon the amalgamated sub-Branch having first selected an option under an Option Notice.
- 14.22 If a sub-Branch does not:
- (a) notify RSL NSW of its selection within the period specified in the Option Notice; or
 - (b) having notified RSL NSW of its selection within the specified period, does not take the steps prescribed by the Conversion Date; or
 - (c) resolve to surrender its Charter and comply with clause 14.6 and clause 14.7; or
 - (d) amalgamate with another sub-Branch in accordance with clause 14.19;
- the Board may revoke the Charter and the sub-Branch will cease to be a sub-Branch.

Continuation/Transfer of Charter and name on exercise of option

- 14.23 The Charter of a sub-Branch which opts to become a Model A sub-Branch will be deemed to be transferred on the Conversion Date to the incorporated Model A sub-Branch entity.
- 14.24 The Charter of a sub-Branch which opts to become a Model B sub-Branch will be deemed to be transferred on the Conversion Date to the sub-Branch management committee which comprises the Model B sub-Branch.
- 14.25 A Model A sub-Branch must change its name by adding "Limited" or "Ltd" to the end of its name and must transition as soon as practicable to using [insert region etc] RSL sub-Branch Limited (or Ltd) as the sub-Branch name.

14.26 A Model B sub-Branch will operate under its existing name.

Sub-Branch obligations

14.27 By continuing to operate, and represent itself as being, a sub-Branch under an existing Charter, a sub-Branch expressly acknowledges, agrees and confirms that:

- (a) this Constitution applies as a contract between RSL NSW and a sub-Branch;
- (b) it is bound by, and will comply with the provisions of this Constitution;
- (c) it will comply with any Operational Policies and Procedures, any resolution of the Board, and/or any request or notice issued by the Board,
- (d) it must pay any fees, charges and contributions determined by the Board; and
- (e) it must otherwise conduct and manage its activities solely to support and pursue the Charitable Purpose.

14.28 Without limiting clause 14.27, a sub-Branch acknowledges and agrees that it will comply with the Sub-Branch Standard Operating Procedures.

15. DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES

Dispute Resolution

15.1 Disputes about any matter arising in connection with or relating directly or indirectly to this Constitution between any one or more of:

- (a) a Member;
- (b) a Director;
- (c) a sub-Branch;
- (d) a Regional Representative Councillor;
- (e) the Regional Representative Council; and
- (f) RSL NSW;

will be subject to the dispute resolution provisions contained in Appendix E.

Disciplinary Procedures

15.2 The Board has the power to:

- (a) warn or suspend an RSL NSW Member;
- (b) cancel or revoke membership;
- (c) warn or suspend a sub-Branch Executive or sub-Branch Trustee from office;
- (d) remove any sub-Branch Executive or sub-Branch Trustee from office;
- (e) remove a sub-Branch Management Committee or any member of a sub-Branch Management Committee; and/or
- (f) revoke a Charter issued to a sub-Branch.

15.3 The procedures which must be adopted by the Board in exercising these powers are set out in the Dispute Resolution and Disciplinary Procedures.

16. INDEMNITY AND INSURANCE

16.1 Subject to clause 16.2 and clause 16.3, RSL NSW indemnifies each RSL NSW Officer out of the assets of RSL NSW against all losses and liabilities (including costs, expenses and charges) incurred by that person as an RSL NSW Officer.

16.2 The indemnity in clause 16.1 does not apply to indemnify any RSL NSW Officer to the extent that RSL NSW is precluded by law from giving such an indemnity, including but not limited to circumstances where:

- (a) a liability is owed to RSL NSW or a Related Body Corporate;
- (b) a liability arises as a result of a pecuniary penalty order;
- (c) any loss or liability owed to someone other than RSL NSW or a Related Body Corporate did not arise out of conduct in good faith;
- (d) the RSL NSW Officer has incurred legal costs in defending an action for a liability incurred in the capacity as an RSL NSW Officer if the costs are incurred:
- (e) in defending or resisting proceedings in which the RSL NSW Officer is found to have a liability for which they cannot be indemnified pursuant to sub-clauses 17.2(a)-(c);
- (f) in defending or resisting criminal proceedings in which the RSL NSW Officer is found guilty;
- (g) in defending or resisting proceedings brought by any regulator or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
- (h) in connection with proceedings for relief to the RSL NSW Officer in which the court denies the relief.

16.3 The indemnity in clause 16.1 does not apply to indemnify any RSL NSW Officer for any amount which the RSL NSW Officer is otherwise entitled to be indemnified and is indemnified by another person (including an insurer under any insurance policy).

16.4 Notwithstanding the provisions in clause 16.2 and clause 16.3, RSL NSW may:

- (a) indemnify an RSL NSW Officer for the costs of responding to an investigation by a regulator before any proceedings are, or may be, commenced; or
- (b) pay legal costs to an RSL NSW Officer in advance of any finding of guilt, wrongdoing, lack of bad faith, denial of relief or confirmation of indemnity from a third party provided that any advancement will be conditional upon the RSL NSW Officer agreeing in writing to repay any amount paid if indemnity is ultimately not payable in accordance with the provisions of clause 16.2 or clause 16.3.

16.5 The provision of the indemnity in this clause will continue and is enforceable by an RSL NSW Officer even though that person is no longer an RSL NSW Officer.

16.6 RSL NSW may enter a deed with any RSL NSW Officer on terms confirming and reflecting the indemnity provisions in clauses 16.2 – 16.5.

- 16.7 To the extent permitted by law, RSL NSW may pay or agree to pay a premium for a contract insuring an RSL NSW Officer against any losses and liabilities (including costs, expenses and charges) incurred by that person as an RSL NSW Officer.

17. EXECUTION OF DOCUMENTS

- 17.1 RSL NSW may execute a document without using the common seal if the document is signed by:
- (a) two Directors; or
 - (b) one Director and an employee of RSL NSW authorised by the Board to do so.

