

# **Macarthur District Motorcycle Sportsmen Inc**

**Association Constitution  
1st July 2020**

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**Associations Incorporation Act 2009**

**Constitution of**

**Macarthur District Motorcycle Sportsmen Inc**

**of**

Lots 1-9 Brian Road

Appin 2560

"Association"

**Part 1**

**Interpretation and statement of liability**

**1. Definitions**

These definitions apply unless the context requires a different interpretation:

"Act"	means the Associations Incorporation Act 2009.
"Annual General Meeting"	means the annual general meeting of the association.
"Financial Year"	means the year beginning on 1st July, the date to which the accounts of the association will continue to be prepared.
"Member"	means any person who has paid for Membership of the association.
"Membership"	means membership of the association as set out in the constitution.
"Ordinary resolution"	means a resolution other than the Special Resolution.
"Regulations"	means the Associations Incorporation Regulation 2016.

“Special General Meeting” means a general meeting of the association other than an Annual General Meeting.

“Special Resolution” has the meaning given in section 39 of the Associations Incorporation Act 2009.

## **2. Interpretation**

Unless the context otherwise requires, other words or expressions contained in this constitution bear the same meaning as in the Associations Incorporation Act 2009 as applicable on the date when this constitution become binding on the association.

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.

## **3. Association is non-profit**

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

## **4. Liability of members**

The liability of each member is limited to the amount that each member is required to pay under this constitution, in the event of its being wound up while he is a member for:

- 4.1. payment of the association's debts and liabilities, and
- 4.2. payment of the costs, charges and expenses of winding up.

## **Part 2**

### **Terms of Membership**

#### **5. Membership qualification**

- 5.1. Only an individual / natural person of whom the committee does not disapprove, is eligible for membership of the association.
- 5.2. A person can become member of the association if he has applied and been approved for membership of the association in accordance with the procedure set out in this part of the constitution.

#### **6. Application procedure**

- 6.1. An application by a person for membership of the association must be by completion of application form or by electronic membership entry.
- 6.2. After payment, the secretary shall enter the applicant's name in the register of members whereupon the applicant becomes a member of the association.

#### **7. Fees and subscriptions**

- 7.1. On admission to membership an applicant shall pay:
  - 7.1.1 the admission fee
  - 7.1.2 the annual subscription fee or
- 7.2. Each member shall pay the annual subscription, as determined by the committee, on the anniversary of member's original joining date.
- 7.3. Each time a member uses association's premises and facilities, he shall pay riding fee as determined by the committee from time to time.

#### **8. Cessation of membership**

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

- 8.1. dies, or

- 8.2. resigns membership, or
- 8.3. is expelled from the association, or
- 8.4. fails to pay the annual membership fee or any other sum required under this constitution within 3 months after the fee is due.

## **9. Membership entitlements not transferable**

A member's right, privilege or obligation which he has by reason of being a member of the association:

- 9.1. is not transferrable nor transmitted to another person, and
- 9.2. terminates on cessation of the person's membership.

## **10. Resignation of membership**

- 10.1. A member of the association may resign by giving at least one month's written notice of his resignation to the secretary.
- 10.2. On the expiration of the period of notice, the member ceases to be a member.
- 10.3. The secretary shall make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

## **Part 3**

### **The Committee**

#### **Committee's powers and responsibilities**

## **11. Public officer**

The public officer of the association is Peter Dow.

## **12. Members' reserve power**

- 12.1. The members may, by special resolution, direct the committee to take, or refrain from taking, specified action.
- 12.2. No such special resolution invalidates anything which the committee has done before the passing of the resolution.

## **13. Committee to take decisions collectively**

- 13.1. The general rule about decision-making by committee is that any decision of the committee must be either a majority decision at a meeting or a decision taken in accordance with sub-paragraph 2.
- 13.2. A decision of the committee is taken in accordance with this paragraph when all eligible committee members indicate to each other by any means that they share a common view on a matter.
- 13.3. A decision may take the form of a resolution in writing, copies of which have been signed by each committee member.
- 13.4. A decision may not be taken in accordance with this paragraph if the committee member would not have formed a quorum at such a meeting.
- 13.5. The general duty of the committee is to control and manage the affairs of the association.
- 13.6. A decision of the committee on any on the following matters must be ratified by the passing of a special resolution of the members in general meeting:
  - 13.6.1 any contract between the association and an officer of the committee;
  - 13.6.2 alteration in the rights of the members;
  - 13.6.3 appointment or removal of the employees of the association;
  - 13.6.4 disposal of any of the assets or property of the association.



## **14. Committee may delegate**

- 14.1. The committee may instruct or appoint, in writing, one or more sub-committees.
- 14.2. The committee may not delegate the following powers to a sub-committee, except the following:
  - 14.2.1 this power of further delegation, and
  - 14.2.2 a function which is a duty imposed on the committee by the Act or by any other law.
- 14.3. The committee may revoke any delegation under this paragraph.

