# BLIND CITIZENS AUSTRALIA

# list of changes to the draft Constitution

# July 2023

These notes should be read in association with the “Template Constitution for a Charitable Purpose Company Limited by Guarantee”, (the template) as published by the Australian Charities and Not-for-Profit Commission (ACNC).

The following changes have been made throughout:

* All language is gender neutral.
* All references are to individuals or people, rather than to persons.
* The phrase "from time to time" has been removed, wherever possible.
* “The organisation” is replaced with “BCA”.
* Headings inserted before clauses to aid understanding and to separate sections, per the template. For example, “Preliminary”, “Charitable purposes and powers” and “Members”. For simplicity, individual headings are not listed in this document.
* Secretary or Company Secretary is consistently referred to as “Company Secretary”.

Changes are detailed below, with C indicating existing wording in the 2017 Constitution and P indicating changes proposed in the 2023 draft constitution.

**INSERT: Cover page and table of contents**

**C 1: Name** No change

**C 2: Interpretation and Explanation** P Clauses 54 and 55. See end of this document for changes to definitions and interpretation.

**New clause P 2 inserted confirming status as a charity, first incorporated in Victoria.**

**new clause P 4 outlining interaction between the constitution, the Corporations Act and ACNC Act;**

**New clause P 5 confirming definitions.**

**C 3: Purpose and Activities** P 6: contemporary expression of BCA's continuing purpose and activities. P 6.3 confines BCA's activities to Australia, unless overseas work incidental to purposes.

**C 4: Powers** P 7, aligned with template.

**C 5: Limited Liability Status** P 3, moved to Preliminary, aligned with template.

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**C 6: Not for Profit Status** P 8, aligned with template. Clause C 6.5 Payments to Directors, Clause P 30.5 moved to Powers and Dudies of Directors. Wording aligned with template.

**C 7: Membership categories**

P 10. removed requirements of full members to be Australian citizens or permanent residents and replaced with requirement to "live" in Australia. d and e removed, abolishing class a and class b organisational members.

### P 10.2 introduces a process for junior members to convert to full members. P 10.3 confirms only individuals are members. new P 10.4 defines when a person becomes a member.

**C 8: Membership Fees** P 11.1 there can be different fees for different membership categories. Removed C 8.2 fees for organisational members. inserted from template clauses P 11.2-4, maintaining a register of members and access to it.

**C 9: Termination of Membership** P 12 Wording aligned with template. Inserted potential to be expelled under disciplinary clause, P 15Also if no longer eligible to be a full member.

**INSERT NEW CLAUSE: P 13 Dispute resolution: accepted as good governance and common practice. Wording from template, modified to allow for specific requirements of people who are blind or vision impaired, such as preferred accessible formats for notices.**

**INSERT NEW CLAUSE: P 14 Disciplining Members: expected provision of modern constitutions. Wording from template, modified to meet the specific needs of people who are blind or vision impaired, such as providing documents in preferred accessible formats.**

**C 10: Branches and State Divisions**

P 15. simplified and modernised, with procedural matters, such as accreditation and restriction on incorporation, to be dealt with in By-laws. State Divisions limited to NSW and the ACT. Regional branches now referred to as geographic, to avoid confusion with modern usage of the term regional. **C 10.3 Membership,** P 15.3, changed to meet legislative requirement that members must have the option not to be in a Branch or State Division. Provisions relating to organisational members removed. C 10.4 By-laws provision deleted and subsumed by clause P 47.

### **C 11: Member Forums,**

### P 16.Deleted. C 11.3 on by-laws, subsumed by clause P 47. **REMOVED:** Right to vote for Branches and reference to Class A and Class B organisational members. **Introduced ability to hold forums virtually or as mixed events.**

**C 12: State and Territory Conventions CLAUSE deleted, incorporated** in P 16 Member Forums.

**C 13: Annual General Meeting of Members**

P 17, **wording aligned with template. REMOVED: Clause C 13.2.2,** which linked the AGM date to a National or State Convention. P 17.3 agenda to include roll call of everyone present and receipt of proxies.

**C 14: Other General Meetings** P 18. Changes to align with template.

**C 15: Procedure of General Meetings, now contained in several separate clauses,**  encompassing Clauses P 19 to 24.

**INSERT Clause P 19 Notice of General Meetings.**

**C 15.1 Quorum,** P 20. If a quorum of twenty is not present in time, the meeting is adjourned, rather than the quorum being lowered.

**C 15.3 Chairing** P 22. new P 22.4 requires the chairperson to give members a reasonable opportunity to make comments and ask questions.

**C 15.4 Adjournment.** P 23, replaced with template clause.

**C 15.5 HOW GENERAL MEETINGS MAY BE HELD** P 24. REPLACED with template clause, giving more flexible options for holding general meetings and empowering members to participate.

**C 16 Voting at General Meetings, P 25** REMOVED Reference to organisational members and simplified wording. **C 16.3 Polls,** is now a separate Clause. P 26 Method of Voting. Inserted clauses from template on declaring proxy votes and evidence of result of vote.

**INSERT NEW CLAUSE: P 27 Conduct of a poll, template clauses outlining the procedure.**

**C 16,4 tied vote, P 28 with gender neutral wording.**

**C 17: Proxy Voting at General Meetings** P 29, aligned template.

**C 18: Notice of General Meeting,** P 19. MOVED to Procedure at General Meetings. No change to text. Addition of P 19.6, template wording requiring new notice in cases of adjournments beyond 30 days.