18. WINDING UP AND DISSOLUTION

- 18.1 If RSL NSW is wound up, any surplus property or assets remaining after payment of any debts and liabilities must not be paid or distributed to RSL NSW Members or former RSL NSW Members unless that RSL NSW Member or former RSL NSW Member is a charity which meets the criteria set out in clause 18.2 and/or clause 18.3 as applicable.
- 18.2 Subject to any applicable Act or court order, any surplus property or assets remaining after payment of any debts and liabilities must be distributed to one or more charitable bodies:
- (a) with charitable purposes similar to, or inclusive of, those of RSL NSW as set out in clause 3;
 - (b) which have governing rules which also prohibit the distribution of any surplus assets to its members on winding up in the same manner or to the same extent as the prohibition in clause 18.1 of this Constitution; and
 - (c) which, if RSL NSW holds Deductible Gift Recipient (DGR) status, also has or have DGR status.
- 18.3 The RSL NSW Members will determine the charity or charities to which any surplus assets shall be given on winding up and failing this RSL NSW may apply to the Supreme Court.

19. RSL NSW POLICIES AND PROCEDURES

- 19.1 The Board may from time to time pass a resolution adopting Operational Policies and Procedures.
- 19.2 Directors, Regional Representative Councillors, RSL NSW Members, sub-Branches, Model A sub-Branch Directors and members of a Model B sub-Branch management committee must comply with any Operational Policies and Procedures made under this Constitution as if they were part of this Constitution.
- 19.3 RSL NSW will publish all Operational Policies and Procedures as soon as practicable after they are made or adopted.
- 19.4 If any part of the Operational Policies and Procedures are inconsistent with the Constitution the terms of the Constitution prevail.

20. NOTICES

- 20.1 Where any notice must be given under this Constitution it must be given in writing either by email or by post.

21. SAVINGS, TRANSITIONAL AND CONTINUING PROVISIONS

21.1 This Constitution supersedes the Previous Constitution.

By-laws and regulations repealed

21.2 All by-laws and regulations in existence prior to the Commencement Date are repealed and no longer have any force or effect.

State Council to become Board

21.3 The State Councillors in office immediately before the Commencement Date will continue to hold office from the Commencement Date and will be deemed to be the Elected Directors until their existing terms of office expire or they otherwise cease to hold office in accordance with this Constitution.

21.4 The existing State Council will be the Board under this Constitution from the Commencement Date.

21.5 The number of years already served by a State Councillor holding office at the Commencement Date will be counted towards the total term which each current State Councillor can serve as an Elected Director pursuant to clause 9.10(b) of the Constitution.

Disciplinary Powers

21.6 All disciplinary powers under this Constitution from the Commencement Date are vested in the Board and the disciplinary powers previously vested in any other RSL NSW body are revoked. All pending disciplinary issues commenced under the provisions of the Previous Constitution or by-laws or regulations will be finalised, including any appeal, under the previously applicable process .

Auxiliary Members

21.7 This Constitution will not affect the continuity of accrued rights of any Auxiliary Member. Any person who was a member of an RSL Auxiliary immediately prior to the Commencement Date is an Auxiliary Member and will automatically retain all rights, entitlements, awards and recognition held at the Commencement Date.

Sub-Branch Associate

21.8 RSL NSW Members who are associates of sub-Branches at the Commencement Date may continue to hold that association after the Commencement Date by remaining attached to more than one sub-Branch but will only have voting and other member rights with the Primary sub-Branch.

Sub-Branches after Commencement Date

21.9 The provisions of clauses 21.11 – 21.33 apply in relation to sub-Branch operations and property between the Commencement Date and the Conversion Date.

21.10 From the Conversion Date, all sub-Branch operations and property and assets are governed by and must be dealt with in the manner set out in Appendix D and as set out in the sub-Branch Standard Operating Procedures.

Sub-Branch Executives

21.11 All sub-Branch Executive holding office immediately prior to the Commencement Date will continue to hold office until the expiration of their current term or until the Conversion Date whichever is the earlier.

- 21.12 Any sub-Branch Committees in existence immediately prior to the Commencement Date will continue to exist for the duration of their term of appointment (subject to the requirements and changes to be adopted as a result of the option chosen by a sub-Branch in response to an Option Notice).
- 21.13 The functions, duties and obligations of a Sub-Branch are to be controlled and managed by a sub-Branch Executive team comprising a president, at least one, but no more than two, vice-presidents, a treasurer and a secretary each of which must be RSL NSW Members attached to the sub-Branch and elected by the members of the sub-Branch.
- 21.14 A person who has previously been removed by the Board as a sub-Branch Executive or has been removed as a Director or a State Councillor or Regional Representative Councillor is not eligible to hold office as a sub-Branch Executive.
- 21.15 Subject to the rights and obligations under this Constitution, the sub-Branch Executive team has the power to manage the affairs of the sub-Branch to act on behalf of the sub-Branch and to bind the sub-Branch.
- 21.16 The sub-Branch Executive holds office for a term of three years from election at the expiration of which the positions will become vacant and elections will be held, in accordance with the Election Procedures, at a sub-Branch annual general meeting.
- 21.17 A member of the sub-Branch Executive holds office until the earlier of the following:
- (a) the end of their term;
 - (b) resignation as a sub-Branch executive (which may be given in writing to any other sub-Branch Executive team member or if none, the Company Secretary of RSL NSW, to be effective immediately);
 - (c) their death, or incapacity or them becoming of unsound mind;
 - (d) their ceasing for any reason to be a Service Member;
 - (e) removal by the Board as a sub-Branch Executive; or
 - (f) termination (for any reason) or transfer of sub-Branch membership.
- 21.18 If a sub-Branch executive ceases to hold office on any of the grounds set out in clauses 21.17(b)-(f) or is absent for a continuous period of three months without prior consent of the sub-Branch Executive a casual vacancy is created and must be filled by the sub-Branch members at the next general meeting.
- 21.19 A sub-Branch may also form sub-Branch Committees which will be comprised of sub-Branch members elected by sub-Branch Members in general meeting. The sub-Branch Executive can delegate any of its powers to a sub-Branch Committee and the sub-Branch Committee must provide a report to the sub-Branch Executive and the sub-Branch Members at a general meeting.

Sub-Branch Trustees

- 21.20 Sub-Branch Trustees holding that position at the Commencement Date will continue to hold the position of trustee until they are removed under the trust deed appointing them or this Constitution.
- 21.21 A sub-Branch may appoint a Service Member to be a sub-Branch Trustee to hold sub-Branch property on behalf of, and for the benefit of the sub-Branch, and strictly in accordance with the sub-Branch's duties and obligations as a sub-Branch under this

Constitution and at any given time must have no fewer than three trustees so appointed. One of the three trustees may be RSL Custodian Pty Limited or alternatively RSL Custodian Pty Limited may be appointed by the sub-Branch as the sole trustee.

