**Dorrigo Community Nursery**

**Incorporated**

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**Constitution**

**Vs2: 27th August 2023**

**Contents**

**PART I – PRELIMINARY 4**

1. Definitions and Interpretations 4

2. Name and Legal Structure 5

3. Purpose 5

**PART II – ASSOCIATION MEMBERSHIP 5**

4. Eligibility for membership 5

5. Application for membership 5

6. Membership renewal 5

7. Membership fees 5

8. Register of members 6

9. Membership entitlements not transferable 6

10. Member’s liability 6

11. Resolution of internal disputes 6

12. Disciplinary action against members 7

13. Right of appeal against disciplinary action 7

14. Resignation of membership 8

15. Cessation of membership 8

**PART III – THE MANAGEMENT COMMITTEE 8**

16. Functions of the committee 8

17. Composition & membership of the committee 9

18. Election of committee members 9

19. Terms of office 9

20. Secretary 10

21. Treasurer 10

22. Public Officer 10

23. Authorised signatories 11

24. Vacancies in office 11

25. Removal of committee members 11

**MEETINGS 12**

26. Committee meetings 12

27. Notice of meeting 12

28. Presiding member 12

29. Quorum for meeting 12

30. Voting and decisions for meetings 13

31. Transaction of business outside meetings, by telephone or other means 13

32. Delegation by committee to sub-committee 13

**PART IV – GENERAL MEETINGS OF THE ASSOCIATION 14**

33. Annual General Meetings - holding of and business at 14

34. Special General Meetings – holding of and calling of 14

35. Notice of general meetings 15

36. Quorum for general meetings 15

37. Presiding member 16

38. Voting at general meetings 16

39. Voting on special resolutions 16

40. Adjourned meetings 17

41. Proxy voting 17

**PART V – ADMINISTRATION 17**

42. Insurance 17

43. Financial year 17

44. Funds – source and management 17

45. Change of name, objects and constitution 18

46. Amalgamation 18

47. Common Seal 18

48. Custody of records and books 18

49. Inspection of records and books 18

50. Service of notices 19

51. Non-profit status 19

52. Winding-up and distribution of property 19

**PART 1 – PRELIMINARY**

**1. Definitions and interpretations:**

In this Constitution words and phrases have the meanings as set out below:

**Association** refers to‘Dorrigo Community Nursery Incorporated’.

**Association Member** means any person who has been nominated and approved by the Management Committee.

**Committee** refers to the Management Committee of the Association.

**Committee member** means an office-bearer or ordinary committee member elected by the members of the Association to the Management Committee.

**DCN** means Dorrigo Community Nursery Incorporated.

**Exercise a function** includes perform a duty.

**Function** includes a power, authority or duty.

**General Meeting** is a meeting of the members of the Association that is held in accordance with the Association Incorporations Act and the Incorporated Association’s rules. General meetings may be: • annual general meetings (AGM) or • special general meetings (SGM).

**Management Committee meetings** are meetings of the incorporated Association’s governing body – the ‘Management Committee’, also referred to as the Committee.

**Natural Person** means an individual human being.

**Office-bearer** means a committee member elected to an office bearing role referred to in Clause 17.

**Ordinary Committee member** means a committee member who is not an office-bearer.

**Ordinary Resolution** is a formal decision passed by at least 50% of the Association members.

**Quorum** - is the minimum number of members that need to be present at a meeting for that meeting to proceed. If a decision is made at a meeting where there is no quorum, it will not be valid.

**Register of Members** means the register of members maintained under clause 8.

**Secretary** of the Association means the person holding office as secretary of the Association.

**Special resolution** is a formal decision supported by at least three-quarters of the votes cast by members of the Association.

**Sub-committee** means a committee authorised under Clause 32.

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

**The Regulation** means the Associations Incorporation Regulation 2022.

**Volunteer** refers to a person who assists with a particular task at DCN willingly, without being forced or receiving any payment.

