



Constitution

For Naracoorte Home for the Aged

Inc

T/as Longridge Aged Care

Constitution

of

LONGRIDGE AGED CARE INC

1. **NAME AND DEFINITIONS**

The name of the incorporated association is *Naracoorte Home for the Aged Inc*, trading as *Longridge Aged Care*, referred to herein as “**the Association**”.

‘**Act**’ means the *Associations Incorporation Act (SA) 1985*.

‘**Board**’ means the Board of Management of the Association.

‘**General Meeting**’ means a general meeting of Members of the Association convened in accordance with this Constitution including the statutory Annual General Meeting and any Special General Meeting convened under rule 13.2.

‘**Life Member**’ means a person granted life membership under rule 6.2.

‘**Member**’ means a member of the Association.

‘**Membership**’ means membership of the Association.

‘**Ordinary Resolution**’ is a resolution passed by a simple majority at a General Meeting.

'Regulations' means the *Associations Incorporation Regulations 2008*.

'Resident' means a resident of any accommodation provided by Longridge other than those covered by a Respite Care Agreement.

'Special Resolution' means a special resolution as defined in the Act.

'Tax Act' means the *Income Tax Assessment Act 1997* (Cth).

2. **OBJECTS AND PURPOSES OF THE ASSOCIATION**

The Association is established for charitable purposes for the provision of accommodation for aged and disabled persons irrespective of their financial circumstance, race, colour or religious affiliation and in connection therewith to manage the property known as "Naracoorte Home for the Aged" situated at Naracoorte (hereafter referred to as "Longridge") and any other asset vested in the Association for the benefit of aged persons and not for the purpose of trading or securing pecuniary profit to the Members from its transactions.

3. **FUNDS OF THE ASSOCIATION**

All income and property of the Association must be applied towards the objects of the Association, and no portion may be paid or transferred, directly or indirectly, to the Members except as bona fide remuneration of a Member for services rendered or expenses incurred.

4. **WINDING UP**

4.1 The Association may be wound up in the manner provided for in the Act.

4.2 If after the Association is wound up or it ceases to be a deductible gift recipient within the meaning of the Tax Act there remains “surplus assets” as defined in the Act, such surplus assets must be transferred to other funds, authorities or institutions:

(a) which are charitable at law; and

(b) which are deductible gift recipients within the meaning of the Tax Act.

5. **POWERS**

The Association shall have all the powers conferred by section 25 of the Act.

6. **MEMBERSHIP**

6.1 The Members shall be the Residents from time to time, Board members and Life Members.

- 6.2 The Board may at its discretion grant life membership to any person in recognition of financial assistance or significant service to the Association.
- 6.3 A register of Members must be kept and contain:
- (a) the name, address and email address of each Member;
 - (b) the date on which the Member was admitted to the Association;
 - (c) if applicable, the date of and reason for termination of Membership.
- 6.4 No subscription fee for Membership is payable.
- 6.5 A Member may resign from Membership by giving written notice to the Public Officer of the Association and a Resident will be taken to have resigned Membership upon ceasing to be a resident of accommodation provided by the Association.
- 6.6 Upon resignation a Member must be removed from the roll of Members by the Public Officer of the Association unless otherwise qualified to be a Member.

7. THE BOARD

- 7.1 The affairs of the Association shall be governed by the Board which, in addition to any powers and authorities conferred by this Constitution, may exercise all such powers and do all such

things as are within the objects of the Association and are not by the Act or by this Constitution required to be done by the Association in a General Meeting.

- 7.2 The Board has the management and control of the funds and other property of the Association.
- 7.3 The Board shall have the authority to interpret the meaning of this Constitution and any other matter relating to the affairs of the Association on which this Constitution is silent.
- 7.4 The Board must appoint a public officer (who may be an employee rather than a Board member) as required by the Act.
- 7.5 The Board must meet a minimum of seven (7) times per year for the purpose of business and may adjourn or otherwise regulate its meetings as it may think fit including implementing arrangements to meet the use of technology which allows each participant to contribute contemporaneously, and at all meetings five (5) members of the Board shall be a quorum. Notice in writing of every meeting of the Board must be given to each member of the Board at least three (3) days prior to the proposed meeting. Failure of notice shall not invalidate the proceedings of any meeting.

8. ELECTION AND APPOINTMENT OF BOARD MEMBERS

8.1 The Board of the Association shall consist of:

- (a) A Chairperson;
- (b) A Deputy-Chairperson;
- (c) A maximum of eight (8) other Board members whose appointment is approved by the Board after a recommendation to their appointment has been given by a unanimous vote of the Nominations Committee and whose appointment is then ratified by the Members at a General Meeting.

8.2 A Board member must be a person at least eighteen (18) years old who lives within one hundred (100) kilometres of the Naracoorte Post Office, but must not be an employee of the association.