- 21.22 The President of the sub-Branch will be the appointor.
- 21.23 The Trustees must not deal with sub-Branch property other than in accordance with the rights and obligations of a sub-Branch under this Constitution and it is a term of their appointment that the Trustees must act in their capacity as trustee in accordance with the direction of the sub-Branch provided that any direction of the sub-Branch must be in accordance with and comply with the obligations of the sub-Branch under this Constitution.
- 21.24 A sub-Branch Trustee may be removed by a sub-Branch or by the Board in accordance with the powers in Appendix E.
- 21.25 A sub-Branch Trustee may be removed in accordance with any document appointing the Trustee and in accordance with this Constitution.

Sub-Branch property and assets

- 21.26 All property and assets owned legally or beneficially for a sub-Branch by a sub-Branch Trustee at the Commencement Date will continue at the Commencement Date to be owned by that sub-Branch Trustee for the sub-Branch.
- 21.27 For the avoidance of doubt, property and assets owned by sub-Branch Trustees beneficially for the sub-Branch at the Commencement Date will continue to be held on the terms of the original declaration of trust and the terms appointing those sub-Branch Trustees. The trustees must continue to deal with sub-Branch property and assets only:
 - (a) in the best interests of the sub-Branch;
 - (b) subject to the requirement that the sub-Branch Trustees must deal with sub-Branch property and assets in accordance with the direction of the sub-Branch pursuant to resolutions of the sub-Branch members; and
 - (c) with the prior written approval of the Board where required under this Constitution.
- 21.28 When a sub-Branch receives an Option Notice and a sub-Branch makes an option under the Option Notice to become a Model A sub-Branch or a Model B sub-Branch, all property and assets must be dealt with in the manner set out in Appendix D.
- 21.29 If a sub-Branch resolves not to become a Model A or Model B sub-Branch pursuant to an Option Notice, and resolves to surrender its Charter, all sub-Branch property and assets must be dealt with in accordance with clause 14.6 and clause 14.7 which is a requirement of the existing Charter and survives the repeal of the Previous Constitution.
- 21.30 In the period prior to receiving and making an option under an Option Notice, if a sub-Branch or sub-Branch Trustee wishes to deal in any way with sub-Branch property, cash, investment funds or assets in an amount of with a value of over \$5,000 including to buy, sell, donate, lease, licence, mortgage, invest, charge or otherwise encumber a sub-Branch must obtain the written consent of the Board prior to doing so.
- 21.31 Subject to clause 21.32 below, a sub-Branch or sub-Branch Trustee may deal with property, cash, investment funds or assets in the manner referred to in clause 21.30 in an amount, or with a value of under \$5,000 without the Board's prior consent provided the property, cash, investment funds or assets are being applied in accordance with the requirements of this Constitution.

21.32 The sub-Branch or sub-Branch Trustees must not expend money in accordance with clause 21.31 where the expenditure totals \$50,000 or more in any one calendar year.

21.33 Each sub-Branch may indemnify its committee members, office holders and trustees on terms identical to the indemnity provisions in clause 16 and must provide to RSL NSW upon request, a copy of a resolution by the sub-Branch adopting the provisions of this clause.

District Councils

21.34 From the Commencement Date to the Regional Consolidation Date, each District Council in existence at the Commencement Date will continue to exist and will be governed and operate in accordance with the District Council Standard Operating Procedures.

21.35 From the Regional Consolidation Date, District Councils established under the Previous constitution and all functions and powers vested in District Councils will cease to exist.

21.36 From the Regional Consolidation Date, any RSL NSW Member holding any of the positions of the President of a District Council, District Council Vice President, District Council Secretary, District Council Treasurer or other member of a District Council Executive must, within six (6) months of the Date, distribute any money or funds back to a Sub-Branch or sub-Branches within the District Council's District.

APPENDIX A DEFINITIONS AND INTERPRETATION

In the interpretation of this Constitution except where excluded by the context or otherwise defined:

ACNC means the Australian Charities and Not-for-Profit Commission.

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*.

Administrative Services Fee means a fee payable to RSL NSW by a Model A sub-Branch for the provision by RSL NSW of services outlined in the Standard Operating Procedures and for the use and preservation of the RSL NSW Brand.

Affiliate Member means a person that has been admitted as an Affiliate Member of RSL NSW in accordance with this Constitution.

Alternate Delegate means an alternate representative elected or appointed by a sub-Branch, who has been approved by the Board as being eligible to attend and vote at an annual general meeting or general meeting in circumstances where the Delegate is unwilling or unable to attend.

Annual Congress means gathering of sub-Branch Delegates (and Alternate Delegates) held in conjunction with the annual general meeting.

ANZAC House means the business premises of, and the head office function for RSL NSW from time to time.

Armed Forces means the armed forces, military power or armed services.

Australian Defence Force means the military service responsible for the defence of Australia, constituted under *the Defence Act 1903*.

Auxiliary means an auxiliary of members which is part of a sub-Branch; formed in accordance with and governed by this Constitution.

Auxiliary Member means any person who was a member of an RSL Auxiliary immediately before the Commencement Date.

Board means the board of directors of RSL NSW.

Cadets means any member of the Australian Defence Force cadets.

Chair means the person who acts as chairperson at a meeting.

Charitable Fundraising Act means the *Charitable Fundraising Act 1991 (NSW)*.

Charitable Purpose means the charitable purpose of RSL NSW set out in clause 3.

Charitable Purpose Contribution means a contribution which must be paid under this Constitution from time to time for the purpose of aiding and facilitating RSL NSW in pursuing the Charitable Purpose.

Charter means a document charter issued by RSL NSW to a sub-Branch which confirms that the sub-Branch is entitled to operate and represent that it is an RSL NSW sub-Branch on the terms set out in this Constitution.

Chief Executive Officer means the person appointed to that position by RSL NSW from time to time under clause 12.

Code of Conduct means the code of conduct for Directors adopted from time to time under clause 9.56.

Commencement Date means 1 January 2019 which is the date on which this Constitution will come into effect.

Company Secretary means a person employed by RSL NSW from time to time in the role of company secretary.

Conduct Committee means a committee formed by the Board for the purposes of implementing the Disciplinary Procedures.

Constitution means this document and its appendices.

