



**TERRIGAL TROTTERS INC**

**CONSTITUTION**

**UPDATED**

**APRIL 2022**



# Terrigal Trotters Inc

## Rules under the Associations Incorporation Act 2009

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# Part 1 Preliminary

## 1 Definitions

(1) In this constitution:

**ordinary committee member** means a member of the committee who is not an office-bearer of the association.

**secretary** means:

(a) the person holding office under this constitution as secretary of the association, or

(b) if no person holds that office - the public officer of the association.

**special general meeting** means a general meeting of the association other than an annual general meeting.

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2016*.

(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 2 Membership**

### **2 Membership generally**

A person is eligible to be a member of the association if:

- (a) the person is a natural person, and
- (b) the person has applied for membership of the association as provided by rule 3, and
- (c) the person has been approved for membership of the association by the committee of the association.

### **3 Application for membership**

(1) An application of a person for membership of the association:

- (a) can only occur after that person has completed 10 official Saturday morning runs with Terrigal Trotters.
- (b) must be made in writing (including by email or other electronic means, if the committee so determines) in the form determined by the committee, and
- (c) must be lodged with the secretary of the association.

(2) As soon as practicable after the application has been made, the secretary must:

- (a) notify the applicant if the application is approved or rejected (whichever is applicable), and
- (b) if the application is approved, request the treasurer to use the applicant's previous 10 official Saturday morning run fees as their membership fee.

(3) the secretary must, on payment of the amounts referred to in subclause (2) (b) enter the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of Terrigal Trotters Inc, receiving his/her official Trotter Number.

### **4 Cessation of membership**

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

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to run with the Club for a period of 12 months or more (membership resumes immediately upon attendance at a Trotters' run without loss of entitlements.), or
- (e) fails to submit an application for membership as specified in Clause 3(1).

## **5 Effect of Membership**

Members acknowledge and agree that:

- (a) this Constitution forms a contract between each of them and the association and that they are bound by this Constitution, the Rules, the Member Protection Policy and the Code of Behaviour;
- (b) they shall comply with and observe this Constitution, the Rules, the Member Protection Policy and the Code of Behaviour and any determination, resolution or policy which may be made or passed by the Committee or other entity with delegated authority;
- (c) by submitting to this Constitution, the Rules, the Member Protection Policy and the Code of Behaviour they are subject to the jurisdiction of the association;
- (d) the Constitution, the Rules, the Member Protection Policy and the Code of Behaviour are necessary and reasonable for promoting the goals of the association; and
- (e) they are entitled to all benefits, advantages, privileges and services of association membership.

## **6 Membership entitlements not transferable**

A right, privilege or obligation that a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership. (Excluding his or her Trotter Number which is retained eternally.)

## **7 Resignation of membership**

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least 1 month (or any other period that the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

## **8 Life Membership**

- (1) The committee may recommend to the annual General Meeting that any natural person who has rendered distinguished service to the association be appointed as a Life Member.
- (2) A resolution of the annual General Meeting to confer life membership (subject to subclause (3)) on the recommendation of the committee must be a Special Resolution.
- (3) A person must accept or reject the association's resolution to confer life membership in writing. Upon written acceptance, the person's details shall

be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member.

## **9 Register of members**

- (1) The secretary must establish and maintain a register of members of the association (whether in written or electronic form) specifying the name and postal, residential or email address of each person who is a member of the association together with the date on which the person became a member.
- (2) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (3) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (4) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (5) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (6) If the register of members is kept in electronic form:
  - (a) it must be convertible into hard copy, and
  - (b) the requirements in subclauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

## **10 Fees and subscriptions**

A member of the association must pay to the association a fee determined by the committee for each official Saturday run or alternatively an annual fee for each financial year determined by the committee.

## **11 Members' liabilities**

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by rule 9.

## **12 Resolution of disputes**

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a Community Justice Centre for mediation under the Community Justice Centres Act 1983.



- (2) If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.
- (3) The Commercial Arbitration Act 2010 applies to a dispute referred to arbitration.