8.3 A motion for ratification of the appointment of a Board member may only be opposed at a General Meeting if:

- (a) material circumstances adverse to such appointment are identified of which the Nominations Committee confirms in writing to the Board it was not aware at the time of giving its approval; and

(b) evidence of such material circumstances is provided to the Association for distribution to Members (in such manner and at such time as the Board determines having regard to the nature and content thereof) prior to the relevant General Meeting.

8.4 In the event that any evidentiary material is provided in relation to a motion for ratification the candidate for appointment to the Board to whom it relates will be entitled to respond (and provide any relevant material in support thereof) in accordance with such procedures as the Chairperson deems will provide procedural fairness to the candidate.

8.5 In the event that a motion for ratification in respect of a candidate approved by the Board is defeated the Board will then proceed as soon as practicable to approve a further candidate after recommendation by the Nominations Committee and seek ratification of that further candidate by the members in General Meeting.

8.6 Any vacancy in the office of a Board member (including as provided for in Rule 10.1) may be filled by the Board after prior recommendation by the Nominations Committee and the Member so appointed by the Board shall hold office for the unexpired portion of the term of the position vacated.

- 8.7 At each Annual General Meeting one half of the Board members, being the longest serving Board members, must retire.
- 8.8 A retiring Board member is eligible for re-election subject to prior recommendation of the Nominations Committee and ratification by the Members at a General Meeting.
- 8.9 A potential Board member must be nominated by an existing Board member, or nominated by a Member and seconded by an existing Board member in writing, with such nomination delivered to the Nominations Committee at least seven (7) days prior to the Annual General Meeting.
- 8.10 The Board may appoint a person to fill a casual vacancy and such appointee shall hold office until the next Annual General Meeting and shall be eligible for selection by the Nominations Committee without nomination under rule 8.9.

9. **PROCEEDINGS OF THE BOARD**

- 9.1 The Chairperson of the Board shall preside at all meetings at which they are present. In the absence of the Chairperson the Deputy Chairperson, or, if necessary, a Board member elected by those present, shall preside.

- 9.2 The minutes of the previous Board meeting shall be read and confirmed, with any necessary amendment, and signed by the Chairperson.
- 9.3 Questions arising at any Board meeting shall be decided by a majority of votes, with the Chairperson to cast the deliberative vote in the case of a tie.
- 9.4 Board members must declare any direct or indirect interest they may have in any contract or proposed contract with the association, and must not vote with respect to that contract or proposed contract. The Board member must declare the nature and extent of this interest at the next Annual General Meeting.
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10. **DISQUALIFICATION OF BOARD MEMBERS**

- 10.1 The office of a Board member shall become vacant if they are:
- (a) Disqualified from being a Board member by the Act (i.e. an insolvent under administration or convicted of an offence as specified in the Act) or any other Act, including the *Australian Charities Not-For-Profit Commission Act 2012* and the *Aged Care Act 1997*;
 - (b) Permanently incapacitated by ill health;
 - (c) Absent without apology for more than four meetings in a financial year.

10.2 A Board member who is persistently disruptive, obstructive or who acts in a manner considered to damage the good name of the Association may have their appointment terminated by a majority decision of the Board.

11. SUB-COMMITTEES AND ADVISORY COMMITTEES

11.1 The Board may appoint such sub-committees as it may from time to time think fit. Such sub-committees may submit recommendations on issues to the Board, but shall not have the powers of the Board unless specifically authorised to act in a particular matter by the Board.

11.2 Where matters of urgency make it inadvisable to wait for the next scheduled Board meeting, a sub-committee may submit proposals to the remainder of the Board by written or electronic means for approval. In such cases an overall majority of votes (which must be tabled by the sub-committee chair at the next Board Meeting) will decide the issue.

11.3 The Board shall have the power to appoint such advisory committees as it may from time to time think fit, and to co-opt by invitation persons who may or may not be Members to assist such advisory committees.

11.4 There will be a Nominations Committee comprising three (3) members of the Board (one of whom will act as chairperson of the Nominations Committee).

11.5 The Nominations Committee will have such terms of reference as the Board determines from time to time having regard to contemporary corporate good governance but will carry the following responsibilities:

- (a) Assisting the Board achieve its objective of an effective composition with skills, size and commitment to adequately discharge its responsibilities and duties;
- (b) Advertising for, identifying and recommending to the Board, nominees for appointment to membership of the Board;
- (c) Identifying and assessing the necessary and desirable competencies and characteristics for Board membership and regularly assessing the extent to which those competencies and characteristics are represented within the Board membership;
- (d) Ensuring succession plans are in place to maintain an appropriate balance of skills on the Board, and reviewing those plans from time to time as it deems necessary or appropriate.

12. THE SEAL

12.1 The Association shall have a common seal upon which its corporate name shall appear in legible characters, for use when a contract is to be made, varied or rescinded “under seal”.

