

# COMMUNITY WHEELS INC.

## CONSTITUTION

21<sup>ST</sup> NOVEMBER 2022

### 1. DEFINITIONS

(a) In this constitution—

**Committee** means the management committee of the Association made up of the Committee Members.

**Committee Member** means an Office Bearer or Ordinary Committee Member.

**Office Bearer** means a Committee Member who is elected to an office referred to in clause 7(c).

**Ordinary Committee Member** means a Committee Member who is not an Office Bearer.

**Register of Members** means the Register of Members maintained under clause 4.

**Secretary, of the Association,** means—

- (i) the person holding office under this constitution as Secretary, or
- (ii) if no person holds that office—the Public Officer of the association.

**Special General Meeting, of the Association,** means a general meeting of the association other than an annual general meeting.

**Subcommittee** means a subcommittee established under clause 7(b).

**the Act** means the *Associations Incorporation Act 2009* (NSW) (as amended from time to time).

**the Regulation** means the *Associations Incorporation Regulation 2022* (NSW) (as amended from time to time).

(b) *The Interpretation Act 1987* (NSW) applies to this constitution as if it were an instrument made under the Act.

### 2. NAME

The name of the Association shall be Community Wheels Incorporated (referred to in these rules as “the Association”).

### **3. OBJECTS**

The objectives of the Association shall be—

- (a) to provide transport and related services, in a financially sustainable manner, to eligible customers living in the local government areas of the City of Parramatta and Cumberland Council or such other areas as may be determined by government.

Eligible customers include: elderly people (over 65 years, and 50 years in the case of Aboriginal and Torres Strait Islanders), people with a disability, and any other people as determined by the Committee and New South Wales and Commonwealth Governments, who are underserved by other transport operators.

- (b) to encourage the involvement of local residents in the activities and management of the Association.
- (c) to do all such lawful things as are incidental or conducive to the achievement of the foregoing objectives.

### **4. MEMBERSHIP**

- (a) Subject to these rules, the members of the Association shall be members of the Association immediately prior to the incorporation, together with such other people as the Committee admits to membership.
- (b) Membership is open to any person who accepts the vision, mission, and objective of the Association.
- (c) Individuals wishing to become members of the Association shall apply to the Committee in writing in the form set out in Appendix 1 to these rules.
- (d) The Committee shall determine whether or not to accept an application for membership. The Committee is not required to supply reasons for accepting or rejecting an application for membership.
- (e) Members shall pay such membership fees as are determined by the Committee.
- (f) A Register of Members (in written or electronic form) shall be kept by the Association showing the full name, residential, postal or email address, and date of commencement of membership for each member. Provision for noting the date of cessation of membership shall also be contained in the Register of Members.
- (g) Membership shall cease upon written notice of resignation to the Secretary, death, mental incapacitation, expulsion or failure to pay outstanding membership fees within three (3) months of the due date.

- (h) Membership fees shall fall due on the first day of each Financial Year of the Association. The Financial Year of the Association shall run from July 1 to June 30, or such other period as is determined by the Committee.

## **5. MEMBERS' LIABILITY**

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.

## **6. DISCIPLINING OF MEMBERS**

The procedure for disciplining members shall be determined by the Committee. Anyone who wishes to appeal against a decision refusing membership, expelling them for membership, or otherwise disciplining them, may do so at the next General Meeting of the Association. The Committee may refuse to deal with a complaint if the Committee considers the complaint trivial or vexatious.

## **7. MANAGEMENT - BY COMMITTEE**

- (a) The Committee, elected at every annual general meeting, shall exercise overall responsibility for the affairs, including financials, of the Association. However, the Chief Executive Officer and his/her staff will have delegated authority to run the day to day affairs of the Association. The Chief Executive Officer will report to the Committee and seek approval wherever necessary.
- (b) The Committee may delegate any of their functions or powers to a body or individual, for example, a Subcommittee of the Committee that may comprise of employees and Committee Members of the Association.
- (c) The Office Bearers shall consist of a Chairperson, Vice Chairperson and Secretary (Office Bearers). There shall be up to six (6) other Ordinary Committee Members.
- (d) The Committee Members shall be elected at each annual general meeting and the Office Bearers shall be elected by the Committee.
- (e) Any casual vacancy occurring in the Committee, other than a vacancy arising from the removal from office of a Committee Member by the Committee, may be filled by a member appointed by the Committee.
- (f) A person is eligible to be elected or appointed as a Committee Member if they are:
  - (i) a member of the Association;
  - (ii) at least 18 years of age;

