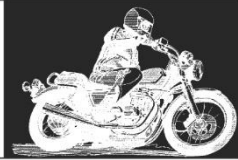


**CONSTITUTION FOR THE  
MOTORCYCLE COUNCIL OF NEW SOUTH WALES INCORPORATED**  
August 2021

MOTORCYCLE COUNCIL  
OF NEW SOUTH WALES  
INCORPORATED



Established 1981

## CONTENTS

OBJECTS.....	3
1. DEFINITIONS.....	3
2. MEMBERSHIP TYPES, QUALIFICATIONS, RIGHTS AND RESPONSIBILITIES .....	5
6. NOMINATION FOR MEMBERSHIP .....	7
7. RESIGNATION OF MEMBERSHIP .....	7
8. MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE .....	8
9. CESSATION AS A DELEGATE.....	8
10. REGISTER OF MEMBERS .....	8
11. FEES AND SUBSCRIPTIONS .....	8
12. MEMBERS' LIABILITIES .....	9
13. RESOLUTION OF INTERNAL DISPUTES .....	9
14. DISCIPLINING OF MEMBERS.....	9
15. RIGHT OF APPEAL OF DISCIPLINED MEMBERS.....	10
16. POWERS OF THE COMMITTEE .....	11
17. CONSTITUTION AND MEMBERSHIP .....	11
18. ELECTION OF MEMBERS.....	12
19. CHAIRMAN .....	13
20. VICE-CHAIRMAN.....	13
21. SECRETARY .....	13
22. TREASURER .....	14
23. COMMITTEE CASUAL VACANCIES .....	14
24. REMOVAL OF A COMMITTEE MEMBER.....	14
25. COMMITTEE MEETINGS AND QUORUM.....	15
26. APPOINTMENT OF ASSOCIATION MEMBER AS COMMITTEE MEMBERS TO CONSTITUTE QUORUM .....	15
27. USE OF TECHNOLOGY AT COMMITTEE MEETINGS .....	16
28. DELEGATION BY COMMITTEE TO SUB-COMMITTEE .....	16
29. VOTING AND DECISIONS AT COMMITTEE MEETINGS.....	17
30. ANNUAL GENERAL MEETINGS — HOLDING OF.....	18
31. CALLING OF AND BUSINESS AT ANNUAL GENERAL MEETING .....	18
32. CALLING OF SPECIAL GENERAL MEETINGS.....	18
33. NOTICE.....	19
34. PROCEDURE .....	20
35. PRESIDING MEMBER .....	20
36. ADJOURNMENT .....	20
37. MAKING OF DECISIONS.....	21
38. SPECIAL RESOLUTION .....	21
39. VOTING .....	22
40. APPOINTMENT OF PROXIES.....	22
41. POSTAL OR ELECTRONIC BALLOTS .....	22
42. USE OF TECHNOLOGY AT GENERAL MEETINGS .....	22
43. INSURANCE .....	23
44. FUNDS — SOURCE .....	23
45. FUNDS — MANAGEMENT .....	23
46. ASSOCIATION IS NON-PROFIT.....	24
47. DISTRIBUTION OF PROPERTY ON WINDING UP OF ASSOCIATION .....	24
48. ALTERATION OF OBJECTS AND CONSTITUTION.....	24
49. BY-LAWS.....	24
50. CUSTODY OF BOOKS .....	24
51. INSPECTION OF BOOKS.....	24
52. SERVICE OF NOTICE .....	25
53. FINANCIAL YEAR.....	25

## OBJECTS

The objects of the Council are:-

- (1) To provide a link between motorcyclists and the government, other authorities and the general public
- (2) To foster a good public image for motorcycling and motorcyclists
- (3) To provide a forum for the exchange of information and ideas between member clubs
- (4) To promote improvement in all aspects of road safety concerning motorcycling
- (5) To promote the increased use of motorcycles for transport and recreation
- (6) To co-operate with other organisations which have similar aims and objectives.