Conversion Date means the date by which a sub-Branch must implement the change of legal structure it has selected pursuant to Appendix D and from which it will commence operating as a Model A or a Model B sub-Branch.

Corporate Member means RSL NSW and one other body or person holding equal membership rights in the company operating as a Model A sub-Branch.

Corporations Act means the *Corporations Act 2001* (Cth).

Delegate means the representative elected or appointed by a sub-Branch, who has been approved by the Board as being eligible to attend and vote at an annual general meeting or general meeting.

Deputy President means a Director who may be elected by the Board to that position.

Director means a current Elected Director or a current Independent Director of RSL NSW.

Disciplinary Meeting means a meeting of the Board or the Conduct Committee under the Dispute Resolution and Disciplinary Procedure at which a disciplinary matter is to be considered.

Dispute means a disagreement, grievance, complaint, claim or allegation by or between RSL NSW, RSL NSW Members, Regional Representation Councillors and/or sub-Branches, in relation to matters arising out of this Constitution.

Districts means the 23 districts of RSL NSW defined by the State Council and existing prior to the Regional Consolidation Date.

District Council means the District Council of the sub-Branches within each District formed in accordance with this Constitution.

District Council President means a person holding that position at the Commencement Date.

District Council Standard Operating Procedures means standard operating procedures issued by the Board and outlining the operations of District Councils between the Commencement and the Regional Consolidation Date.

Document means any record of information, including without limitation books, files, drawings, messages, financial statements, minutes of meetings, Member records, receipts, invoices, photographs, transcripts, audio-visual recordings, materials or data, whether or not stored or recorded electronically.

Elected Director means a Service Member elected in accordance with the provisions of this Constitution.

Election Procedures means the procedures prescribed by the Board from time to time for the purpose of conducting elections in accordance with this Constitution.

Election Year means 2020 and every successive third year after 2020.

Fit and Proper Person means a person having the attributes of good character, diligence, honesty, integrity and judgement which can reasonably be expected of an RSL NSW Member or of any position of office held under this Constitution.

Honorary Member means a person who has been awarded an honorary membership by the Board of RSL National on the recommendation of the Board.

Independent Director means a director appointed to the Board in accordance with this Constitution.

Life Member means a Service Member who has been awarded a life membership by the Board of RSL National on the recommendation of the Board.

Maximum Aggregate Remuneration means the total pool of remuneration approved by Delegates (or Alternate Delegates) in general meeting available in any calendar year to pay Directors for their services as directors.

Membership Register means the register of all RSL NSW Members established and kept by RSL NSW.

Minister means the minister for Innovation and Better Regulation or equivalent at any time. .

Model A sub-Branch means a body constituted as a company limited by guarantee holding a Charter.

Model A sub-Branch Constitution means the governing rules of the company limited by guarantee holding Charter and operating as a Model A sub-Branch.

Model B sub-Branch means a sub-Branch operating as a division of RSL NSW.

Operational Policies and Procedures means policies and/or procedures issued by the Board from time to time applicable to sub-Branches.

Option Notice means a notice issued by RSL NSW under clause 14.16.

Previous Constitution means the constitution of RSL NSW as amended on 23 May 2018.

Primary sub-Branch means the sub-Branch to which an RSL NSW Member's voting rights attach in circumstances where that member is attached to more than one sub-Branch.

Region means one of the regions formed pursuant to clause 13.

Regional Consolidation Date means 30 September 2019 or such other date as the Board may agree.

Regional Representative Councillor means a Service Member elected as the representative of a Region.

Regional Representative Council means the body representing the Regions comprising Regional Representative Councillors.

Related Body Corporate means a related body corporate as defined in section 50 of the Corporations Act.

RSL National means The Returned & Services League of Australia Limited.

RSL NSW means the Returned and Services League of Australia (New South Wales Branch) incorporated under the RSL NSW Act.

RSL NSW Act means the *RSL NSW Act 2018* (NSW).

RSL NSW Member means a person admitted in a category of membership set out in clause 8.2.

RSL NSW Officer means a Director, State Councillor, Regional Representative Councillor, Model B sub-Branch management committee member and any other officer, employee, former officer, former employee of RSL NSW or a sub-Branch as the Board in the relevant case may determine.

Savings Transitional and Continuing Provisions mean the provisions set out in clause 21.

Service Member means a person who satisfies the eligibility criteria set out in Appendix B and who has been admitted as a service member of RSL NSW in accordance with this Constitution.

Special Election means an election held outside an Election Year required to fill a casual vacancy.

State Councillor means a Service Member elected as a state councillor of RSL NSW.

sub-Branch means a sub-Branch of RSL NSW holding a Charter.

sub-Branch Executive means a person holding an executive position within a sub-Branch between the Commencement Date and the Conversion Date.

sub-Branch Member means the RSL NSW Members attached to a sub-Branch.

Sub-Branch Standard Operating Procedure (SOP) means the document setting out the procedures which supplement this Constitution in governing the operations of a sub-Branch.

sub-Branch Trustee means a fully paid up Service Member of a sub-Branch and/or RSL Custodian, appointed as a trustee of the property of the sub-Branch.

Interpretation

In this Constitution, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) headings used in this Constitution do not form part of or affect the construction or interpretation of this Constitution;
- (d) a reference to a person is a reference to a natural person;
- (e) headings used in this constitution do not form part of or affect the construction or interpretation of this constitution.
- (f) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of a word or phrase defined in this Constitution have a corresponding meaning.
- (g) a document (including this Constitution) includes all amendments or supplements to, or replacements or novations of, that document;

- (h) “including”, “for example” or “such as” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (i) “law” includes legislation, the rules of the general law, including common law and equity, and any judgment order or decree, declaration or ruling of a court of competent jurisdiction or governmental agency binding on a person or the assets of that person;
- (j) “body” includes any company, trust, partnership, joint venture, association, corporation or other body corporate and any government agency.