**C 19: Powers of Directors** P 30 Powers and duties of directors

**Inserted P 30.2 template clause which details duties of Directors.**

C 19.2, P 30.3, template wording of borrowing powers and financial management.

C 19.3, P 30.4, template wording for delegations, including stating the requirement to record the delegation.

P 30.5 now covers payments to directors, previously in C 6.5.

INSERTED new clause P 30.6, template wording providing only general meetings can remove directors or auditors.

**C 20: Composition of the board,** P 31. Decreased maximum number of directors to nine. REMOVED C 20.2 (c) the right of the The Immediate Past President to remain on the board.

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**C 21: Election of Directors,** P 32. **REMOVED** reference to Immediate Past President. Removed references to ballots being postal. **C 21.2,** P 32.3, more straightforward definition of eligibility to vote.

**INSERT NEW CLAUSE: P 32.2 Eligibility for appointment, aligned with template. stipulates qualifications to be elected or to fill a casual vacancy as a director.**

**C 21.3 Nominations procedures,** P 32.4. word limit for nominee statements reduced to 300 - consistent with standard practice and practicality.

**C 21.4 Voting Procedure** P 32.5, allowing for more flexibility in the way votes are completed, while maintaining members' rights to information and opportunity to vote. C 21.4.4 now P 32.5.4 election not invabbid only if Company Secretary's omission is accidental.

**C 21.5 Returning Officers role** P 32.6Removed references to paper ballot processes. Introduces and defines that returning officer must be independent.

**C 21A: Appointment of Vice President,** P 33 President and Vice President. Vice-president's role and duties were previously mentioned but President's role was not. Both now stated, with specifics of responsibilities to be detailed in Board Charter.

**C 22: Terms of Office of directors,** P 34. previously no limits on how many terms a director or president could serve. Now maximum of nine years. A director may seek re-appointment after a twelve month gap. New term limits do not prevent a director completing their current three-year term. C 22.2, P 35 casual vacancies, incorporating C 24.

**C 23: Disqualification as a director,** P 36. insert that a director can be dismissed by resolution of members, in line with template. Also if disqualified by ASIC or ACNC.

**C 24: Casual Vacancies on the Board, merged with C 22.2 to become** P 35, see above.

**C 25: Effect of Vacancy on Board Action,** P 37. Aligned with template.

**C 26: Financial Responsibilities,** P 38. Replaced from template.

P 38.2 and P 38.3 swapped to enhance clarity.

**C 27: Establishment and Operation of Gift Fund** P 39. Uncertainty as to necessity of this but retained for the avoidance of doubt.

**C 28: Auditor,** P 40. No substantial change.

**C 29: Board Meetings,** P 41, directors' meetings. Amended wording to align with template, except where this would not reflect BCA’s common usage of the term “board”. INSERTED P 41,5 procedure for passing resolutions. AMENDED C 29.5 Resolutions without meeting, P 41.6 Circular resolutions, requiring them to be recorded.

**C 30: Minutes of Board Meetings,** P 41.7. No substantial change.

**C 31: Interests,**

REPLACED with template on Conflict of Interest. P 42, under separate heading. Introduces more detailed and stringent requirements and consequences. Important area for language used to be consistent with current expectations.

**C 32: Committees and sub-committees,** P 43.

Simplified and merged with C 33 and 34. National Policy Council now called National Policy Committee. The directors can establish additional standing or other committees.
**C 33: National Policy Council, deleted and subsumed in P 43.**

**C 34: Finance, Audit and Risk Management Committee, deleted and subsumed in P 43.**

**C 35: Validation of Acts of Board, Committees and Sub-Committees,** P 44. Wording simplified.

**C 36: Company Secretary** P 45. Wording simplified and modernised.

**INSERT NEW CLAUSE** P 46 Financial records, template clause enshrining requirements to maintain written financial records to give a true and fair picture of the company's finances and operations.

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INSERT New clause P 47 by-laws: modified from template. Empowering directors to make by-laws in general, including the Board Charter. Remove the necessity for separate clauses throughout, such as C 10.4, 11.3 and 32.2.

**C 37: Notices** P 48.
Removed references to fax.

**INSERTED P 48,2 Template clause, outlining how notice is given to BCA.**
C 37,2 P 48,3 ALIGNED with template, when notice is taken to be given.

**C 38: Indemnity** P 49.
Aligned with template.

**C 39: Insurance** P 50.
Aligned with template**.**

**C 40: Revision or Amendment of this Constitution** P 9.

C 40,2 Removed requirement for board to approve amendments. **INSERT** P 9.3 from template, preventing changes which would result in BCA no longer being a charity.

**C 41: Procedure for winding up:** P 51. Slight wording change.

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**C 42: Procedure for Distribution of Property on Winding Up,** P 51 and 52 to align with template. P 52 prohibits distribution of surplus assets to members or former members. P 53,3 and 53,4 introduced as required by the Australian Taxation Office.

**P 54 Definitions, amending C 2.**

Removed twenty definitions of terms either no longer used or not requiring specific definitions, including "activities, consumer, State or Territory and “this Constitution”. Many definitions have been located in the clause to which they apply, such as Eligible Member' P32.3 and ‘State Division' P 15.2.1.

ADDED from template: definitions of ACNC and Surplus Assets

CHANGED Definitions: Blind", and "vision impaired", both judged from a functional rather than medical perspective. Writing defined more broadly.

**New Clause P 55: Interpretation** template clause clarifying details like the meaning of "signed" and references to legislation incorporating all amendments to that legislation.