## PART I PRELIMINARY

### 1. DEFINITIONS

1. (1) In this Constitution:

“*Commissioner*” means the Commissioner of Fair Trading;

“*Council*” means Motorcycle Council of NSW Incorporated;

“*Financial Year*” means a year starting 1st July and ending 30th June;

“*issued*” means in writing which includes email to any recorded address;

“*Member*” or “*Member Club*” means a motorcycle club, association or ride group recognised by the Council and has membership of the Council according to this Constitution;

“*delegate*” means a member of a member club who has been appointed by their club to be their representative at the Council;

“*General Meeting*” is a meeting open to all members of the Council and the general public;

“*lodged*” means in writing which includes email;

“*notice*” means in writing, includes e-mail and Council minuted items;

“*Public Officer*” means the position required by the Department of Fair Trading and the Australian Tax Office (Note:- need not be one and the same). Appointed by the Committee. Need not be a Delegate but must be a natural person;

“*Resolution (Ordinary)*” means a motion, put to a meeting and carried or not carried (as the case may be) by a simple majority;

“*Resolution (Special)*” means a special motion, put to a Special General Meeting and carried or not carried (as the case may be) by a majority of 75%;

“*Secretary*” means:

- (a) the person holding office under this Constitution as Secretary of the Council; or
- (b) if no such person holds that office — the public officer of the Council;

“*Special general meeting*” means a general meeting of the Council other than an annual general meeting;

“*Submission*” generally means written but may include verbal when minuted at any formal meeting;

“*the Act*” means the Associations Incorporation Act 2009 including any subsequent Amendments;

“*the Regulation*” means the Associations Incorporation Regulation 2010 including any subsequent Amendments;

“*Writing*” includes legible hand writing, facsimile and e-mail.

(2) In this Constitution:

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty

(3) The provisions of the Interpretation Act 1987 apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under the Act.

## **PART II MEMBERSHIP**

### **2. MEMBERSHIP TYPES, QUALIFICATIONS, RIGHTS AND RESPONSIBILITIES**

#### **2. Member**

##### **(1) Qualifications**

Any motorcycle club, association or ride group is qualified to become a member.

##### **(2) Rights and responsibilities**

- (a) each member club can appoint up to 3 delegates comprising 2 voting delegates and one alternate;
- (b) an alternate has voting rights in the event of a voting delegate not being present at any meeting;
- (b) an alternate does not have voting rights on any matter merely by virtue of the absence of a voting delegate from the room at the time a vote is taken.

#### **3. Patron**

- (1) The appointment of a Patron shall be made by the Committee.
- (2) The Chairman shall invite the appointed Patron to the position.
- (3) The tenure of the position shall be one year, coinciding with the term of the Committee.
- (4) The Patron's appointment may be rescinded at any time by the Committee.

#### **4. Business Sponsor**

##### **(1) Qualifications**

- (a) be registered as a corporation under the Corporations Act or be a statutory corporation under an Act of a State or the Commonwealth;  
and

- (b) have an ACN;

Or

- (c) be a business or sole trader that complies with all relevant legislation.

(2) Rights and Responsibilities

A Business Sponsor:

- (a) has no rights to vote at any meeting of the Council; and
- (b) has no rights to nominate any delegates to the Council;
- (c) will honour any and all sponsorship agreements between the Business Sponsor and the Council as set out in this Constitution or other agreement between the Associate Member and the Council whether that agreement is a formal written agreement or otherwise; and
- (d) a formal or informal agreement between the Business Sponsor and the Council will have precedence over any form of sponsorship set out in this Constitution.