### **13 Disciplining of members**

- (1) A complaint may be made to the committee by any person that a member of the association:
  - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
  - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
  - (a) must cause notice of the complaint to be served on the member concerned, and
  - (b) must 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
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association 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 and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 14.
- (6) 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 concerned, or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 14,whichever is the later.

### **14 Right of appeal of disciplined member**

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 13, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a 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 subclause (1), the secretary must notify the committee, which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (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.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

## Part 3 The committee

### 15 Powers of the committee

Subject to the Act, the Regulation, this constitution and any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all the acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

### 16 Composition and membership of committee

(1) The committee is to consist of:

- (a) the office-bearers of the association, and
- (b) 5 ordinary committee members,

each of whom is to be elected at the annual general meeting of the association under clause 17.

**Note.** Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the committee.

- (2) The total number of committee members is to be 9.
- (3) The office-bearers of the association are as follows:
  - (a) the president,
  - (b) the vice-president,
  - (c) the treasurer,
  - (d) the secretary.
- (4) A committee member may hold up to 2 offices (other than both the offices of president and vice-president).
- (5) An office-bearer may hold the same office for a maximum of 3 consecutive terms.
- (6) There is no maximum number of consecutive terms for which an ordinary committee member may hold office.
- (7) Each member of the committee is, subject to this constitution, to 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 re-election.

### 17 Election of members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary members of the committee must be:
  - (a) invited from members of the association at least 28 days prior to the date set for the Annual General Meeting,

- (b) made in writing and signed by the nominee, proposer and seconder, and
  - (c) delivered to the Secretary of the association in electronic form at least 14 days before the date fixed for the holding of the Annual General Meeting at which the results of election are to be announced.
- (2) If insufficient nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
  - (3) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
  - (4) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
  - (5) The ballot for the election of office-bearers and ordinary members of the committee is to be conducted by electronic ballot in such usual and proper manner as the committee may direct and be completed prior to the Annual General Meeting.
  - (6) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association and 18 years of age or older.

## **18 Secretary**

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes (whether in written or electronic form) of:
  - (a) all appointments of office-bearers and members of the committee, and
  - (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) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

## **19 Treasurer**

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

## **20 Casual vacancies**

- (1) 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 and the member so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.

- (2) A casual vacancy in the office of a member of the committee occurs if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) is or becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
  - (d) resigns office by notice in writing given to the secretary, or
  - (e) is removed from office under clause 21, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is absent without the consent of the committee from all meetings of the committee held during a period of 6 months.
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
  - (i) 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.

## **21 Removal of committee members**

- (1) The association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the 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 subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **22 Committee meetings and quorum**

- (1) The committee must meet at least 3 times in each period of 12 months at the place and time that the committee may determine.
- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that 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 given under subclause (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 same 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 president or, in the president's absence, the vice-president is to preside, or
  - (b) if the president and the vice-president are absent or unwilling to act, one of the remaining members of the committee chosen by the members present at the meeting is to preside.

## **23 Use of technology at committee meetings**

- (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.

## **24 Delegation by committee to sub-committee**

- (1) The committee may, by instrument in writing and/or orally, delegate to one or more sub-committees (consisting of the member or members of the association and/or non-members of the association that the committee thinks fit) 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.

## **25 Voting and decisions**

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 22 (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 or by a sub-committee appointed 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 or sub-committee.

## **Part 4 General meetings**

### **26 Annual general meetings - holding of**

The association must hold its annual general meetings:

- (a) within 6 months after the close of the association's financial year, or
- (b) within any later time that may be allowed or prescribed under section 37 (2) (b) of the Act.

### **27 Annual general meetings - calling of and business at**

- (1) The annual general meeting of the association is, subject to the Act and to clause 26, to be convened on the date and at the place and time that the committee thinks fit.
- (2) 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) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
  - (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
  - (c) to announce the results of the ballot to elect office-bearers of the association and ordinary committee members,
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An annual general meeting must be specified as that type of meeting in the notice convening it.