APPENDIX B MEMBERSHIP

Application for membership

1. A person may apply to be an RSL NSW Member by:
 - (a) submitting an application in the form prescribed by RSL NSW (as amended from time to time) which can be obtained from the RSL NSW website, the RSL NSW Membership supervisor or their delegate; and
 - (b) providing documents establishing eligibility for membership in the particular class of membership in which membership is sought as set out in clause 9.
2. Successful applicants will be notified in writing and requested to pay an amount equivalent to the current annual membership fee (if any) to RSL NSW, upon receipt of which the applicant's name will be entered in the Membership Register and the applicant will become an RSL NSW Member.
3. All new members will be admitted as RSL NSW Members and not of an individual sub-Branch. Applicants may nominate a sub-Branch, or sub-Branches to which they wish to be attached provided that, subject to clause 4 of this Appendix B, the Board of RSL NSW will ultimately determine to which sub-Branch a member is attached.
4. RSL NSW will consult with the nominated sub-Branch or sub-Branches and seek approval for a member to be attached to that particular sub-Branch (such approval not to be unreasonably withheld) and will notify the applicant.
5. In relation to Affiliate Members and Auxiliary Members, a sub-Branch may decide, in its discretion not to approve any Affiliate Members or Auxiliary Members.
6. An RSL NSW Member may be, with the Board's approval, attached to more than one sub-Branch but will only have one vote as an RSL NSW Member and will only have voting rights attached to the first named or Primary sub-Branch.

Discretionary criteria

7. Despite an applicant meeting the eligibility criteria set out in clause 9 of this Appendix B, an application for membership may be declined by the Board in its absolute discretion in circumstances where:
 - (a) a person has previously receiving a warning from, or had their RSL NSW membership suspended or cancelled by, RSL NSW;
 - (b) a person is, in the opinion of the Board, not a Fit and Proper Person; or
 - (c) in the opinion of the Board it would be prejudicial to the interests or reputation of RSL NSW to admit the person as an RSL NSW Member.

Membership Fees

8. All RSL NSW Members must pay annual membership fees prescribed by the Board, if any, to RSL NSW.

Membership Eligibility

Service Member

9. The following persons are eligible to be admitted as a Service Member:

- (a) a person who, for a period of not less than 6 months, has been a member of the Australian Defence Force;
 - (b) a person who was a member of the Australian Defence Force for a period of less than 6 months and was discharged for medical reasons;
 - (c) a person who was a member of the Australian Defence Force for a period of less than six (6) months and was discharged for any reason other than medical discharge if the Board in their discretion determines the person should be admitted as a Service Member;
 - (d) a person who was, for a period of not less than six (6) months, a member of the Armed Forces of:
 - (i) any country presently or formerly a member of the British Commonwealth;
 - (ii) any country or place presently or formerly a Crown Colony of the United Kingdom; or
 - (iii) the United States of America.
 - (e) subject to providing proof of service and with the specific prior approval of the Board, a person to whom clause 9(d) does not apply, but who is an Australian citizen or permanent resident and who in a theatre of conflict:
 - (i) either served with, supported or was otherwise engaged with the Australian Defence Force or the Armed Forces of those countries or places referred to in clause 9(d) above; or
 - (ii) served as a member of the Armed Forces of another country or place which, during that time of conflict, was an ally of the Commonwealth.
10. To be eligible to be a Service Member in any of the categories in clause 8 above, a person must be at least 17 years of age.

Affiliate Member

11. The following persons are eligible to be admitted as an Affiliate Member:
- (a) a person who is any relative of a person (living or deceased) who is or was eligible to be a Service Member;
 - (b) a person who has received an award for giving valuable service to the League;
 - (c) a Cadet and/or Officer of Cadets over 17 years of age;
 - (d) any person deemed by the Board to have provided significant service to the League.

Auxiliary Member

12. Any person may apply to be an Auxiliary Member and be admitted as an Auxiliary Member of RSL NSW in accordance with the terms of this Appendix B.

Membership Awards

Life Member

13. A Service Member who has in the opinion of the Board, given long, continued and outstanding service to RSL NSW and the League, may, at the discretion of the Board of RSL National be appointed as a Life Member.

14. A Life Member will no longer be required to pay any annual membership fees.
15. A sub-Branch or the Regional Representative Council may propose to the Board that a Service Member be granted Life Membership if the person has been a Service Member for at least 15 continuous years and has rendered not less than 10 years' outstanding service to the League, and the nominating entity agrees to pay any fee prescribed.
16. The Board may in its sole discretion recommend that RSL National grant Life Membership to a person who is properly proposed.
17. If the person proposed dies before the Board considers the proposal, the Board may still resolve to request that RSL National grant Life Membership to that person. Any badge and certificate will be given to the person's next of kin.

Honorary Member

18. The Board may, in its discretion, recommend to the Board of RSL National that it grant Honorary Memberships

Membership Badges

19. Each RSL NSW Member will receive a membership badge reflecting their class of membership which must be worn only whilst being an RSL NSW Member.
20. The unauthorised wearing of an RSL NSW membership badge may constitute an offence under the *Discharged Servicemen's Badges Act 1964* (NSW).

Cessation or Cancellation of Membership

21. A member may resign as an RSL NSW Member by giving notice in writing to RSL NSW.
22. The Board may cancel a Membership:
 - (a) if the RSL NSW Member fails to pay any annual membership fees by the due date;
 - (b) in any of the circumstances set out in clauses 11 of Appendix E.
23. In the event of the death of an RSL NSW Member, the membership will automatically cease from the date of the member's death.

APPENDIX C – MEMBERS’ MEETINGS CONDUCT AND VOTING PROCEDURE

Motions for general meeting

1. A sub-Branch and/or the Regional Representative Council may submit any motion it wishes to propose at a general meeting by providing it, together with a brief supporting argument, to ANZAC House not less than three (3) months before date of the general meeting.
2. Motions will be reviewed by the Board, its nominated delegate or committee and may be:
 - (a) approved to be included on the agenda of the general meeting;
 - (b) revised in form and approved provided the revision does not change the substance or intent of the proposed motion;
 - (c) rejected and returned to the sub-Branch or Regional Representative Council if the proposed resolution is not, in the discretion of the Board, its delegate or committee, consistent with, or likely to further or promote the Charitable Purpose.
3. Motions approved under clause 2 will be included in the agenda for the general meeting and the sub-Branch or Regional Representative Council will be notified accordingly.

Returning Officer

4. Before sending the Notice of a general meeting, the Board will appoint a Returning Officer.

Notice of annual general meeting

5. A notice of general meeting must be sent to sub-Branches and, if elections for Directors will be conducted at the meeting, to Service Members, via email or post by no later than six (6) weeks before the general meeting.
6. The notice of general meeting must:
 - (a) confirm the date, time and place for the annual general meeting;
 - (b) include an agenda;
 - (c) set out all items of business and all proposed resolutions and in particular all special resolutions;
 - (d) include any information and material in support of a resolution;
 - (e) include a statement the Delegates have the right to appoint the Chair or another director of the Board as a proxy, the procedure for doing so and the closing date for the receipt of proxies.