5. Associate Member

(1) Qualifications

- (a) any natural person
- (b) The Council retains the right to accept, reject or remove any Associate Member. The refunding of any unconsumed fees relating to the period of membership is at the discretion of the Council

(2) Rights and Responsibilities

An Associate Member:

- (a) has no rights to vote at any meeting of the Council except where they are also a delegate of a member club, association or ride group and are voting in representation of that member club, association or ride group in accordance with Clause 2 (2);
- (b) has no rights to nominate any delegates to the Council except where they are also a delegate of a member club, association or ride group in accordance with Clause 2 (2);
- (c) will honour any and all sponsorship agreements between the Associate Member and the Council as set out in this Constitution or other agreement between the Associate Member and the Council whether that agreement is a formal written agreement or otherwise; and

- (d) a formal or informal agreement between the Associate Member and the Council will have precedence over any form of sponsorship set out in this Constitution.

## **6. NOMINATION FOR MEMBERSHIP**

- 6. (1) A nomination for membership as a Member of the Council:
  - (a) must be made by a delegate of the Council in writing in the form set out in Appendix 1 to this Constitution;
  - (b) must be lodged with the Secretary of the Council.
- (2) As soon as practicable after receiving a nomination for membership, the Secretary must refer the nomination to the committee which is to determine whether to approve or to reject the nomination.
- (3) If the committee determines to approve a nomination for membership, the Secretary must, as soon as practicable after that determination, notify the nominee of that approval and request the nominee to pay the sum payable under this Clause within 28 days of the date of the letter of notification as entrance fee and annual subscription.
- (4) The Secretary must, on payment by the nominee of the amounts referred to in clause (3), enter the nominee's name, and contact details in the register of members and, on the name being so entered, the nominee becomes a member of the Council.

## **7. RESIGNATION OF MEMBERSHIP**

- 7. (1) A member club of the Council is not entitled to resign that membership except in accordance with this Clause.
- (2) A member club of the Council which has paid all amounts payable by the member club to the Council in respect of the member club's membership may resign from membership of the Council by first giving to the Secretary written notice of at least one month (or such other period as the Council may determine by Ordinary Resolution) of the member club's intention to resign and, on the expiration of the period of notice, the member club ceases to be a member.
- (3) If a member club of the Council ceases to be a member club under clause (2), and in every other case where a member club ceases to hold membership, the Secretary must make an appropriate entry in the register of member clubs recording the date on which the member ceased to be a member.

## **8. MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE**

8. A right, privilege or obligation which a Member has by reason of being a member of the Council:
- (a) is not capable of being transferred or transmitted; and
  - (b) terminates on cessation of the membership.

## **9. CESSATION AS A DELEGATE**

9. A person ceases to be a Delegate of the Council if the person:
- (a) dies;
  - (b) resigns membership of the Member club;
  - (c) ceases to be a member of the Member club;
  - (d) is expelled from their Member club;
  - (e) is replaced as a delegate by a member club;
  - (f) the Delegate's Club ceases to be a Member.

## **10. REGISTER OF MEMBERS**

10. (1) The Secretary of the Council or other duly authorised Committee member must establish and maintain a register of Members and Delegates of the Council specifying the name and appropriate contact details of each Member and Delegate together with the date on which the Member became a Member.
- (2) The register of Members and Delegates must be kept at the principal place of administration of the Council or other place as determined by the Committee and must be open for inspection, free of charge, by any Member of the Council at any reasonable hour.

## **11. FEES AND SUBSCRIPTIONS**

11. (1) A Member of the Council should:
- (a) on admission to membership, pay to the Council a fee of \$1 or, if some other amount is determined by the committee, that other amount; and
  - (b) In addition to any amount payable by the Member under Clause 11 (1) a Member must pay to the Council on or before 1 July each year, an annual membership fee of \$2 or, other amount as determined by the committee from time to time.
- (2) A Business Sponsor should:



Enter into a written agreement with the Council which will contain all the rights and obligations of each of the respective parties.

- (3) An Associate Member should:
  - (a) pay to the Council a fee of \$1 or, if some other amount is determined by the committee, that other amount; and
  - (b) In addition to any amount payable by the Associated Supporter under Clause 11 (3) an Associate Member must pay to the Council on or before the 12-month anniversary of joining each year, an annual membership fee of \$2 or, other amount as determined by the committee from time to time.