- (iii) not employees of the Association; and
  - (iv) entitled to vote at a general meeting of the Association.
- (g) Each Committee Member appointed pursuant to 7(e), shall hold office from the date of their election or appointment, until the next annual general meeting.
- (h) At each annual general meeting at least one third of the Committee Members (to the nearest whole number), who have held office for three (3) years or more, must retire from office (as determined by lot, unless otherwise agreed between themselves).
- (i) No Committee Member may hold office without re-election beyond the third annual general meeting following the meeting at which the Committee Member was last elected or re-elected.
- (j) Retiring Ordinary Committee Members are eligible for re-election, however, Office Bearers may hold any one position for a maximum of six (6) years.
- (k) The Committee shall meet as often as necessary to conduct the business of the Association and, generally, bi-monthly or at such other times as directed.
- (l) Any three (3) Committee Members constitute a quorum for the transaction of the business of a meeting of the Committee. If within half an hour of the appointed time for a meeting a quorum is not present, the meeting shall be reconvened within fourteen (14) days, on a day and time determined by the Office Bearers.
- (m) At least twenty-four (24) hours' notice of Committee meetings shall be given to Committee Members, with such notice to be given at the previous Committee meeting, by email, or by mail or telephone.
- (n) A Committee Member shall cease to hold office, and a casual vacancy shall arise upon:
  - (i) resignation in writing;
  - (ii) removal as a member or from office of the Association;
  - (iii) absence from three (3) successive Committee meetings without approval by the Committee; or
  - (iv) death or mental incapacitation of such member.
- (o) The Committee may function validly provided its number is not reduced below the quorum. Should Committee numbers fall below the quorum, the remaining Committee Members may act only to appoint new Committee Members.

- (p) Questions arising at any meeting of the Committee or Subcommittee shall be decided by the majority of votes of those present and voting at the meeting in person, and by those not present and who vote by post or electronic means. The Committee shall determine the manner in which postal and electronic voting may be carried out. In case of an equality of votes, the person appointed to chair the meeting shall have a second or casting vote. In the case of an emergency (which shall be determined by the Chairperson) all votes may be made by electronic means.
- (q) A Committee Member shall not be appointed to any salaried office of the Association or any office of the Association paid by fees, and no remuneration or other benefit in money or money's worth shall be given by the Association to any Committee Member except:-
  - (i) repayment of out of pocket expenses; and
  - (ii) interest at a rate not exceeding interest at the rate for the time being which is or would be charged by the Association's bankers for moneys lent to the Association.

## **8. GENERAL MEETINGS**

- (a) An annual general meeting of the Association shall be held each year within six (6) months from the end of the Financial Year of the Association (except the first annual general meeting which shall be held within two months from the end of the first financial year and within eighteen (18) months of incorporation).
- (b) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association. A Special General Meeting must be convened by the Committee within two (2) months of receiving a written request to do so from at least five (5) members of the Association.
- (c) At least fourteen (14) days' notice of all general meetings shall be given to members. In the case of general meetings where a special resolution is to be proposed, notice of the meeting shall be given to members at least twenty-one (21) days before the meeting. Notice shall be given by mail, email or telephone.
- (d) In the case of the annual general meeting, the following business shall be transacted:
  - (i) Confirmation of the minutes of the last annual general meeting and any recent Special General Meeting;
  - (ii) Receipt of the Committee's report upon activities of the Association in the last financial year;
  - (iii) Election of Committee Members;