## **Appointment of committee**

### **15. Number of committee members**

There shall be voting committee members.

### **16. Composition of committee**

- 16.1. The committee shall consist of:
  - 16.1.1 the office-bearers of the association, and
  - 16.1.2 at least three ordinary committee members,
- 16.2. The office-bearers of the association are as follows:
  - 16.2.1 President
  - 16.2.2 Vice-president
  - 16.2.3 Treasurer,
  - 16.2.4 Secretary.
- 16.3. Except the offices of president and vice-president, a committee member may hold up to two offices at same time.

## 17. Methods of appointing committee members

- 17.1. A person who holds membership at least for two years can be nominated as a candidate for election as an office-bearer or as an ordinary committee member.
- 17.2. Nominations of candidates for ordinary committee members and office-bearers shall be:
  - 17.2.1 made in writing,
  - 17.2.2 signed by two existing members, and
  - 17.2.3 accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - 17.2.4 Delivered to the secretary at least seven days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- 17.3. If the nominations are received insufficient to fill all vacancies on the committee, the candidates nominated are taken to be elected.
- 17.4. If there remain any vacant position then it shall be filled by casual vacancies.
- 17.5. If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 17.6. If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.
- 17.7. The ballot for the election of office-bearers and ordinary committee members of the committee shall be conducted at the annual general meeting in any usual and proper manner that the committee directs.
- 17.8. Each member of the committee shall hold office until immediately before the election of committee members at the annual general meeting next following the date of the member's election, and is eligible for immediate re-election.
- 17.9. Unless otherwise agreed by the members in annual general meeting there is no maximum number of consecutive terms for which a committee member may hold office.

## 18. Termination of committee members

18.1. A member ceases to be a member of the committee if:

- 18.1.1 that member ceases to be a member by virtue of any provision of the Act;
- 18.1.2 that member is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three months, or
- 18.1.3 That member is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.
- 18.1.4 a bankruptcy order is made against that member;
- 18.1.5 a composition is made with that member's creditors generally in satisfaction of his debts;
- 18.1.6 that member is absent without the consent of the committee from three consecutive meetings of the committee;
- 18.1.7 a registered medical practitioner who is treating that member gives a written opinion to the association stating that member has become physically or mentally incapable of acting as an officer and may remain so for more than three months;
- 18.1.8 notification is received by the association from the committee member that the member is resigning from office, and such resignation has taken effect in accordance with its terms;
- 18.1.9 it is resolved in annual general meeting that a member be removed as a member of the committee with immediate effect.

18.2. If a member of the committee is terminated as set out in this paragraph he also ceases to be member of the association with immediate effect.

## **19. Casual vacancies**

19.1. A casual vacancy in the office of a member of the committee occurs if the member:

19.1.1 dies, or

19.1.2 ceases to be a member of the association, or

19.1.3 is terminated in accordance with paragraph 18.

19.2. In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy.

19.3. Following terms apply to nominations for filling of casual vacancy:

19.3.1 if the nominations are received insufficient to fill the vacancy, the candidate nominated are taken to be elected and further nominations are to be received.

19.3.2 if the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

19.3.3 if the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.

19.4. The committee member who is appointed to fill casual vacancy shall hold office until the next annual general meeting following the date of the appointment.

## Decision-making by committee

### 20. Calling of committee meeting

- 20.1. The committee shall meet at least 3 times in each period of 12 months at the place and time that the committee may decide.
- 20.2. Any committee member may call an additional meeting by giving notice to the other committee members.
- 20.3. Notice of any committee meeting must indicate:
  - 20.3.1 its proposed date and time;
  - 20.3.2 where it is to take place; and
  - 20.3.3 if it is anticipated that the members participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

### 21. Participation in committee meetings

- 21.1. Subject to the constitution, members participate in a committee meeting, or part of a committee meeting, when:
  - 21.1.1 the meeting has been called and takes place in accordance with the constitution, and
  - 21.1.2 They can each communicate to all of other members any information or opinions they have on any particular item of the business of the meeting.
- 21.2. In determining whether members are participating in a committee meeting, it is irrelevant where any member is or how they communicate with each other.
- 21.3. If all the members participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

## **22. Quorum for committee meetings**

- 22.1. The quorum for committee meetings may be fixed from time to time in general meetings of the members except that the quorum must never be fewer than four and unless otherwise fixed it is four.
- 22.2. A meeting of fewer people than constitute a quorum may take place, but no proposal or decision shall be binding except a proposal to call another meeting.
- 22.3. If, at the adjourned meeting, quorum is not present within half an hour of the time appointed for the meeting, then the committee members available may appoint a sufficient number of members of the association as committee members to enable the quorum to be constituted.
- 22.4. A member of the committee so appointed shall hold office until the annual general meeting next following the date of appointment.