### **28 Special general meetings - calling of**

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition of at least 5% of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must be in writing, and
  - (b) must state the purpose or purposes of the meeting, and
  - (c) must be signed by the members making the requisition, and
  - (d) must be lodged with the secretary, and
  - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 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 3 months after that date.



- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.
- (6) For the purposes of subclause (3):
  - (a) a requisition may be in electronic form, and
  - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

## 29 Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member 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 general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

**Note.** A special resolution must be passed in accordance with section 39 of the Act.

- (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 27 (2).
- (4) A member 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 member.

## 30 Quorum for general meetings

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Five members present (being members entitled under this constitution to vote at a general meeting) 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 members—is to be dissolved, and
  - (b) in any other case—is to stand adjourned to the same day in the following week 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 members 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 members present (being at least 3) are to constitute a quorum.

### **31 Presiding member**

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

### **32 Adjournment**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members 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 or oral notice of the adjourned meeting to each member of the association 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 subclauses (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.

### **33 Making of decisions**

- (1) A question arising at a general meeting of the association is to be determined by:
  - (a) a show of hands or, if the meeting is one to which clause 38 applies, any appropriate corresponding method that the committee may determine, or
  - (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, 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 association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) Subclause (2) applies to a method determined by the committee under subclause (1) (a) in the same way as it applies to a show of hands.
- (4) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

### **34 Special resolutions**

A special resolution may only be passed by the association in accordance with section 39 of the Act.

## **35 Voting**

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) A member is not entitled to vote as part of any general meeting of the association if the member is under 18 years of age at the time of the meeting.
- (3) All votes must be given personally.
- (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 member is not entitled to vote as part of any general meeting of the association if the member has not recorded one hundred Saturday morning runs during their membership time and one Saturday morning run in the previous 12 months, or ten Saturday morning runs in the previous 12 months.
- (6) A member is not entitled to vote as part of any general meeting of the association unless all money due and payable by the member to the association has been paid, other than the amount of the annual subscription payable in respect of the then current year.

## **36 Postal or electronic ballots**

- (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 14).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

## **37 Use of technology at general meetings**

- (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 5 Miscellaneous**

### **38 Affiliation**

The association shall be affiliated to such organisations as the committee may from time to time decide.

### **39 Insurance**

The association may effect and maintain insurance.

### **40 Funds - source**

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, any other sources that the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **41 Funds - management**

- (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 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.

### **42 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 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.

### **43 Distribution of property on winding up of association**

- (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 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.

### **43 Change of name, objects and constitution**

An application for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

### **44 Custody of books etc**

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales in the custody of the public officer or a member of the association (as the committee determines).

### **45 Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
  - (a) records, books and other financial documents of the association,
  - (b) this constitution,
  - (c) minutes of all committee meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite subclauses (1) and (2), 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.

### **46 Service of notices**

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
  - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

#### **44 Financial year**

The financial year of the association is 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.

#### **45 Member Protection Policy**

The Member Protection Policy as set out in Appendix 1, including the incorporated Code of Behaviour, is adopted as a policy of Terrigal Trotters Inc to demonstrate our commitment to caring and fair treatment for all.

# **Appendix 1**

(Clause 45)



**TERRIGAL TROTTERS INC**

**MEMBER PROTECTION POLICY**

**VERSION 3.0**

**6 MAY 2022**

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# MEMBER PROTECTION POLICY

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## **1 Introduction**

Terrigal Trotters Inc ('the association') strives to provide a safe and enjoyable environment, free from discrimination and harassment, for members to pursue their interests in running, walking, and to promote community health and fitness.

## **2 Purpose of Our Policy**

The main objective of our Member Protection Policy is to maintain responsible behaviour and the making of informed decisions by members of the association. It outlines our commitment to a person's right to be treated with respect and dignity, and to be safe and protected from abuse. Our policy informs everyone involved in our association of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required. It also covers the care and protection of children participating in our association's activities.

## **3 Who Our Policy Applies To**

Our policy applies to everyone involved in the association including committee members, administrators, coaches, officials, participants, parents and spectators.