## **12. MEMBERS' LIABILITIES**

12. The liability of a Member or Associate Member of the Council to contribute towards the payment of the debts and liabilities of the Council or the costs, charges and expenses of the winding up of the Council is limited to the amount, if any, unpaid by the Member in respect of membership of the Council as required by Clause 11.

## **13. RESOLUTION OF INTERNAL DISPUTES**

13. Disputes between members (in their capacity as members) of the Council, and disputes between members and the Council, are to be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983 if unable to be resolved internally.

## **14. DISCIPLINING OF MEMBERS**

14. (1) A complaint in writing may be made by any member of the Council that some other member of the Council:
  - (a) has persistently refused or neglected to comply with a provision or provisions of this Constitution: or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Council.
- (2) On receiving such a complaint, detailed and with all parties identified, the committee:
  - (a) must cause notice and details of the complaint to be issued to the member concerned; and

- (b) must give the member at least 14 days from the time the notice is issued within which to make submissions to the committee in connection with the complaint; and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (3) The Council may, by special resolution, expel the member from the Council or suspend the member from membership of the Council if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
  - (4) If the Council expels or suspends a member, the Secretary must, within 7 days after the action is taken, cause written notice to be issued to the member of the action taken, of the reasons given by the Council for having taken the action and of the member's right of appeal under Clause 15 including the period of any suspension applied.
  - (5) The expulsion or suspension does not take effect:
    - (a) until the expiration of the period within which the Member is entitled to appeal against the resolution; or
    - (b) if within that period the member exercises the right of appeal, unless and until the Council confirms the resolution under Clause 15 (4) whichever is the later.

## **15. RIGHT OF APPEAL OF DISCIPLINED MEMBERS**

- 15. (1) A Member may appeal to the Council in general meeting against a resolution of the Council under Clause 14, within 7 days after the date of the notice of the resolution issued to the Member either in person, by post or by email, by lodging with the Secretary a written notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under clause (1) the Secretary must notify the committee which is to convene a general meeting of the Council to be held within 28 days after the date on which the Secretary received the notice.
- (4) At a general meeting of the Council convened under clause (3):
  - (a) no business other than the question of the appeal is to be transacted; and

- (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
  - (d) The Chair will control the Meeting, including speaking times, behaviour and the Membership, by Ordinary resolution, may extend speaking times.
- (5) If at the general meeting the Council passes a special resolution in favour of the confirmation of the resolution the resolution is confirmed.

### **PART III THE COMMITTEE**

#### **16. POWERS OF THE COMMITTEE**

16. The committee is to be called the committee of management of the Council and, subject to the Act, the Regulations and this Constitution and to any resolution passed by the Council in general meeting:
- (a) is to control and manage the affairs of the Council, and
  - (b) may exercise all such functions as may be exercised by the Council, other than those functions that are required by this Constitution to be exercised by a general meeting of members of the Council, and
  - (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the Council.

#### **17. CONSTITUTION AND MEMBERSHIP**

17. (1) The committee is to consist of:
- (a) the office-bearers of the Council as set out in 17(2): and
  - (b) at least 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the Council under Clause 18. An ordinary committee member can be either a delegate or an associate member.
- (2) The office-bearers of the Council are to be:
- (a) the Chairman
  - (b) the Vice-Chairman

- (c) the Secretary; and
  - (d) the Treasurer.
- (3) Each member of the committee is, subject to this Constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election but is eligible for re-election.
  - (4) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a delegate or associate member of the Council to fill the vacancy and the member so appointed is to hold office, subject to this Constitution, until the conclusion of the annual general meeting next following the date of the appointment.
  - (5) Nominees / Spokespersons — The Committee may appoint suitable Council Nominees — with no additional rights or powers, to act on behalf of Council, as Directed/Authorised, by an incumbent Committee.