Holding a general meeting at two or more places

7. RSL NSW may hold a general meeting at two or more places using any technology which gives the Delegates as a whole an opportunity to participate.
8. The technology used to hold a meeting in two or more places must allow:
 - (a) every Delegate attending the meeting to hear each person who addresses the meeting;
 - (b) every person who addresses the meeting to simultaneously address each of the Members attending the meeting; and

- (c) the Chair to be aware of the proceedings in the other places at which the Chair is not present.
9. If a meeting is held in two or more places using technology, a quorum is taken to be present if the minimum number of Delegates required to form a quorum specified in clause 23 is present in aggregate in all of the places at which the meeting is held.
10. A meeting held in two or more places using technology is taken to be held at the place at which the Chair is present.
11. If, either before or during the meeting, any technical difficulty causes one or more of the matters set out in clause 8(a) or clause 8.2(b) to be not satisfied,
- (a) the Chair may:
 - (i) adjourn the meeting until the difficulty is remedied; or
 - (ii) continue to hold the meeting and transact business in the place where the Chair is present (and any other place which is linked under clause 8(a) and clause 8(b)); and
 - (b) no Member may object to the meeting being adjourned, being held or continuing.

Close of the Membership Register

12. The Board will determine the date and time of the close of the Membership Register.

Conduct of the general meeting

13. The President, or in the President's absence, the Deputy-President will preside as Chair of every annual general meeting.
14. The directors present may choose another director as Chair if:
- (a) there is no President or Deputy-President; or
 - (b) neither the President nor the Deputy-President is present within 15 minutes after the time appointed for the meeting to start.
15. If the directors do not choose a Chair under clause 7 or if all of the directors' present decline to act as Chair, then the Delegates present in person or by proxy, must choose a Service Member present in person to be Chair.
16. The Chair will not have a casting vote.
17. Subject to the specific matters prescribed in this Appendix, the Chair is responsible for the conduct of the annual general Meeting and may in their absolute discretion determine the procedures to be adopted at the meeting,
18. The Chair may require the adoption of any procedure which is, in the Chair's opinion, necessary or desirable to:
- (a) give members a reasonable opportunity to make comments and ask questions;
 - (b) allow proper and orderly debate or discussion – including limiting the time that a Delegate may speak on a motion or other item of business before the meeting; and
 - (c) allow proper and orderly voting at the meeting – whether on a show of hands or on a poll.

19. The Chair may terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable to do so for the proper conduct of the meeting.
20. The Chair may refuse to allow debate or discussion on any matter which is not within the business in the notice of meeting.
21. The Chair may refuse to allow any amendment to be moved to a resolution of which notice has been given.
22. The annual general meeting must include:
 - (a) a report by the President;
 - (b) a presentation of the financial statements for the previous financial year and a report by the Director having responsibility for chairing a finance committee;
 - (c) a presentation of an auditor's report;
 - (d) debate and voting on all resolutions proposed and approved in accordance with this Constitution.
23. The quorum for an annual general meeting is 50 Delegates who must be present at all times during the meeting.

Voting

24. Each Delegate, or in the absence of the Delegate, the Alternate Delegate, is entitled to one vote on resolutions proposed at an annual general meeting.
25. Voting on resolutions will take place at the meeting by either:
 - (a) a show of hands; or
 - (b) a poll;as the Chair in their discretion decides and directs.
26. The Chair must inform the meeting before any vote is taken whether any proxy votes have been received by the Chair or other member of the Board and, if so, how the proxy votes will be cast.
27. On a vote by show of hands, the decision of the Chair will determine the result.
28. The Chair does not need to state the number or proportion of the votes recorded for or against on a show of hands.
29. A poll may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (a) at least five Delegates present; or
 - (b) the Chair.
30. A poll in such case must be taken in the manner directed by the Chair.

Proxies

31. A Delegate eligible but unable for any reason to attend the general meeting, may appoint the Chair or another member of the Board as a proxy to vote on their behalf.
32. An appointment of proxy (proxy form) must be signed by the Delegate and one other representative of the Delegate's sub-Branch and must:

- (a) confirm the appointment of the Chair, or if not appointing the Chair, name the director of the Board appointed as proxy; and
 - (b) identify the appointor Delegate and the Delegate's sub-Branch.
33. Proxy forms must be submitted in writing by post or email to the Returning Officer and must be received no later than five business days before the general meeting.
34. Unless the Returning Officer receives written notice before the start or resumption of the general meeting for which a proxy is given, a vote cast under the proxy is valid even if, before the proxy votes, the Delegate:
- (a) dies;
 - (b) is mentally incapacitated; or
 - (c) revokes the proxy's appointment.
35. A proxy appointment may specify the way the Chair or Board member must vote on a particular resolution.
36. A proxy vote must not be cast on a show of hands.
37. When a poll is held, a proxy vote:
- (a) does not need to be cast, unless the proxy form specifies the way the proxy must vote; and
 - (b) if the way the proxy must vote is specified on the proxy form, the proxy must be cast that way.
38. The Chair is taken to be appointed as the proxy of a Delegate (regardless of anything to the contrary in the proxy form) to vote on the Delegate's behalf and in accordance with the Delegate's direction if the member of the Board nominated in the proxy form is absent from the general meeting.

APPENDIX D SUB-BRANCHES

SUB-BRANCH STRUCTURE AND CONVERSION

1. All sub-Branches as at the Commencement Date are unincorporated associations.
2. A Model A sub-Branch is a company limited by guarantee.
3. A Model B sub-Branch is a division of RSL NSW.
4. When a sub-Branch receives an Option Notice, it must by resolution resolve, within the time specified, to become either a Model A sub-Branch (a company limited by guarantee) or a Model B sub-Branch (a division of RSL NSW) and notify RSL NSW accordingly.
5. When RSL NSW receives notice of a sub-Branch's election under the Option Notice, RSL NSW will, following consultation with the sub-Branch, notify the sub-Branch of the date by which the sub-Branch must implement the change of legal structure (the Conversion Date) which will not be a date earlier than six (6) months from the date of the sub-Branch notifying RSL NSW of its election.