*Note:*

1. *The Act and the Interpretation Act 1987 contain definitions and other provisions that affect the interpretation and application of this constitution.*
2. *The Interpretation Act 1987 applies to this constitution as if it were an instrument made under the Act.*
3. *The Act Part 4 deals with various matters relating to the management of associations.*
4. **Name and Legal Structure**

(1) The name of the organisation shall be Dorrigo Community Nursery Incorporated *(Referred to in this*

*Constitution as ‘the Association’).*

(2) The Association is incorporated and will continue to operate as a non-profit Association.

1. **Purpose**

The Association nurtures communal activity to protect, regenerate and enrich the natural environment of the Dorrigo plateau, with care, respect, and shared knowledge. We promote and practice sustainable living and food security.

**Part II – Association Membership**

1. **Eligibility for Membership**

A person is eligible to be a member of the association if:   
(1) the person is a natural person and:

(a) they accept the objects and rules of the association under this constitution;

(b) have applied to, and been approved by, the committee for membership in accordance with

clause 5; and

(c) have paid any prescribed fees associated with association membership.

**5. Application for Membership**

(1) An application by a person to become a member of the Association must be:

(a) made in writing on the prescribed Membership Application Form;

(b) nominated by a current member of the association;

(c) accompanied by the annual membership fee,

(i) should the fee not be paid at time of application, the applicant shall have 28 days in which to pay, or their application will become invalid.

(d) lodged with the secretary of the association.

(2) As soon as practicable after receiving an application for membership, as per clause 1, the secretary must refer the application to the management committee for approval or rejection.

(3) After the committee determination the secretary must notify the applicant of the committee decision.

(4) On completion of the membership application process, the secretary must enter the applicants name in the ‘Register of Members’, whereupon the applicant becomes a member of the association.

**6. Membership Renewal**

Members wishing to renew their membership, must complete the approved Renewal Form and pay the relevant fee, as per Clause 7.

**7. Membership Fees**

(1) The Terms and Fees for membership are to be determined by the association members at each Annual General Meeting.

(2) The financial year of the association shall run from July 1st to June 30th each year.

(3) Membership fees shall fall due on the first day of each financial year.

(4) If membership fees are not paid within three-month of the end of the financial year, membership shall lapse.

**8. Register of members**

(1) The secretary must establish and maintain a register of Members of the Association, whether in written or electronic form, recording for each member the following information:

(a) legal name of the member;

* 1. (b) residential address, postal and/or email address and phone number;

(c) the date on which the person became a member, renewed their membership or where appropriate, ceased membership.

1. (2) The register of members must be kept in New South Wales:
2. (a) at the main premises of the Association; or
3. (b) if the association has no premises, at the association’s official address.
4. (3) If a member requests that any information contained on the register about themselves, other than the member’s name, not be available for inspection, that information must not be made available for inspection.
5. (4) A member must not mis-use information about a person obtained from the register, and must not use that information to contact or send material to the person, other than for:
6. the purpose of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association; or
7. any other purpose necessary to comply with a requirement of the Act or the Regulation.

**9.** **Membership Entitlements not Transferable**

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

1. cannot be transferred to another person, and
2. terminates once the person ceases to be a member of the Association.

**10. Members Liabilities**

The members of the Association shall have no liability to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association except to the amount of any unpaid membership fees.

**11. Resolution of Internal Disputes**

(1) In the event of a dispute arising between: members (in their capacity as members); a member(s) and the Association; a member(s) and the Committee; or a member(s) and an employee of the Association, the Association’s approved ‘Grievance Policy and Procedure’ will apply.

(2) Where there is no approved ‘Grievance Policy or Procedure’ in place at the time of a dispute arising, the following procedure shall apply:

(a) Each side of the dispute shall nominate a representative who is not directly involved in the dispute. Those representatives shall then attempt to settle the dispute by negotiation.

(b) Should the nominated representatives be unable to resolve the dispute within 14 days (or such

other period as they may agree upon), the dispute shall be referred to a person mutually agreed upon for mediation.

(c) In the event that no person can be agreed upon to mediate the dispute it shall be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.