## **18. ELECTION OF MEMBERS**

18. (1) Nominations of candidates for election as office-bearers of the Council or as ordinary members of the committee:
  - (a) may be made in writing signed by 2 delegates of the Council and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination) (see Appendix 2); and
  - (b) written nominations must be delivered to the Secretary of the Council at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) Nominations may be received at the annual general meeting. If the nominated candidate is not present at the meeting, then written consent of the candidate must be provided.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members on the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct by ordinary resolution.

## **19. CHAIRMAN**

19. (1) The Chairman is to provide organisational and strategic leadership to the Council.
- (2) The Chairman is responsible for making sure that each meeting is planned effectively, conducted according to the constitution and that matters are dealt with in an orderly, efficient matter. The Chairman must make the most of all his/her Committee Members, building and leading the team.
- (3) The Chairman co-ordinates the Committee to ensure that appropriate policies and procedures are in place for the effective management of the Council.
- (4) The Chairman is to provide support and supervision to the Committee.
- (5) The Chairman may from time to time be called upon to represent the Council and sometimes be its spokesperson at, for example, functions or meetings. The Chairman may delegate, in writing, this responsibility to another.

## **20. VICE-CHAIRMAN**

20. (1) Fulfills the duties of the Chairman in the absence of the Chairman as per Clause 19.

## **21. SECRETARY**

21. (1) The Secretary of the Council must, as soon as practicable after being appointed as Secretary, lodge notice with the Council of his or her address and other appropriate contact details.
- (2) It is the duty of the Secretary to keep minutes of:
  - (a) all appointments of office-bearers and members of the committee;
  - (b) the names of members of the committee present at a committee meeting or a general meeting; and
  - (c) all proceedings at committee meetings and general meetings
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (4) all minutes of all proceedings are to be kept at the residence of the Secretary and a copy must be provided, free of charge, to any Member or Delegate at any reasonable time and may be issued by hand, post or e-mail to any appropriate address or appropriate person.

## **22. TREASURER**

22. It is the duty of the Treasurer of the Council to ensure:
- (a) that all money due to the Council is collected and received and that all payments authorised by the Council are made; and
  - (b) that correct books and accounts are kept showing the financial affairs of the Council, including full detail of all receipts and expenditure connected with the activities of the Council.
  - (c) all books and accounts are to be kept at the residence of the Treasurer and must be open to inspection, free of charge, by a member of the Council at any reasonable hour.

## **23. COMMITTEE CASUAL VACANCIES**

23. For the purpose of this Constitution, a casual vacancy in the office of a member of the committee occurs if the member:
- (a) dies; or
  - (b) ceases to be a Delegate; or
  - (c) whose Member club becomes an insolvent under administration within the meaning of the Corporations Law; or
  - (d) becomes a bankrupt; or
  - (e) resigns office by notice in writing given to the Secretary; or
  - (f) is removed from office under Clause 24; or
  - (g) becomes a mentally incapacitated person; or
  - (h) is absent without the consent of the committee from all meetings of the committee held during a period of 6 months.

## **24. REMOVAL OF A COMMITTEE MEMBER**

24. (1) The Council in general meeting may by special resolution remove any committee member from their office before the expiration of the committee member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed
- (2) If a member of the committee to whom a proposed resolution referred to in clause (1) relates makes representations in writing to the Secretary or chairman (not exceeding a reasonable length) and requests that the representations be notified to the members of the Council, the Secretary or the chairman may send a copy of the representations to each Delegate of the Council or, if the representations are not so sent, the committee

member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **25. COMMITTEE MEETINGS AND QUORUM**

25. (1) The committee must meet at least 3 times in each 12 months period at such place and times as the committee may determine.
- (2) Additional meetings of the committee may be convened by the chairperson or by any member of the committee.
- (3) Written notice of a meeting of the committee must be issued by the Secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting issued under clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 5 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the committee:
  - (a) the chairman or, in the chairman's absence, the vice-chairman is to preside; or
  - (b) if the chairman and the vice-chairman are absent or unwilling to act, one of the remaining committee members chosen by the committee members present at the meeting is to preside.