- (iv) Receipt and consideration of a statement from the Committee which is not misleading and gives a true and fair view for the last financial year of the Association's:
  - income and expenditure;
  - assets and liabilities;
  - mortgages, charges and other securities; and
  - trust properties.
- (e) The quorum for a general meeting shall be eight (8) members, present in person and financial. If, within half an hour of the appointed time for the meeting, a quorum is not present, the meeting shall be reconvened within fourteen (14) days on a day and time determined by the current Office Bearers.
- (f) Voting at general meetings shall be by a show of hands unless a secret ballot is requested by three (3) members present in person at the meeting. Voting shall be permitted by postal or electronic means on all motions requiring decision (except as to whether the ballot is to be secret). Such voting shall be in accordance with the Act and any Regulations which may be made under that Act. The ballot must be conducted in accordance with Schedule 2 of the Regulation.
- (g) All votes shall be given personally or by post or electronic means and there shall be no voting by proxy.
- (h) In the case of an equality of votes, the person appointed to chair the general meeting shall have a second or casting vote.
- (i) A member is not entitled to vote at a general meeting unless the member:
  - (i) is at least 18 years of age; and
  - (ii) has paid all money owed by the member to the Association.
- (j) Each member entitled to vote has one (1) vote (unless stated otherwise herein).

## **9. OFFICE BEARERS**

- (a) The chairperson or, in the chairperson's absence, the Vice Chairperson, shall act as Chairperson at each general meeting and Committee meeting of the Association.
- (b) If the Chairperson and Vice Chairperson are absent from a meeting or unwilling to act, the Committee Members present at the meeting shall elect one of the Committee Members to act as Chairperson.

- (c) The Secretary shall keep records of the business of the Association including the rules, Register of Members, minutes of all general and Committee meetings, and a file of correspondence. These records shall be available for inspection by any member and shall be held at the registered office of the Association.
- (d) The Committee shall ensure that correct books and accounts are kept, showing the financial affairs of the Association. These records shall be available for inspection by any member and shall be held in the custody of the Financial Officer at the registered office of the Association.

## **10. SPECIAL RESOLUTIONS**

- (a) A Special Resolution must be passed by a general meeting of the Association in accordance with the Act to effect the following changes:
  - (i) A change of the Association's name;
  - (ii) A change of the Association's constitution;
  - (iii) A change of the Association's objects;
  - (iv) An amalgamation with another incorporated Association;
  - (v) To voluntarily wind up the Association and distribute its property; and
  - (vi) To apply for registration as a Company or a Co-Operative.
- (b) A Special Resolution shall be passed in the following manner:
  - (i) A notice must be sent to all members advising that a general meeting is to be held to consider a Special Resolution;
  - (ii) The notice must give details of the proposed Special Resolution and give at least twenty-one (21) days' notice of the meeting;
  - (iii) A quorum must be present at the meeting;
  - (iv) At least three-quarters of those present and entitled to vote must vote in favour of the resolution;
  - (v) In situations where it is not possible or practicable for a resolution to be passed as described above, a request may be made to the Department of Fair Trading for permission to pass the resolution in some other way.

## **11. PUBLIC OFFICER**

- (a) The Committee shall ensure that a person is appointed as Public Officer.

- (b) The first Public Officer shall be the person who completed the application for incorporation of the Association.
- (c) The Committee may at any time remove the Public Officer and appoint a new Public Officer provided the person appointed is 18 years of age or older and a resident of New South Wales.
- (d) The Public Officer shall be deemed to have vacated their position in the following circumstances:
  - (i) Death;
  - (ii) Resignation;
  - (iii) Removal by the Committee or a general meeting;
  - (iv) Bankruptcy or financial insolvency;
  - (v) Mental illness; or
  - (vi) Residency outside New South Wales.
- (e) When a vacancy occurs in the position of Public Officer, the Committee must notify the Department of Fair Trading, by the prescribed form and within the prescribed timeframe, and appoint a new Public Officer.
- (f) The Public Officer is required to notify the Department of Fair Trading, by the prescribed form, in the following circumstances:
  - (i) Appointment
  - (ii) A change of residential address;
  - (iii) A change in the Association's objects or rules;
  - (iv) A change in the membership of the Committee;
  - (v) Of the Association's financial affairs, a change in the Association's name.
- (g) The Public Officer may be an Office Bearer, Committee Member, or any other person regarded as suitable for the position by the Committee.