## **23. Chairing of committee meetings**

- 23.1. The president shall chair every committee meeting.
- 23.2. If the president is absent then the vice-president shall chair the meeting.
- 23.3. If both the president and the vice-president are absent or unwilling to act, then the other members of the committee may appoint a person to chair the meeting.
- 23.4. The person so appointed for the time being shall be known as the chairman, for the duration of that meeting.

## **24. Casting vote**

- 24.1. Each member present at a meeting of the committee is entitled to one vote.
- 24.2. In the event of equality of votes for and against a matter, the chairman of the meeting shall have a casting vote.

## **Part 4**

### **Members general meetings**

#### **25. Annual general meeting**

The association must hold its annual general meetings:

- 25.1. within six months after the close of the association's financial year, or
- 25.2. Within any later time that may be allowed or prescribed under the Act.

#### **26. Calling an annual general meeting or special general meeting**

- 26.1. The committee shall decide the date, time, place and other particulars of each general meeting and shall give notice of it to every member by email, to the last known email address, or equivalent method to each member.
- 26.2. The notice of the meeting must indicate:
  - 26.2.1 the type of meeting;
  - 26.2.2 its proposed date and time;
  - 26.2.3 where it is to take place; and
  - 26.2.4 if it is anticipated that the members participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

#### **27. Decisions making at annual general meeting**

In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to:

- 27.1. confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,

- 27.2. receive from the committee reports on the activities of the association during the last preceding financial year,
- 27.3. elect office-bearers of the association and ordinary committee members,
- 27.4. receive and consider any financial statement or report required under the Act.

## **28. Special general meeting**

28.1. A special general meeting of the association may be held:

28.1.1 if the committee requires; or

28.1.2 on the requisition of at least 5% of the total number of members.

28.2. The members must make a requisition for a special general meeting as follows:

28.2.1 in writing, and

28.2.2 stating the purpose of the meeting, and

28.2.3 signed by the members making the requisition, and

28.2.4 lodged with the secretary, and

28.2.5 may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

28.3. For the purposes of this paragraph:

28.3.1 a requisition may be in electronic form, and

28.3.2 a member may transmit signature and lodge the requisition by electronic means.

28.4. If the committee fails to convene a special general meeting to be held within one month after the date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than three months after that date.



- 28.5. If a special general meeting is convened by members themselves then they shall make sure that it is as nearly as is practicable in the same manner as general meetings of the committee.

## **29. Notice period for general meetings**

The following notice period shall be required to hold a general meeting of the association:

- 29.1. 21 days' notice if the matter requires a special resolution;
- 29.2. 14 days' notice if the matter requires an ordinary resolution.

## **30. Quorum for general meetings**

- 30.1. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 30.2. The quorum for members' meetings may be fixed from time to time by an ordinary resolution, except that:
- 30.2.1 A quorum must never be less than 5, and unless otherwise fixed it is 5.
- 30.3. If a general meeting is adjourned in accordance with the constitution and at the adjourned meeting a quorum is still not present within half an hour after the time appointed for the commencement of the meeting, three members present are to constitute a quorum.

## **31. Chairing general meetings**

- 31.1. The president of the committee shall chair the general meeting.
- 31.2. If the president is absent then the vice-president shall chair the meeting of committee.
- 31.3. If both the president and the vice-president are absent or unwilling to act, then the other members may appoint a person to chair the meeting.
- 31.4. The person so appointed for the time being shall be known as the chairman, for the duration of that meeting.

## **32. Adjournment**

- 32.1. If within one hour the time appointed for meeting to commence, the number of members attending a general meeting is insufficient to form a quorum, the chairman of the meeting must adjourn it
- 32.2. The chairman of the meeting may adjourn a general meeting at which a quorum is present if either:
  - 32.2.1 the meeting consents to an adjournment, or
  - 32.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 32.3. When adjourning a general meeting, the chairman of the meeting must either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the committee.

## **33. Voting: general**

- 33.1. On any question arising at a general meeting of the association a member has one vote only.
- 33.2. At a general meeting the chairman must first put each resolution to the vote by a show of hands. If the resolution is carried unanimously, that result is final. If a resolution is not carried unanimously, the chairman shall put it to a written ballot.
- 33.3. No proxy, postal or electronic votes are accepted in a general meeting of the association
- 33.4. A member is not entitled to vote at any general meeting of the association:
  - 33.4.1 unless all money due and payable by the member to the association has been paid.
  - 33.4.2 He is under [18] years of age.

## **34. Casting vote**

In the case of an equality of votes on a question at a general meeting, the chairman of the meeting is entitled to exercise a second or casting vote.