## **26. APPOINTMENT OF ASSOCIATION MEMBER AS COMMITTEE MEMBERS TO CONSTITUTE QUORUM**

26. (1) If at any time the number of committee members is less than the number required to constitute a quorum for a committee meeting, the existing committee members may appoint a sufficient number of members of the

association as committee members to enable the quorum to be constituted.

- (2) A member of the committee so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- (3) This clause does not apply to the filling of a casual vacancy to which clause 17 applies.

## **27. USE OF TECHNOLOGY AT COMMITTEE MEETINGS**

27. (1) A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.
- (2) A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **28. DELEGATION BY COMMITTEE TO SUB-COMMITTEE**

28. (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of the persons deemed by the Committee fit for purpose) the exercise of any of the functions of the committee that are specified in the instrument, other than:
  - (a) this power of delegation, and
  - (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.



## **29. VOTING AND DECISIONS AT COMMITTEE MEETINGS**

29. (1) Questions arising at a meeting of the committee are to be determined by a majority of the votes of members of the committee present at the meeting.
- (2) Each member present at a meeting of the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes the person presiding may exercise a second or casting vote.
- (3) Subject to Clause 25 (5) the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee.

## **PART IV GENERAL MEETINGS**

### **30. ANNUAL GENERAL MEETINGS — HOLDING OF**

30. (1) The Council must convene an annual general meeting of its Delegates at least once in each calendar year and within the period of 6 months after the expiration of each financial year of the Council.
- (2) Clause (1) has effect subject to any extension or permission granted by the Commissioner of Fair Trading under the Act.

### **31. CALLING OF AND BUSINESS AT ANNUAL GENERAL MEETING**

31. (1) The annual general meeting of the Council is subject to the Act and be convened on such date and at such place and time as the committee thinks fit. The Secretary shall give 28 days' notice of the Annual General Meeting.
- (2) An annual general meeting must be convened as nearly as is practicable in the same manner as general meetings are convened.
- (3) In addition to any other business which may be transacted at an annual general meeting the business of an annual general meeting is to include the following:
- (a) confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting.
  - (b) receive from the committee reports on the activities of the Council during the last preceding financial year.
  - (c) elect office-bearers of the Council and ordinary delegates to the committee.
  - (d) receive and consider the financial statement which is required to be submitted to members under section 48 of the Associations Incorporation Act 2009.
- (4) An annual general meeting must be specified as such in the notice convening it.

### **32. CALLING OF SPECIAL GENERAL MEETINGS**

32. (1) The committee may, whenever it thinks fit, convene a special general meeting of the Council.

- (2) The committee must on the requisition in writing of at least 6 per cent of the total number of Delegates, convene a special general meeting of the Council.
- (3) A requisition of delegates for a special general meeting:
  - (a) must state the purpose or purposes of the meeting; and
  - (b) must be signed by the Delegates with names and the Member Club making the requisition; and
  - (c) must be lodged with the Secretary; and
  - (d) may consist of several documents in a similar form each signed by one or more of the Delegates with names and the Member Club making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the delegates who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a delegate or delegates as referred to in clause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee and any delegate who consequently incurs relevant expense is entitled to be reimbursed by the Council for any relevant expense so incurred.

### **33. NOTICE**

33. (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Council, the Secretary must at least 28 days before the date fixed for the holding of the special general meeting, cause to be sent by pre-paid post to each delegate at the delegate's address or email address appearing in the register of delegates, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a special general meeting requires a special resolution of the Council, the Secretary must, at least 28 days before the date fixed for the general meeting cause notice to be sent to each member in the manner provided in clause (1) specifying, in addition to the matter required under clause (1), the intention to propose the resolution as a special resolution.

- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except in the case of an annual general meeting, business which may be transacted under Clause 31 (3).
- (4) A Delegate desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the delegate.

### **34. PROCEDURE**

34. (1) No item of business is to be transacted at a general meeting unless a quorum of Delegates is present during the time the meeting is considering that item.
- (2) Five delegates present in person constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of Delegates, is to be dissolved; and
  - (b) in any other case, is to stand adjourned to the same day in the following month at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Delegates given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Delegates present (being at least 3) are to constitute a quorum.