* + 1. (3) If the 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.
    2. (4) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

**12. Disciplinary action against members**

(1) A person may make a complaint to the committee that a member of the Association has:

(a) failed to comply with a provision of this constitution, or

(b) wilfully acted in a way prejudicial to the interests of the Association.

(2) The committee may refuse to deal with a complaint if the committee considers the complaint is trivial or vexatious and not relevant to the Association.

(3) If the committee decides not to deal with the complaint, the complainant must be notified in person or in writing within 14 days of the committee decision, stating the reason for such decision.

(4) If the committee decides to deal with the complaint, the committee must:

(a) serve notice of the complaint on the member in question, and

(b) give the member at least 14 days from the day the notice is served within which to make submissions to the committee about the complaint, and

(c) consider any submissions made by the member.

(5) The committee may, by resolution, expel the member from the Association, or suspend the member’s membership if, after considering the complaint and any submissions made in connection with the complaint, committee is satisfied that:

(a) the facts alleged in the complaint have been proved, and

(b) the removal or suspension is warranted.

(6) If the committee expels or suspends a member, the secretary must, within 7 days of that action being taken, give the member written notice of:

(a) the action taken, and

(b) the reasons given by the committee for taking the action, and

(c) the member’s right of appeal under clause 13.

7) The removal or suspension does not take effect until the later of the following:

(a) the day the period within which the member is entitled to exercise the member’s right of appeal expires, or

(b) if the member exercises the member’s right of appeal within the period, then the day the association confirms the resolution under clause 13.

**13. Right of appeal against disciplinary action**

(1) A member may appeal to the Association against a resolution of the committee under Clause 12, by lodging a notice of appeal with the secretary within 7 days of being served notice of the resolution.

(2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.

(3) The secretary must notify the committee that they have received a notice of appeal.

(4) If notified that a notice has been received, the committee must call a general meeting of the Association to be held within 28 days of the day the notice was received.

(5) At the general meeting:

(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.

(6) The appeal is to be determined by a simple majority of votes cast by members of the Association present.

**14. Resignation of Membership**

(1) A member of the Association may resign from being a member by giving the secretary written notice of at least one month, or another period determined by the committee, of the member’s intention to resign.

(2) The member ceases to be a member on the expiration of the notice period.

(3) If a member of the Association ceases to be a member under subclause (1), the secretary must make an appropriate entry in the Register of Members recording the date and reason the member ceased to be a member.

**15.** **Cessation of Membership**

(1) A person ceases to be a member of the Association if the person:   
 (a) dies;   
 (b) resigns membership;   
 (c) is expelled from the Association; or  
 (d) fails to pay the annual membership fee within three (3) months of falling due.

(2) The Secretary is to make the appropriate entry in the Register of Members.

(3) If a member fails to pay their annual membership fee and their membership ceases, they are to be notified by the Secretary that their Membership has lapsed and they are no longer a financial member of the Association.

(4) A person ceasing to be a member of the Association under 15.1.a; b or c, is not eligible to receive a full or partial refund for any membership fees due or paid to the Association.

**Part III – The Management Committee**

**16.** **Functions of the Management Committee**

Subject to the Act, the Regulation, this Constitution, and any resolution passed by the Association in a general meeting, the Committee:

(a) is to control and manage the affairs of the Association; and

(b) may exercise all such functions as may be exercised by the Association, other than a function that is required by this Constitution to be exercised by a General Meeting of members of the Association;

(c) has authority to do all things that are necessary or convenient to be done for the proper management of the affairs of the Association.

**17. Composition and Membership of the Committee**

(1) The Management Committee is to consist of:   
 (a) the office-bearers of the Association; and  
 (b) five (5) ordinary Committee members, each of whom is to be elected at the Annual General Meeting of the Association under Clause 33.5.

(2) The maximum number of committee members is to be eight (8) members.

(3) The Office-bearers of the Association are as follows:

(i) Chairperson;

(ii) Secretary, and

(iii) Treasurer

(4) Each member of the management committee is to hold office until immediately before the election of committee members at the Annual General Meeting.