Model A sub-Branch – conversion to company limited by guarantee

6. When a sub-Branch opts to become a Model A sub-Branch (a company limited by guarantee), it must take steps to do the following before the Conversion Date:
 - (a) resolve by special resolution of sub-Branch members present and voting at a general meeting to wind up the unincorporated association;
 - (b) request that the Australian Charities and Not-for-Profits Commission (ACNC) ACNC revoke the registration of the unincorporated association;
 - (c) attend to all other necessary regulatory requirements and notices for winding up the unincorporated association including but not limited to the Australian Taxation Office and Revenue NSW;
 - (d) resolve to incorporate a company limited by guarantee;
 - (e) set up a company called [region etc] RSL sub-Branch Limited and register the company with the Australian Securities and Investments Commission (ASIC) under the Corporations Act;
 - (f) appoint RSL NSW and one other person or entity as Company Members in equal shares;
 - (g) appoint at least three but not more than five directors of the newly formed company;
 - (h) adopt the Model A sub-Branch Constitution;
 - (i) apply for registration of the company as a charity with the ACNC;
 - (j) pay any debts of the unincorporated association or ensure that the liability for the debts is transferred to the new company;
 - (k) cause to be transferred, assigned or novated from the unincorporated association (via the sub-Branch Executive and the sub-Branch Trustees) to the newly incorporated company all real property and assets, contractual rights and obligations held by or on behalf of the sub-Branch, including all cash and investment funds;

- (l) attend to all necessary registrations, transfers and notifications regarding the transfer of property, assets, rights and obligations to the new corporation;
 - (m) arrange with all financial institutions with whom the sub-Branch and the Trustee/s hold funds or have a relationship to change the entity name, account holder details and signatories on all accounts;
 - (n) cause the newly incorporated entity to acknowledge and agree in writing in a form prescribed by RSL NSW that the entity proposes to continue to operate as a Model A sub-Branch and will be bound by and comply with the terms of this Constitution.
7. At the completion of the steps set out in clause 6 above, RSL NSW acknowledges and agrees that the Charter held by the sub-Branch as an unincorporated association at the Conversion Date, will be deemed to be transferred to the incorporated entity and the rights and obligations of that sub-Branch will continue in accordance with this Constitution.

Model B sub-Branch – conversion to division of RSL NSW

8. If a sub-Branch opts to a Model B sub-Branch (a division of RSL NSW), it must take steps to do the following before, or to take effect from, the Conversion Date:
- (a) resolve by special resolution of sub-Branch members present and voting at a general meeting to wind up the unincorporated association and to become a division of RSL NSW;
 - (b) request that the Australian Charities and Not-for-Profits Commission (ACNC) ACNC revoke the registration of the unincorporated association;
 - (c) attend to all other necessary regulatory requirements and notices for winding up the unincorporated association including but not limited to the Australian Taxation Office and Revenue NSW;
 - (d) resolve and confirm that the sub-Branch Executive holding office at the Conversion Date will be the founding sub-Branch management committee and inform ANZAC House accordingly;
 - (e) cause to be transferred, assigned or novated from the unincorporated association all real property and assets, contractual rights and obligations held by or on behalf of the sub-Branch, including all cash, investment funds to RSL NSW or as it may otherwise direct;
 - (f) attend to all necessary registrations, transfers and notifications regarding the transfer of property, assets, rights and obligations to RSL NSW;
 - (g) close all bank accounts held in the name of the sub-Branch and cause and direct the sub-Branch Trustees, and where relevant RSL Custodian Pty Limited, to close all bank accounts held in the name of the sub-Branch Trustees as trustee/s for the sub-Branch;
 - (h) do all other things necessary to transfer the rights, interests and obligations of the unincorporated association to RSL NSW; and
 - (i) cause the new sub-Branch Management committee to acknowledge and agree in writing in a form prescribed by RSL NSW that they propose to continue to operate as a Model B sub-Branch and will be bound by and comply with the terms of this Constitution.

9. At the completion of the steps set out in clause 8 above, RSL NSW acknowledges and agrees that the Charter held by the sub-Branch as an unincorporated association at the Conversion Date, will be deemed to be transferred to the RSL NSW division and the rights and obligations of that sub-Branch will continue in accordance this Constitution.

APPENDIX E – DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES

Dispute Resolution

1. This Appendix sets out the procedure to be applied in relation to Disputes referred to in clause 15.1 of this Constitution.
2. No person may start any dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure outlined in this Appendix E until that procedure has been concluded.
3. If a Dispute arises the parties to the Dispute must try to resolve the Dispute within 30 days of one party requesting the other or others to do so.
4. If the Dispute is not resolved in accordance with clause 3 of this Appendix E:
 - (a) if the Dispute is between RSL NSW Members, or an RSL NSW Member and a sub-Branch, the parties to the Dispute or either of them must report the Dispute to the Regional Representative Council, which will appoint one or more of the Regional Representative Councillors forming the Regional Representative Council to work with the parties to try and resolve the Dispute or alternatively refer the Dispute to the Company Secretary or his nominee and request that ANZAC House appoint a Service Member to work with the parties to try and resolve the Dispute.
 - (b) If the Dispute is between an RSL NSW Member or a sub-Branch on the one hand and any of a Regional Representative Councillors, Regional Representative Council, RSL NSW or a Director on the other, if the Dispute cannot be resolved by the Regional Representative Council, the parties to the dispute must:
 - (i) inform the Board or its delegate of the Dispute;
 - (ii) agree or request that a mediator be appointed, and
 - (iii) attempt in good faith to settle the dispute by mediation.
5. The mediator must:
 - (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:
 - (i) for disputes between members, a person chosen by the Board, or
 - (ii) for other disputes, a person chosen by either the Commissioner of the ACNC or the President of the Law Society of New South Wales.
6. A mediator chosen by the Directors under clause 5(b)(i) of this Appendix E:
 - (a) must not have a personal interest in the Dispute, and
 - (b) must not be biased towards or against anyone involved in the Dispute.
7. When conducting the mediation, the mediator must:
 - (a) allow those involved a reasonable chance to be heard
 - (b) allow those involved a reasonable chance to review any written statements;
 - (c) ensure that those involved are given natural justice, and

- (d) not make a decision on the dispute.