### **35. PRESIDING MEMBER**

35. (1) The chairman or, in the chairman's absence, the vice-chairman, is to preside as chairperson at each general meeting of the Council.
- (2) If the chairman and the vice-chairman are absent or unwilling to act, the delegates present must elect one of their number to preside as chairperson at the meeting.

### **36. ADJOURNMENT**

36. (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of delegates present at the meeting, adjourn the meeting from time to time and place to place, but no business

is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

- (2) If a general meeting is adjourned for 14 days or more, the Secretary must give written, email or oral notice of the adjourned meeting to each delegate of the Council stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in clauses (1) and (2) notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

### **37. MAKING OF DECISIONS**

37. (1) A question arising at a general meeting of the Council is to be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Council, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the Council, a poll may be demanded by the chairperson or by at least 3 delegates present in person or by proxy at the meeting.
- (3) If a poll is demanded at a general meeting, the poll must be taken:
  - (a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment; or
  - (b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

### **38. SPECIAL RESOLUTION**

38. A resolution of the Council is a special resolution.
  - (a) if it is passed by a majority which comprises at least 75% of such Delegates of the Council as, being entitled to vote in person or by proxy at a general meeting of which at least 21 days' written notice (including email) specifying the intention to propose the resolution as a special resolution was given in accordance with this Constitution; or

- (b) where it is made to appear to the Commissioner that it is not practicable for the resolution to be passed in the manner specified in paragraph (a) if the resolution is passed in a manner specified by the Commissioner.

### **39. VOTING**

- 39. (1) On any question arising at a general meeting of the Council a delegate has one vote only.
- (2) All votes must be given personally or by proxy, but no delegate may hold more than 1 proxy.
- (3) If an Alternate Delegate attends a meeting in the absence of a Delegate, that Delegate is not entitled to vote by proxy.
- (4) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (5) A delegate or proxy is not entitled to vote at any general meeting of the Council unless all money due and payable by their member club or proxy to the Council has been paid, other than the amount of the annual subscription payable in respect of the then current year.

### **40. APPOINTMENT OF PROXIES**

- 40. (1) Any delegate may appoint another delegate as proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy is to be in the form set out in Appendix 3 to this Constitution.

### **41. POSTAL OR ELECTRONIC BALLOTS**

- 41. (1) The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 15).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

### **42. USE OF TECHNOLOGY AT GENERAL MEETINGS**

- 42. (1) A general meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the association's members a reasonable opportunity to participate.

- (2) A member of an association who participates in a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **PART V MISCELLANEOUS**

### **43. INSURANCE**

43. (1) The Council must effect and maintain insurance under the Act.
- (2) In addition to the insurance required under clause (1) the Council may effect and maintain other insurance.

### **44. FUNDS — SOURCE**

44. (1) The funds of the Council may be derived from any one or more of the following:
- (a) entrance fees and annual subscriptions of members;
  - (b) donations;
  - (d) grants from government or private bodies which do not require repayment of capital or interest;
  - (e) fund raising from sale of merchandise or other traditional forms of fundraising; or
  - (f) income produced from any scheme, program or project approved by the members at a general meeting;
  - (g) Business supporter donations;
  - (h) Associate Member annual fees.
- (2) The committee may, with the approval of the delegates at a general meeting or forming part of a business plan approved by the Delegates at a general meeting, raise funds by way of a commercial loan or line of credit.
- (3) All money received by the Council must be deposited as soon as practicable and without deduction to the credit of the Council's bank account.
- (4) The Council must as soon as practicable after receiving any money paid in the form of cash, issue an appropriate receipt.

### **45. FUNDS — MANAGEMENT**

45. (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used solely in pursuance of the objects and proper management of the association in the manner that the committee determines.