(5) In the event of a casual vacancy occurring in the membership of the management committee, the committee may appoint a member of the Association to fill the vacancy and the member so appointed is to hold office, as per sub-clause 4.

**18. Election of Committee Members**

(1) Any financial member of the Association may be nominated as a candidate for election as an office-bearer or ordinary committee member.

(2) The nomination must be:

(a) made in writing, and

(b) signed by two (2) financial members of the Association, not including the candidate, and

(c) accompanied by the written consent of the candidate to the nomination, and

(d) given to the secretary at least seven (7) days before the date fixed for the Annual General Meeting (AGM) at which the election is to take place.

(3) If insufficient nominations are received to fill all vacancies on the Committee:

(a) the candidates nominated are taken to be elected, and

(b) a call for further nominations must be made at the AGM.

(4) A nomination made at the AGM in response to a call for further nominations, must be made in the way directed by the member presiding at the meeting and must be endorsed by two (2) members of the Association, not including the candidate.

(5) If insufficient further nominations are received at the Annual General Meeting, then any vacant positions remaining on the Committee are taken to be casual vacancies.

(6) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

(7) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held in the way directed by the presiding member.

(8) The ballot for the election of office-bearers and ordinary members of the management committee is to be conducted at the AGM in such usual and proper manner as the management committee may direct.

**19. Terms of office**

(1) Subject to this constitution, a committee member holds office from the day the member is elected until the next annual general meeting.

(2) A member is eligible, if otherwise qualified, for re-election.

(3) There is no limit on the number of consecutive terms for which a committee member may hold office.

**20. Secretary**

(1) The Secretary of the Association must, as soon as practicable after being appointed as secretary, lodge notice with the Association of their address.

2) As well as other duties referred to in this Constitution, it is the duty of the Secretary to keep minutes, whether in written or electronic form, of:

(a) all appointments of office bearers and ordinary members of the committee;

(b) the names of members present at a Management Committee meeting or a General Meeting;

(c) all proceedings at management committee meetings and general meetings, and

(d) the names of any guests present at committee or general meetings.

(3) The Minutes of proceedings at a meeting must be:

(a) kept in written and/or electronic form, and

(b) signed by the chairperson or member presiding at the meeting or by the chairperson or member presiding at the subsequent meeting.

**21.** **Treasurer**

The treasurer of the Association must ensure that:

(a) all money owed to the Association is collected, and

(b) all payments authorised by the Association are made, and

(c) correct books and accounts are kept showing the financial affairs of the Association, including full details of receipts and expenditure relating to the activities of the Association, and

(d) financial reports for Management and General Meetings detailing the Associations financial situation are presented.

**22. Public Officer**

(1) The Committee shall appoint a natural person as Public Officer of the Association.

(2) The public officer must be a person aged 18 years or over who is a resident of New South Wales.

(3) The first public officer shall be the person who completed the application for incorporation of the Association.

(4) The Committee may, at any time, remove the public officer and appoint a new public officer.

(5) The position of public officer may, but need not be, held by a committee member.

(6) Within 28 days after taking office as the Association’s public officer (other than its first public officer), the Public Officer must notify the NSW Department of Fair Trading, using the approved form, of:

(a) the person’s full name and date of birth; and

(b) the address within New South Wales:   
 (i) at which the person can generally be found; and   
 (ii) at which documents can be served on the Association by post; and   
 (iii) the fact that the person has taken office as public officer.

(7) If there is any change in the address of the public officer of an Association, the public officer must notify the NSW Department of Fair Trading using the approved form, of their new address within 28 days after the change occurs.

(8) If the position of Public Officer becomes vacant, the Committee must fill the vacancy within 28 days of the vacancy arising.

(9) Within 14 days after vacating office, a former public officer of an Association must ensure that all documents in their possession that belong to the Association are delivered to a committee member of the Association.

*NOTE: Section 35 of the Act specifies the circumstances in which the office of public officer becomes vacant*

**23. Authorised Signatories**

(1) An Association’s public officer is, by virtue of their office, an authorised signatory for the Association.

(2) Under the Act, the Committee may appoint additional authorised signatories from among its members.