DISCIPLINARY PROCEDURES

8. This applies to the exercise of the Board's powers referred to in clause 15.1 of this Constitution.
9. The Board may itself exercise these powers or delegate these powers to a Conduct Committee established by the Board which will operate under terms of reference to be determined, and which may be amended by the Board from time to time.
10. The Conduct Committee will comprise at least one Director and may also comprise any other independent person who is not an RSL NSW Member or an employee of RSL NSW and the Board determines has the requisite qualifications, skills and experience.
11. The Board or the Conduct Committee may exercise the powers in clause 15.1 in the opinion of the Board or the Conduct Committee, an RSL NSW Member:
 - (a) is in breach of this Constitution;
 - (b) has failed to comply with any notice or request issued by RSL NSW under this Constitution;
 - (c) has failed to comply with any Operational Policies and Procedures by RSL NSW from time to time;
 - (d) has done anything in his or her capacity as an RSL NSW Member, a sub-Branch committee member or sub-Branch Trustee, a director of a Model A sub-Branch or officer of a Model B sub-Branch management Committee which is not in support of, or in pursuance of the Charitable Purpose;
 - (e) has done anything which is prejudicial to, or may cause damage to the reputation of RSL NSW;
 - (f) is no longer a Fit and Proper Person;
 - (g) has done anything which causes or contributes to a sub-Branch to do, or doing anything:
 - (i) in breach of this Constitution;
 - (ii) which fails to comply with any notice or request issued to an RSL NSW branch;
 - (iii) which fails to comply with any Operational Policies and Procedures;
 - (iv) prejudicial to or which may cause harm or damage to the reputation of RSL NSW; or
 - (v) acting otherwise than in support or pursuance of the Charitable Purpose including but not limited to applying any of its income or assets in a manner which is not consistent with, or in furtherance or pursuance of the Charitable Purpose.
12. The Board or the Conduct Committee may revoke the Charter of a sub-Branch, if, in the opinion of the Board or the Conduct Committee, a sub-Branch:
 - (a) is in breach of this Constitution;

- (b) fails to comply with any notice or request issued relevantly to a sub-Branch by RSL NSW in accordance with this Constitution;
 - (c) fails to comply with any Operational Policies and Procedures established by RSL NSW from time to time;
 - (d) applies any of its income or assets in a manner which is not consistent with, or in furtherance or pursuance of the Charitable Purpose including but not limited to applying any of its income or assets in a manner which is not consistent with, or in furtherance or pursuance of the Charitable Purpose;
 - (e) does anything which is prejudicial to or may cause damage to the reputation of RSL NSW;
 - (f) has done anything which is likely, in the opinion of the Board to contravene the provisions of the Charitable Fundraising Act or governance standards in the *Australian Charities and Not-for-Profit Commission Regulation 2013*; or
 - (g) contravenes any other law.
13. In addition to taking the steps permitted under these disciplinary procedures, the Board or the Conduct Committee may direct that any RSL NSW Member who is a sub-Branch Trustee, holds a position on a sub-Branch committee, is a member of the management committee of a Model B sub-Branch, or a Regional Representative Councillor immediately cease to hold that position if the RSL NSW Member holding such position, has done, or failed to do any of the things set out in clauses 16.4 or 16.5.
14. Any decision or determination made by the Conduct Committee under this provision must be ratified by the Board at its next meeting.
15. In exercising the disciplinary powers granted in clause 15 of this Constitution, the Board and/or the Conduct Committee must do the following:
- (a) At least 14 days before a meeting of the Board or the Conduct Committee at which a disciplinary matter is to be considered (**the Disciplinary Meeting**), the Board must notify the RSL NSW Member, the sub-Branch, the trustee, the sub-Branch Director, the sub-Branch executive or the RSL NSW sub-Branch management committee member (the Respondent), in writing:
 - (i) that the Board or the Conduct Committee, whichever is the case, is considering a resolution to warn or suspend the RSL NSW Member, to cancel the RSL NSW Member's membership, to revoke the sub-Branch's Charter or to direct that the RSL NSW Member immediately cease holding office as a trustee, a sub-Branch executive or as a sub-Branch management committee representative (**the Disciplinary Resolution**).
 - (ii) that the Disciplinary Resolution will be considered at the Disciplinary Meeting and the date of the Disciplinary Meeting.
 - (iii) details of the act or omission which is the subject of the Disciplinary Resolution.
 - (iv) the nature and details of the Disciplinary Resolution which is to be proposed, and that the Respondent is entitled to provide an explanation to the Board or the Conduct Committee, as the case may be, before any Disciplinary Resolution is passed, and details of how to do so.

- (b) Before the Board or the Conduct Committee passes any Disciplinary Resolution, the Respondent must be given a chance to explain or defend themselves or itself by:
 - (i) sending the Board or the Conduct Committee a written explanation before the Disciplinary Meeting, and/or
 - (ii) speaking at the Disciplinary Meeting.
- (c) If a Respondent wishes to be represented by another person at the Disciplinary Meeting, the Respondent must notify the Board or its nominee in writing prior to the Disciplinary Meeting, by providing the name of the proposed representative, whether they are an RSL NSW Member and whether they are a legal practitioner. A Respondent may only be accompanied or represented by one (1) other person at the Disciplinary Meeting.
- (d) If the Respondent is a sub-Branch, it may be represented at the Disciplinary Meeting by any two (2) of its President, Vice-President, Secretary, Treasurer, or a member of the sub-Branch executive or management committee or Model A sub-Branch Director.
- (e) After considering any explanation given by the Respondent, the Board or the Conduct Committee may do any of the following (**Disciplinary Decision**):
 - (i) take no further action;
 - (ii) warn the Respondent;
 - (iii) suspend an RSL NSW Member for a period of no more than 12 months;
 - (iv) cancel the RSL NSW Member's membership;
- (f) if the Respondent is a sub-Branch, revoke the Charter;
- (g) if the Respondent holds office as a trustee, a sub-Branch executive or as a Model B sub-Branch representative, direct that the Respondent cease to hold that office;
- (h) refer the subject of the Disciplinary Resolution to an unbiased, independent person who is not an RSL NSW Member on conditions that the Board or the Conduct Committee considers appropriate, noting however the independent person can only make a decision that the Board or Conduct Committee could have made under these disciplinary procedures; or
- (i) refer the Disciplinary Resolution to a general meeting to be voted on by Delegates (or Alternate Delegates).

16. The Board or Conduct Committee cannot fine or issue a monetary penalty to a Respondent.