## **12. MISCELLANEOUS**

- (a) The funds of the Association shall be derived from the fees of members, donations, grants and such others sources approved by the Association. The income and property of the Association however derived, shall be applied towards the promotion of the objectives of the Association and no portion thereof shall be paid to, or transferred directly or indirectly to, its members except as bona fide compensation



for services rendered, or expenses incurred on behalf of the Association.

- (b) As soon as practicable after receiving money, the association must—
  - (i) deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account; and
  - (ii) issue a receipt for the amount of money received to the person from whom the money was received (as appropriate).
- (c) A cheque or other negotiable instrument must be signed by two (2) authorised signatories.
- (d) The Association shall effect and maintain insurance as is required under the Act, together with any other insurance, which may be required by law or regarded as necessary by the Association.
- (e) Subject to the Act, the Association may, at any time, pass a special resolution determining how any surplus property is to be distributed in the event that the Association shall be wound up. The distribution of surplus property must be to another organisation:
  - (i) having objects similar to the Association,
  - (ii) which is not carried on for the profit or gain of the organisation's members; and
  - (iii) where the Association has deductible gift recipient status, then to a fund, authority or institution to which income tax deductible gifts may be made under subdivision 30 of the *Income Tax Assessment Act 1997* (Cth).
- (f) Service of documents on the Association is effected by serving them on the Public Officer or by servicing them personally on two (2) Committee Members.
- (g) In the event of the Association's constitution being silent on any matters, the Model Constitution (under the Regulation) will apply.

### 13. RESOLUTION OF INTERNAL DISPUTES

- (a) The dispute resolution procedure in this clause applies to a dispute (**Dispute**) under this constitution between:
  - (i) two (2) or more members of the Association, but only if the Dispute is between the members in their capacity as members, or
  - (ii) one (1) or more members and the Association.

- (b) Those involved in the Dispute must try to resolve it between themselves within fourteen (14) days of one person providing notice to another about the Dispute.
- (c) If those involved in the Dispute do not resolve the Dispute amongst themselves then they must within ten (10) days:
  - (i) tell the Committee Members about the Dispute in writing;
  - (ii) agree or request that the matter be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation, and
  - (iii) attempt in good faith to settle the Dispute by mediation.
- (d) If the Dispute is not resolved by mediation within three (3) months of being referred to the Community Justice Centre, the Dispute must be referred to arbitration.
- (e) The *Commercial Arbitration Act 2010* (NSW) applies to a Dispute referred to arbitration.



## Membership Application Form

Membership is open to any person who accepts the vision, mission and objectives of the Association and abides by our Constitution.

I \_\_\_\_\_  
(Full Name)

Proof of identity  (must be sighted by administration staff)

living at \_\_\_\_\_

Email \_\_\_\_\_ Ph \_\_\_\_\_

Nominee \_\_\_\_\_ 2<sup>nd</sup> Nominee \_\_\_\_\_

The nominees must be CWI members and provide their names and signatures for verification

Reason for applying \_\_\_\_\_

\_\_\_\_\_

hereby apply to become a new financial member with Community Wheels Inc. In the event of my admission as a financial member, I agree to be bound by the constitution, rules and regulations of the Association for the period of my membership, and I hereby pay the association a joining fee of \$10.00 + \$10.00 annual membership fee.

The \$10 is a one-off joining fee and \$10 a partial membership fee for the period from date of joining until the next 30th June. At which time the new member is required to pay the annual membership fee for the succeeding financial year.

The applicant's membership request must be approved by the Management Committee and may be denied with no reason given. The \$20 fee will be returned if the application is declined.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

*If at any stage, for any reason, you may wish to cancel your financial membership with Community Wheels Inc., kindly advise us in writing or call us at (02) 8868 1400.*

**Please return this completed and signed form with \$20.00 fee to**

Community Wheels Inc.

Unit 3E / 6 Boundary Rd. Northmead NSW 2152