(3) A person (other than the association’s public officer), vacates office as an association’s authorised signatory if:

(a)  their appointment as an authorised signatory is revoked, or

(b)  they cease to be a committee member.

(4) Authorised signatories must act in accordance with the associations Authorised Signatories Policy.

**24.** **Vacancies in Office**

(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 a casual vacancy, other than a vacancy arising from the removal from office of a committee member, as per Clause 25.1.

(2) A member so appointed to fill a casual vacancy is to hold office, subject to this Constitution, until the next Annual General Meeting following the date of the appointment.

1. (3) A casual vacancy in the office of a committee member arises if the member:
   * 1. a) dies; or
   1. b) ceases to be a member of the Association; or
2. c) resigns from office by written notice given to the secretary; or
3. d) becomes incapable of carrying out their duties; or
   * 1. e) is absent, without the consent of the committee, from three (3) consecutive meetings of the
     2. committee; or
   1. f) is removed from office by the Association under this clause; or
   2. g) becomes an insolvent under administration within the meaning of the Corporations Act 2001; or
   3. h) is convicted of an offence involving fraud or dishonesty; or
   4. (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing
   5. corporations), of the *Corporations Act 2001* of the Commonwealth.

**25. Removal of Committee Members**

(1) The Association, in General Meeting, may by resolution remove any member of the Committee from the office of Committee 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 chairperson (*not exceeding a reasonable length*), and requests that the representations be notified to the members of the Association, the secretary or the chairperson 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 request that the representations be read out at the meeting at which the resolution is considered.

**Meetings**

The different types of meetings generally held by Incorporated Associations include:

* Management meetings (committee meetings)
* Sub-committee meetings, and
* General meetings - Annual (AGM) and Special general meetings (SGM) of Association Members

**26.** **Committee Meetings**

(1) The committee shall meet six (6) times in each 12-month period, or as determined by the committee.

(2) Additional meetings of the committee may be called by any committee member.

(3) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee, unless otherwise specifically directed by the management committee.

**27.** **Notice of Committee Meeting**

1. The date for a Management Committee meeting is to be agreed upon at the preceding committee meeting and noted in the minutes.
2. The secretary must give each committee member oral or written notice of a meeting of the committee at least seven (7) days, or another period on which the committee members agree, before the time the meeting is due to be held.
3. The notice, or Agenda, must specify the general nature of the business to be transacted at the meeting, along with the place, date, and time of the meeting.

(4) The only business to be transacted at the meeting is:

(a) the business defined in the agenda (notice), and

(b) business that the committee members present at the meeting and unanimously agree to address.

(5) If virtual meeting technology is to be used, sufficient information to allow the committee to participate by means of the technology must be provided.

**28. Presiding Member**

At a meeting of the management committee:

(a) the Chairperson or, in the Chairperson’s absence, the Secretary is to preside; or

(b) if the Chairperson and the Secretary are absent or unwilling to act, one of the remaining members of the management committee, as may be chosen by the members present at the meeting, is to preside.

**29.** **Quorum for Committee Meeting**

(1) Any four (4) members of the committee constitute a quorum for the transaction of the business of a meeting of the management committee.

(2) No business may be transacted by the committee unless a quorum is present.

(3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned to:

(a) the same place and the same time of the same day in the following week; or

(b) a time and place as agreed upon by the members of the management committee.

(4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.

**30. Voting and Decisions at Committee Meetings**

*A decision supported by a majority of the votes cast at a meeting of the committee or subcommittee, at which a quorum is present, is the decision of the committee or subcommittee.*

(1) Questions arising at a meeting of the committee are to be determined by a majority of the votes of members of the committee present at that meeting.

(2) Each member present at a meeting of the committee, including the person presiding at the meeting, is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Subject to a quorum being present, the committee may act despite any vacancy on the committee.

(4) Any act done or suffered, or purporting to have been done or suffered, by a committee or sub- committee, is not invalidated because of a flaw that may afterwards be discovered in the qualifications or appointment of any member of the committee or subcommittee.