## **4 Extent of Our Policy**

Our policy covers unfair decisions and actions, breaches of our code of behaviour and behaviour that occurs at training, at all events organised or sanctioned by the association, and on away and overnight trips. It also covers private behaviour where that behaviour brings our association or sport into disrepute or there is suspicion of harm towards a child or young person.

## **5 Association Responsibilities**

We will:

- (1) implement and comply with our policy;
- (2) promote our policy to everyone involved in our association;
- (3) promote and model appropriate standards of behaviour at all times;
- (4) respond to breaches or complaints made under our policy promptly, fairly, and confidentially;
- (5) seek advice from and refer serious issues\* to the relevant authorities

- (6) appoint one or more members of the association to be the Member Protection Information Officer(s) with responsibility for providing information about the rights, responsibilities and options available to an individual making a complaint.

\* Serious issues include possibly unlawful behaviour that involves or could lead to significant harm and includes criminal behaviour (e.g. physical assault, sexual assault, child abuse).

## **6 Individual Responsibilities**

Everyone associated with our association must:

- (1) comply with the standards of behaviour outlined in our policy;
- (2) treat others with respect;
- (3) always place the safety and welfare of children above other considerations;
- (4) be responsible and accountable for their behaviour;
- (5) follow the guidelines outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour.

## **7 Protection of Children**

- (1) Child Protection

Terrigal Trotters Inc is committed to the safety and wellbeing of all children and young people involved with our association. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our members and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

Terrigal Trotters Inc acknowledges that our members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. Terrigal Trotters Inc aims to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

- (a) Choose suitable employees and volunteers

Terrigal Trotters Inc will ensure that Working With Children Checks are conducted for members and volunteers working with children, where an assessment is required by law.

- (b) Promote the Participation of Children

Terrigal Trotters Inc will promote the involvement and participation of children and young people in developing and maintaining child-safe environments.

- (c) Report and Respond Appropriately To Suspected Abuse and Neglect

Terrigal Trotters Inc will make all volunteers and employees aware of their responsibilities under respective state laws if they have suspicion on reasonable grounds that a child has been or is being abused or neglected.

In addition to any legal obligation, if any person feels another person or organisation bound by this policy is acting inappropriately towards a child or is breaching the Code of Behaviour they may make an internal complaint using the Record of Complaint Form in Attachment 3. The complaint will be dealt with in accordance with Rule 13 of the Terrigal Trotters Inc. Constitution.

(2) **Supervision**

Our association will provide a level of supervision adequate and relative to the members' age, maturity, capabilities, level of experience, nature of activity and nature of venue.

**8 Taking Images**

We will only use appropriate images of members and children, relevant to our sport and ensure that the subjects are suitably clothed in a manner that promotes the sport, displays its successes, etc.

If the association uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by pedophiles or other persons.

**9 Anti-harassment, Discrimination and Bullying**

Our association opposes all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Some forms of harassment, discrimination and bullying are against the law and are based on particular characteristics such as age, disability, gender, sexual orientation, pregnancy, political or religious beliefs, race, and marital status.

Our association takes all claims of harassment, discrimination, bullying and cyber bullying seriously. We encourage anyone who believes they have been harassed, discriminated against or bullied to raise the issue with the association (see Clause 13: Disciplining of members).

## **10 Inclusive practices**

Our association is welcoming and we will seek to include members from all areas of our community.

### **(1) People with a disability**

Where possible we will include people with a disability in our events. We will make reasonable adaptations to enable participation.

### **(2) People from diverse cultures**

We will support and respect people from diverse cultures and religions to participate in our association and where possible will accommodate requests for flexibility.

### **(3) Sexual & Gender Identity**

All people, regardless of their sexuality, are welcome at our association. We strive to provide a safe environment for participation and will take action over any homophobic behaviour.

### **(4) Pregnancy**

Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our sport. We recommend pregnant women to consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation.

## **11 Responding to Complaints**

Our association takes all complaints about behaviour seriously and will handle complaints based on the principles of procedural fairness (natural justice) as detailed in Rule 13 of the Terrigal Trotters Inc. Constitution.