(2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

#### **46. ASSOCIATION IS NON-PROFIT**

46. Subject to the Associations Corporation Act 2009 and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

**Note.** Section 5 of the Act defines **pecuniary gain** for the purpose of this clause.

#### **47. DISTRIBUTION OF PROPERTY ON WINDING UP OF ASSOCIATION**

47. (1) Subject to the Associations Corporation Act 2009 and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.

(2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association.

**Note.** Section 65 of the Act provides for distribution of surplus property on the winding up of an association.

#### **48. ALTERATION OF OBJECTS AND CONSTITUTION**

48. The statement of objects and this Constitution may be altered, rescinded or added to only by a special resolution of the Council.

#### **49. BY-LAWS**

49. By-laws may be written to supplement this Constitution to clarify how this Constitution is to be applied.

#### **50. CUSTODY OF BOOKS**

50. Except as otherwise provided by this Constitution, the Secretary, Treasurer and/or Public Officer must keep in his or her custody or under his or her control all records, books and other documents relating to the Council.

#### **51. INSPECTION OF BOOKS**

51. The records, books and other documents of the Council must be open to inspection, free of charge, by a Member or Delegate at any reasonable hour.



## **52. SERVICE OF NOTICE**

52. (1) For the purpose of this Constitution, a notice may be issued by or on behalf of the Council on any member.
- (2) If a document is:
- (a) sent to a person by properly addressing, prepaying and posting to the person a letter containing the document; or
  - (b) emailed to a person at the email address provided by them and recorded in the Delegates register

unless the contrary is proved, taken for the purposes of this Constitution to have been issued on the person at the time at which the letter would have been delivered in the ordinary course of post or on the day the email was sent.

## **53. FINANCIAL YEAR**

53. The financial year of the association is:
- (a) the period of time commencing on the date of incorporation of the association and ending on the following 30 June, and
  - (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 July and ending on the following 30 June.

**Appendix 1  
(Clause 6 (1))**

APPLICATION FOR MEMBERSHIP

THE MOTORCYCLE COUNCIL OF NSW INCORPORATED

.....  
(full name of Club/Group)

.....  
(address or email)

hereby apply, on behalf of the above Club/Group, to become a Member of the Council. In the event of admission as a Member, the Club/Group agrees to be bound by the Constitution of the Council.

.....  
(signature of applicant) (date) (print name)

.....  
(official position)

I ..... a delegate to the Council  
nominate the applicant for membership to the Council

.....  
(signature of proposer) (date) (Club/Group)

I ..... a delegate to the Council  
second the nomination of the applicant for membership to the Council

.....  
(signature of seconder) (date) (Club/Group)

**Appendix 2  
(Clause 18 (1))**

**NOMINATION OF OFFICE BEARER**

**THE MOTORCYCLE COUNCIL OF NSW INCORPORATED**

I.....

(full name, signature and date)

of .....

(member club)

being a delegate to the Motorcycle Council of NSW Incorporated

wish to nominate

.....

(full name of nominee)

of .....

(member club)

For the position:- Chairperson, Vice-chairperson, Secretary, Treasurer, Committee Member  
(indicate which)

I.....

(full name, signature and date)

of .....

(member club)

being a delegate to the Motorcycle Council of NSW Incorporated

wish to second this nomination.

I.....

(full name, signature and date)

of .....

(member club)

being a delegate to the Motorcycle Council of NSW Incorporated

accept this nomination

**Appendix 3  
(Clause 40 (2))**

FORM OF APPOINTMENT OF PROXY

I .....  
(full name)

of .....  
(member club)

being a delegate to the Motorcycle Council of NSW Incorporated

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

of .....  
(member club)

being a Delegate to the Council, as my proxy in vote for me on my behalf at the general meeting (annual general meeting or special general meeting, as the case may be) to be held on the ..... day of ..... (month), ..... (year) and at any adjournment of that meeting

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

.....

.....  
(\*to be inserted if desired)

.....  
(signature of delegate appointing proxy (date))

Note: A proxy vote may not be given to a person who is not a Delegate to the Council.