**31. Transaction of Business Outside Meetings or by Telephone or Other Means**

(1) The committee may transact its business by the circulation of papers, including by electronic means, among all members of the committee.

(2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the committee made at a committee meeting.

(3) The committee may transact its business at a committee meeting at which one (1) or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.

(4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:

(a) the approval of a resolution under subclause (2), or

(b) a meeting held in accordance with subclause (3).

(5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the Association.

Note: The Act, section 37(3) and (4) contains requirements relating to meetings held at (2) or more venues using technology.

**32. Delegation by Committee to Sub-committee**

(1) The management committee may:

(a) establish one (1) or more subcommittees to assist the committee to exercise the committee’s functions; and

(b) appoint one (1) or more members of the association to be the members of the subcommittee;

(c) appoint one (1) or more non-members of the association, where those persons may provide expertise, or skills and opinions of value to the subcommittee.

(2) The committee may, by instrument in writing, delegate to the subcommittee the exercise of any of the committee’s functions that are specified in the instrument, other than:

(a) this power of delegation; or

(b) a function which is a responsibility imposed on the management committee by the Act or by any other law*.*

(3) Despite any delegation under this clause, the committee may continue to exercise any function delegated. (4) Any act or thing done or suffered by a subcommittee 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 management committee.

(5) The management committee may, by instrument in writing, revoke wholly or in part any delegation under this rule.

(6) A subcommittee may meet and adjourn as it thinks proper.

*Note: The Interpretation Act 1987, section 49 deals with various matters relating to delegations*.

**Part IV** - **General meetings of the Association**

**33. Annual General Meeting (AGM) – Holding of and Business at**

(1) The Association must hold its first annual general meeting within 18 months of the day the Association was registered under the Act, also referred to as becoming Incorporated.

(2) The Association must hold subsequent AGMs within three (3) months of the last day of the Association’s financial year.

(3) Subject to the Act and subclauses (1) and (2), the AGM is to be held at the place and time determined by the committee.

(4) An AGM must be specified as such in the notice convening it.

(5) The business to be transacted at an AGM includes the following:

(a) confirming the minutes of the previous AGM and any special general meetings (SGM) held since the previous annual general meeting;

(b) receiving reports from the committee on the Association’s activities during the previous financial year;

(c) receiving and considering financial statements or reports required to be submitted to members of the Association under the Act;

(d) electing office-bearers and ordinary committee members of the Management Committee.

**34. Special general meetings** – **Holding and Calling of:**

(1) The committee may call a special general meeting whenever the committee thinks fit.

(2) The committee must call a special general meeting if the committee receives a request made by at least 5% of the total number of members.

(3) The request:

(a) must be in writing, and

(b) must state the purpose of the meeting, and

(c) must be signed by the members making the request, and

(d) may consist of more than one (1) document in a similar form signed by one (1) or more members,

(e) must be lodged with the secretary, and

(f) may be in electronic form and signed and lodged by electronic means.

(4) If the committee fails to call a special general meeting within one (1) month of the request being lodged, one (1) or more of the members who made the request may call a special general meeting to be held within three (3) months of the date the request was lodged.

(5) A special general meeting held under subclause (4) must be conducted, as far as practicable, in the same way as a general meeting called by the committee.

**35. Notice of General Meetings**

(1) The secretary must give each member of the association notice of a general meeting at least 21 days prior to the meeting;

(2) The notice must specify:

(a) the place and time at which the meeting will be held, and

(b) the nature of the business to be transacted at the meeting, and

(c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and

(d) for an annual general meeting - that the meeting to be held is an annual general meeting.

(3) The only business that may be transacted at the meeting is:

(a) the business specified in the notice/agenda, and

(b) for an annual general meeting - business referred to in Clause 33.5

(4) A member may give written notice to the secretary of business the member wishes to raise at a general meeting, at least 28 days prior to the meeting.

(5) If the secretary receives a notice under subclause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

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

**36. Quorum for General Meeting**

(1) The quorum for a general meeting is seven (7) members of the association entitled to vote under this constitution.