If the complaint relates to suspected child abuse, sexual assault or other criminal activity, then our association will need to report the behaviour to the police and/or relevant government authority.

## **Attachment 1: CODE OF BEHAVIOUR**

Every person: spectator, member, official, participant, administrator, coach, parent or member of the community involved with Terrigal Trotters Inc, when participating in association-sanctioned activities, should work to ensure:

- (1) inclusion of every person regardless of their age, gender or sexual orientation
- (2) inclusion of every person regardless of their race, culture or religion
- (3) opportunities for people of all abilities to participate in the sport and develop to their full potential
- (4) respect is shown towards others, the association and the broader community
- (5) a safe and inclusive environment for all, particularly children
- (6) elimination of violent and abusive behaviour
- (7) protection from harassment\* or intimidation.

\* See Attachment 2 for the definition of “harassment”.

## Attachment 2: HARASSMENT

Sexual harassment and various other forms of harassment are unlawful under Federal and State anti-discrimination laws. People engaging in harassment can have legal action taken against them under these laws. In some cases, legal action can also be taken against the organisation for which they work or which they represent. For this reason, the association has a legal responsibility to ensure that harassment does not occur in the course of any of our activities.

### Definitions

The definition of harassment immediately following has been adopted by Terrigal Trotters Inc for the purpose of the association's Member Protection Policy. It includes but goes beyond what is prohibited by law and does not distinguish between the various different types of harassment.

#### Harassment (general)

Harassment consists of offensive, abusive, belittling or threatening behaviour directed at a person or people, because of a particular characteristic of that person or people (including the person or peoples' level of empowerment relative to the harasser). The behaviour must be unwelcome and the sort of behaviour a reasonable person would recognise as unwelcome.

The particular form of harassment known as sexual harassment is variously defined in Federal and State legislation. The Sex Discrimination Act 1984 (Cth) provides that:

#### Sexual harassment

A person sexually harasses another person (the "person harassed") if:

- (1) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- (2) engages in unwelcome conduct of a sexual nature in relation to the person harassed; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

"conduct of a sexual nature" includes making a statement of a sexual nature to a person or in the presence of a person, whether the statement is made orally or in writing.

Sexual harassment is included within the general definition of harassment referred to in paragraph 1.

Behaviour constituting harassment can take many different forms and may be explicit or implicit, physical, verbal or non-verbal. Examples include, but are not limited to:

- (1) abusive behaviour aimed at humiliating or intimidating someone in a less powerful position;
- (2) jokes or comments directed at a person's body, looks, age, race, religion, sexual orientation or disability;
- (3) unwelcome remarks including teasing, name calling or insults;

- (4) innuendo or taunting;
- (5) homophobic comments and/or behaviours;
- (6) uninvited touching, kissing, embracing, massaging;
- (7) staring, leering, ogling;
- (8) smutty jokes and comments;
- (9) persistent or intrusive questions about people's private lives;
- (10) repeated invitations to go out, especially after prior refusal;
- (11) sexual propositions;
- (12) the use of promises or threats to coerce someone into sexual activity;
- (13) the creation of a hostile or sexually permeated environment by constant inappropriate references to sexual matters, the display of sexually explicit material (posters, cartoons, graffiti) or by the use of offensive email, faxes, letters or notes; and
- (14) sexual insults, taunts, name-calling.

Jokes and behaviour which are genuinely enjoyed and consented to by everyone present are not harassment. Sexual interaction or flirtation that is based on mutual attraction or friendship, and which is consensual or invited, is not sexual harassment.

However, it is important to recognise that some people may accept or put up with behaviour they find harassing, especially if they hold a subordinate position relative to the group or individual engaging in the flirtatious or jovial behaviour. It is the responsibility of all people covered by this policy to err on the side of caution and to be sensitive to the impact of their behaviour, not just those to whom the behaviour is primarily directed.





What they want to happen	
Information provided to them	
Resolution and/or action taken	
Follow-up action	