## **Part 5**

### **Dispute resolutions**

## **35. Complaint procedure**

- 35.1. Any person may make a complaint to the committee that a member of the association:
- 35.1.1 has refused or neglected to comply with a provision or provisions of this constitution, or
  - 35.1.2 has wilfully acted in a manner prejudicial to the interests of the association.
- 35.2. The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- 35.3. If the committee decides to deal with the complaint, the committee shall:
- 35.3.1 serve notice of the complaint to the member concerned, and
  - 35.3.2 give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
  - 35.3.3 take into consideration any submissions made by the member in connection with the complaint.
- 35.4. If the committee finds after considering the complaint and any submissions made in connection with the complaint that the facts alleged in the complaint have been true and proved then the committee may
- 35.4.1 expel the member from the association;  
or
  - 35.4.2 Suspend the member from membership of the association for one year.

35.5. If the committee decides to expel or suspend a member, then the secretary shall within seven days inform the member in writing about:

35.5.1 the reasons given by the committee for having taken that action; and

35.5.2 the member's right of appeal

35.6. The expulsion or suspension does not take effect:

35.6.1 until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or

35.6.2 if within that period the member exercises the right of appeal, unless and until the association confirms the resolution.

## **36. Resolution of disputes**

36.1. If a dispute occurs between the members or the members and the association then following terms shall apply:

36.1.1 the parties shall try to resolve the matter in good faith by mediation;

36.1.2 the parties shall appoint a non member arbitrator to resolve the matter.

36.2. If the issue is not resolved as set out above then the matter shall be referred to a Community Justice Centre for mediation under the Community Justice Centres Act 1983.

## **Part 6**

### **Administrative matters**

## **37. Insurance**

The association shall maintain public liability insurance for general riding and rider insurance for competition.

## **38. Source of funds**

38.1. The source of association's funds is from:

38.1.1 entrance fees,

38.1.2 annual subscriptions of members,

38.1.3 riding fees,

38.1.4 competition fees,

38.1.5 donations or other fund raising activities approved by the committee.

38.2. At all times after receiving any money the association, if requested, shall issue an appropriate receipt.

38.3. All money received by the association shall be deposited without deduction to the credit of the association's bank or other authorised deposit-taking institution account.

## **39. Management of funds**

39.1. The association shall use funds solely in pursuance of the objects of the association in the manner that the committee determines.

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

## **40. Distribution of property on winding up of association**

40.1. Subject to the Act and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to Motorcycling NSW, which has similar objects and which is not carried on for the profit or gain of its individual members.

40.2. In this paragraph, 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.

## **41. Custody of documents**

All records, books and other documents relating to the association must be kept in New South Wales at the main premises of the association, in the custody of the secretary or treasurer, as the committee determines.

## **42. Register of members**

The secretary shall establish and maintain a register of members of the association, in written or electronic form specifying:

- 42.1. the name;
- 42.2. postal and residential address;
- 42.3. email address; and
- 42.4. The date on which the person became a member.

## **43. Inspection of documents**

43.1. The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- 43.1.1 register of members,
- 43.1.2 records, books and other financial documents of the association,
- 43.1.3 this constitution,
- 43.1.4 minutes of all committee meetings and general meetings of the association.

43.2. A member of the association may obtain a copy of any of the documents mentioned in last previous paragraph on payment of a fee of \$1 for each page copied.

43.3. The committee may refuse to permit a member of the association to inspect or obtain a copy of records of the association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.

43.4. A member shall not use information about a person obtained from the register of members to contact or send material to the member, other than for:

43.4.1 the purposes of sending the members a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or

43.4.2 Any other purpose necessary to comply with a requirement of the Act or the Regulation.

## **44. Means of communication to be used**

44.1. Any notice, document or information which is sent or supplied by the association shall be delivered:

44.1.1 by hand, or

44.1.2 sent by first class post or recorded delivery, or

44.1.3 by e-mail, or

44.2. It shall be deemed to have been delivered:

44.2.1 if delivered by hand: on the day of delivery;

44.2.2 if sent by post to the correct address: within 72 hours of posting;

44.2.3 if sent by e-mail to the address from which the receiving party has last sent e-mail: within 48 hours if no notice of non-receipt has been received by the sender.

and in proving such receipt it shall be sufficient to show that such notice, document or information was properly addressed and, in the case of post, posted.

## **45. Employee Rights**

All paid employees of the association are protected by the Australian Government Fair Work Ombudsmen.

## **46 PROPERTY**

The property identified as Lots 1-9 Brian Road, APPIN DP 248740, cannot be Sold, Exchanged or Disposed of without agreement from 75% of Clubs financial members. An election, between all financial members is to be held, with a 75% positive response needed to carry the proposal.

Proxy votes are not permitted.

Election is to be conducted by an independent organisation, which is totally divorced from the Club.