(2) No business may be transacted at a general meeting unless a quorum is present.

(3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:

(a) if called on the request of members - is dissolved, or

(b) otherwise - is adjourned:

(i) to the same time of the same day in the following week, and

(ii) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least (1) one day before the adjourned meeting.

(4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least four (4) members present, the members present constitute a quorum.

**37. Presiding member**

(1) The following member presides at a general meeting:

(a) the chairperson,

(b) if the chairperson is absent - the secretary,

(c) if both the chairperson and secretary are absent, or unwilling to act, one of the members present at the meeting, as elected by the other members.

(2) The member presiding at the meeting has:

(a) a deliberative vote, and

(b) in the event of an equality of votes - a second or casting vote.

**38. Voting at General Meetings**

(1) A member is not entitled to vote at a general meeting unless the member:

(a) is at least 18 years of age, and

(b) has paid all money owed by the member to the association.

(2) Each member has one (1) vote, except as provided by clause 37(2)(b).

(3) A question raised at the meeting must be decided by:

(a) a show of hands, or

(b) a written ballot, but only if:

(i) the member presiding at the meeting moves that the question be decided by ballot, or

(ii) at least five (5) members agree the question should be determined by ballot.

(4) If a question is decided using a method referred to in subclause (3)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority of over 50% of votes supporting, or lost, using the method:

(a) a declaration by the member presiding at the meeting,

(b) an entry in the association’s minute book.

(5) A written ballot must be conducted in accordance with the directions of the member presiding.

(6) A member cannot cast a vote by proxy .

**39. Voting on S**[**pecial Resolutions**](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#special_resolution)

(1) A resolution, is passed by an association as a ‘special resolution’:

(a) at a meeting of the [Association](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#association) of which notice has been given to its members no later than   
21 days before the date on which the meeting is held, and

(b) is supported by at least three-quarters of the valid votes cast in person by members of   
the [Association](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#association) who, under the [association](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#association)’s [constitution](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#constitution), are entitled to vote on the proposed resolution.

(2) A notice referred to in subsection 1.a must include the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a [special resolution](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#special_resolution).

(3) Matters that may require a Special Resolution include:

(a) changing the Associations Constitution;

(b) changing the Associations Name, objects; or

(c) winding up the Association.

**40. Adjourned meetings**

(1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.

(2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.

(3) If a meeting is adjourned for at least 14 days, the secretary must give each member oral or written notice, at least one (1) day before the adjourned meeting, of:

(a) the time and place at which the adjourned meeting will be held, and

(b) the nature of the business to be transacted at the adjourned meeting.

**41. Proxy voting**

Proxy voting must not be undertaken at or in respect of a General Meeting.

**Part V - Administration**

**42. Insurance**

(1) The Association shall effect and maintain public liability insurance together with any other insurance which may be required by law or regarded as necessary by the Association.

(2) Members and volunteers undertaking Landcare activities who are not covered by their own insurance, or the insurance of a landowner on whose land they are working (including local, state, and federal government land) must only undertake works as authorised by their Project Co-ordinator.

**43. Financial year**

The Association’s financial year is:

(a) the period commencing on the date of incorporation of the Association and ending on the following 30 June, and

(b) each period of 12 months after the expiration of the previous financial year, the financial year shall commence on 1 July and end on the following 30 June.

**44. Funds** – **Source and management**

(1) Subject to a resolution passed by the Association, the Association’s funds may be derived from the following sources:

(a) annual membership and entrance fees;

(b) donations;

(c) grants from funding bodies;

(d) sale of plants and seeds, and

(e) other sources as determined by the committee.

(2) Subject to a resolution passed by the association, the association’s funds and assets must be used solely to pursue the association’s purpose in the way that the committee determines.

(3) As soon as practicable after receiving money, the association must:

(a) deposit the money, without deduction, to the credit of the association’s authorised deposit-taking institution account, and

(b) issue a receipt for money received to the person from whom the money was received.

1. A cheque or other negotiable instrument must be signed by 2 authorised signatories.
2. Authorised signatories must act in accordance with the associations Authorised Signatories Policy.