12.2 The common seal will be held in safe custody by the Association.

13. GENERAL MEETINGS

13.1 Annual General Meetings

- (a) The Board shall call an Annual General Meeting in accordance with the Act and this Constitution.
- (b) Annual General Meetings must be held within four months after the end of the financial year or otherwise, to satisfy obligations under the applicable laws, including the Act.
- (c) The order of business shall be:
 - (1) the confirmation of the minutes of the previous Annual General Meeting and of any Special General Meeting held since that meeting;
 - (2) the consideration of the accounts and reports of the Board and the auditor’s report;
 - (3) the election of Board members;

- (4) any other business requiring consideration by the Association in a General Meeting.

13.2 Special General Meeting

- (a) The Board may call a Special General Meeting of the Association at any time.
- (b) Upon written request signed by not less than eight (8) Members, the Board must, within one month of the receipt of the requisition, convene a Special General Meeting for the purpose specified in the request.
- (c) No business other than that referred to in the written request shall be transacted at the resulting meeting of the Members.

13.3 Notice of General Meetings

- (a) Notice of any General Meeting must be given to the Members at least fourteen (14) days before the scheduled meeting. The notice must set out where and when the meeting will be held, and the particulars of the nature and order of the business to be transacted at that meeting.
- (b) Notice of a meeting at which a Special Resolution is to be proposed must be given at least 21 days prior to the date of the meeting.

- (c) A notice may be given by the Association to any Member by serving the Member with the notice personally or by email to the address appearing in the register of Members.

13.4 Proceedings at General Meetings

- (a) Eight (8) Members present personally or by proxy shall constitute a quorum.
- (b) If within thirty (30) minutes of the scheduled start time a quorum is not present, the meeting shall lapse.
- (c) The Chairperson must preside as Chairperson at a General Meeting of the Association. If they are not present within five (5) minutes of the scheduled start time, or if they decline or retire from the chair, the Members may choose a Board member to be the Chairperson of the General Meeting.

13.5 Voting at General Meetings

- (a) Subject to this Constitution, every Member has only one vote at a General Meeting.
- (b) Subject to this Constitution, a question for decision at a General Meeting, other than a Special Resolution, must be determined by a majority of Members who vote in person or by proxy at the General Meeting.

- (c) Unless a ballot is demanded by at least five (5) Members or the Chairperson a question for decision at a General Meeting must be determined by a show of hands.
 - (d) Postal votes may be delivered to the Chairperson care of the Association's office before the General Meeting opens.
 - (e) Members who wish to vote at any General Meeting but are unable to attend may nominate a proxy in writing to be delivered to the Association by close of business on the working day before the General Meeting. A register of proxies must be kept with the minutes of the General Meeting.
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14. **MINUTES**

- 14.1 Proper minutes of all proceedings and resolutions of General Meetings of the Association and of meetings of the Board must be entered within one (1) month in the minute registers.
- 14.2 The minutes must be confirmed by the Members or the Board at a subsequent meeting.
- 14.3 Minutes must include the names of all persons attending the meeting, together with apologies.

14.4 A paper copy of the minutes must be signed by the Chairperson at which the proceedings took place or by the Chairperson of the subsequent meeting at which the minutes were confirmed.

14.5 Where minutes are entered and signed they will, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings at the meeting will be deemed to have duly occurred, and that all appointments made at the meeting will be deemed to be valid.

15. FINANCIAL REPORTING

15.1 The financial year of the Association shall be a period of twelve (12) months commencing on July 1 and ending on 30 June of each year.

15.2 The Association must keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act and Regulations.

15.3 The accounts of the Association must be open to the inspection of the Members of the Board at all reasonable times.

15.4 The accounts, together with the auditor's report on the accounts, the Board's statement and the Board's report must be laid before the Members at the Annual General Meeting.

15.5 Immediately following each annual General Meeting, the Board shall appoint an auditor of the Association for the current financial year.

15.6 The auditor shall hold office until the next succeeding Annual General Meeting and is eligible for re-appointment.

16. CHANGES TO THE CONSTITUTION

16.1 This Constitution may be altered, rescinded or replaced by Special Resolution of the Members.

16.2 The alteration must be registered promptly as required by the Act.

16.3 An alteration to this Constitution comes into force at the time the alteration is passed at the necessary meeting of Members. This does not apply to an alteration to the name of an Association which does not come into force until registered under the Act.

17. VARIATION

17.1 The Board may from time to time at any meeting specially called for the purpose add to annul repeal or vary this Constitution provided that no such addition annulment repeal or variation shall come into force until approved by a majority of the Members for the time being of the Association present at a meeting called for that purpose.

17.2 The Members may at any time by Special Resolution add to, amend, repeal or vary this Constitution.

18. INDEMNITY AND LIABILITY

18.1 Each Board member is indemnified by the Association against all loss, damages and expenses paid or incurred by him or her as a Board member in a proper exercise of his or her duties.

18.2 Unless it is due to the intentional act of the Member or the Board member no Member or Board member is liable for:

- (a) the errors or defaults of any other Member or Board member;
- (b) any defect of title to any property acquired by on behalf of the Association;
- (c) any loss or damage arising from the insolvency or tortious act of any person controlling any property of the Association; or
- (d) any other loss or damage to the Association.