Note: The Act, section 36 provides for the appointment of authorised signatories

**45. Change of Name, Objects or Constitution**

(1) An application for registration of a change in the Association’s name, objects, or constitution in accordance with Section 10 of the Act, must be made by:

(a) the public officer, or

(b) a committee member.

(2) This Constitution may only be altered by special resolution in accordance with the Act.

(3) Members of the Association must not pass a special resolution that amends this Constitution if passing it causes the association to no longer be a non-profit association.

**46. Amalgamation**

Where it furthers the objectives of the association to amalgamate with another incorporated association which has similar objectives, the other association must have rules prohibiting the distribution of its assets and income to members and must be exempt from income tax.

* 1. **47. Common Seal**The Associationdoes not have a common seal.

**48.** **Custody of records and books**

Except as otherwise provided by this constitution, all records, books, and other documents relating to the association must be kept in New South Wales:

(a) at the association’s main premises, in the custody of either of the following persons, as determined by the committee:

(i) the public officer,

(ii) a member of the association, or

(b) if the association has no premises - at the association’s official address, in the custody of the public officer.

**49. Inspection of Records and** **Books**

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

(a) this constitution,

(b) minutes of committee meetings and general meetings of the association,

(c) records, books and other financial documents relating to the association.

(2) A member may inspect a document referred to in subclause (1):

(a) in hard copy, or

(b) in electronic form, if available.

(3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than $1, or as determined by the committee, for each page copied.

(4) The committee may, despite subclauses (1) and (2), 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.

**50. Service of Notices**

(1) For the purposes of this constitution, a notice may be given to or served on a person:

(a) by delivering the notice to the person personally, or

(b) by sending the notice by pre-paid post to the address of the person, or

(c) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.

(2) A notice is taken to have been given to or served on a person, unless the contrary is proved:

(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) for a notice sent by electronic transmission:

(i) on the date the notice was sent, or

(ii) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date, on that date.

(3) Service of documents on the association is effected by serving them on the Public Officer or by serving them personally on two members of the committee.

**51. Non-Profit Status**

(1) Dorrigo Community Nursery Incorporated is a non-profit Association which does not operate for the profit, personal gain, or other benefit of its individual members.This applies both while the association is operating and if it winds up.

(2) Subject to the Act and the Regulation, the Association will apply its funds and assets solely in pursuance of the association’s purpose and will not conduct its affairs to provide a pecuniary gain for any of its members.

(3) Any profit made by the association will be put back into the organisational operation to continue to pay for its activities and functions and to achieve its purposes. No portion shall be distributed directly or indirectly to any of the members of the association except as bona fide compensation for services rendered or expenses incurred on behalf of the association.

**52. Winding-up of Association and Distribution of property**

(1) The [Association](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#association) may be wound up voluntarily, if the [association](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#association) so resolves, by [special resolution](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#special_resolution) at a general meeting of the association.

(2) Subject to the Act and the Regulation, in winding-up the association, any surplus assets and/or property of the association must be transferred to another organisation:

(a) with similar charitable objectives, and

(b) which is not carried on for the profit or gain of that organisation’s individual members.

(3) In this clause, a reference to the surplus assets and property of an association, is a reference to the assets and 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.

(4) Surplus assets that have been supplied by a government [department](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#department) or public authority, including an unexpended portion of a grant, if any, must be returned:

(a) to the [department](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#department) or authority that supplied it, or  
(b) to a body nominated by that [department](http://classic.austlii.edu.au/au/legis/nsw/consol_act/aia2009307/s4.html#department) or authority.

*NOTE: Section 65 of the Act provides for distribution of surplus property on the winding up of an Association*

This Constitution was passed by Special Resolution at the Annual General Meeting of the

Dorrigo Community Nursery Incorporated Association held at the

Dorrigo Community Nursery premises

on: **27th August 2023**

This Constitution replaces all earlier versions.

Signed: A close-up of a signature

Description automatically generated Date: 27th August 2023

Name: Anne Stanton

Public Officer – Dorrigo Community Nursery Incorporated