160N: Incorporates alterations of 16 January 2019 [R2018/274]

(replaces rulebook dated 04 April 2017 [D2016/76])

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 25 both inclusive contain a true and correct copy of the registered rules of the Clay Brick & Paver Association of New South Wales.

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

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## Rules of the Clay Brick & Paver Association of New South Wales

## 1 Introduction

**1.1 Name of Association**

The name of the association is the Clay Brick & Paver Association of New South Wales (Association).

**1.2 Registered Office**

The Association's registered office is Suite 7.01, Level 7, 154 Pacific Highway, NSW, 2065, Australia.

**1.3 Definitions**

For the purposes of these Rules, unless stated otherwise:

(a) **Act** means the *Fair Work (Registered Organisations) Act 2009*;

(b) **Candidate** (also known as **Nominee**) means a person who seeks or is nominated for an Office;

(c) **Close of Roll Day** means the day on which the roll of voters for the ballot is closed. Any Member who is eligible to vote on that day is included in the roll of voters. The Close of Roll Day is a day no earlier than 30 days and no later than 7 days before the day on which nominations open as prescribed in section 143(3) of the Act. If the last day of a quarter falls within this period, Close of Roll Day will be that day. Otherwise, Close of Roll Day will be the day seven days before the date for the opening of nominations.

(d) **Collegiate Electoral System** means a method of election comprising a first stage, at which persons are elected to a number of offices by a Direct Voting System; and a subsequent stage at which persons are elected by and from the body of persons elected at the preceding stage;

(e) **Committee** means the committee of management of the Association established under rule 5.1;

(f) **Direct Voting System** means a method of election at which all eligible Financial Members vote;

(g) **Disclosure Period** means a Financial Year, unless a shorter period is specified;

(h) A person is a **Declared Person** or **Body** if:

(i) an Officer of the Association has disclosed a material personal interest under sub rule 10.1; and

(ii) the interest relates to, or is in, the person or body; and

(iii) the Officer has not notified the Association that the Officer no longer has the interest;

(i) Executive Director means the Executive Director appointed in accordance with rule 5.5.

(j) **General Meeting** means either an Annual General Meeting or an Extraordinary General Meeting;

(k) **Financial Duties** includes duties that relate to the financial management of the Association;

(l) **Financial Member** means a Member who, at the date determined in the rules of the Association, has paid all the amounts the Member is required to pay;

(m) **Financial Year** means the financial year running from 1 July to 30 June;

(n) **General Manager** means the General Manager of the Fair Work Commission;

(o) **Irregularity** has the same meaning as in section 6 of the Act;

(p) **Member** means a member of the Association;

(q) **Nominated Representative** means the person nominated by a Financial Member under rule 3.3 (a);

(r) **Nominator** means a person who nominates another person for Office;

(s) **Nominee** (also known as a Candidate) means a person nominated for Office;

(t) **Non-Cash Benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes;

(u) **Office** has the same meaning as in section 9 of the Act, and for the avoidance of doubt, includes but is not limited to all members of the Committee;

(v) **Officer** has the same meaning as in section 6 of the Act;

(w) **Peak Council** has the same meaning as in section 12 of the *Fair Work Act 2009*;

(x) **Prescribed Officer** means an Officer or employee within the Association who is authorised by the Committee to make available the register of Members to the Returning Officer;

(y) **President** means the President elected in accordance with rule 13;

(z) **Related Party** has the same meaning as in section 9B of the Act;

(aa) **Relative** in relation to a person, means the person's:

(i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or

(ii) the spouse of the first mentioned person, including de facto or same sex spouse;

(bb) **Relevant Remuneration** in relation to an Officer of the Association for a Disclosure Period is the sum of:

(i) any Remuneration disclosed to the Association by the Officer under sub-rule 9(a) during the Disclosure Period; and

(ii) any Remuneration paid, during the Disclosure Period, to the Officer by the Association;

(cc) **Relevant Non-Cash Benefits** in relation to an Officer of the Association for a Disclosure Period means the Non-Cash Benefits provided to the Officer, at any time during the Disclosure Period, in connection with the performance of the Officer’s duties as an Officer, by the Association or by a Related Party of the Association;

(dd) **Remuneration**:

(i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but;

(ii) does not include a Non-Cash Benefit; and

(iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the Officer carrying out his or her duties;

(ee) **Returning Officer** means, in relation to elections conducted by the Australian Electoral Commission, an employee of the Australian Electoral Commission. In other cases, it means the person appointed under the rules to conduct the election; and

(ff) **Secretary**  means, in a secretary elected in accordance with rule 13, and

**(gg) Vice President** means a vice president elected in accordance with rule 13.

## 2 Objects

The objects for which the Association is established are to:

(a) obtain registration as an association of employers pursuant to the Act;

(b) cause Members to be represented, and co-ordinate the requirements of Members, in all aspects of human resources and industrial relations;

(c) assist in negotiations relating to the settlement of industrial disputes between Members and their employees;

(d) represent the interests of Members in negotiating the establishment of, or variation to, modern awards, enterprise agreements and other industrial instruments as defined by the *Fair Work Act 2009*;

(e) provide an industrial service to Members, including:

(i) award information and interpretation; and

(ii) advice and support in establishing and maintaining appropriate personnel policy, practice and procedures;

(f) promote training programmes aimed at enhancing the performance standards of management and staff;

(g) represent Members in all matters involving government, regulatory authorities and associated industry organisations;

(h) act as an industrial union of employers; and

(i) do all such things as may be incidental or conducive to the attainment of any of the above objects or as may be deemed necessary or expedient in the best interests of the industry and the Association.

## 3 Membership

**3.1 Eligibility**

Employers; whether individuals, partnerships or corporations that are engaged in the manufacture of clay bricks or pavers, are eligible for membership of the Association.

**3.2 Admission**

(a) Any eligible employer wishing to become a Member may make an application in writing to the President. At its next scheduled meeting, the Committee of Management must either approve or reject the application. On approval, the eligible employer is admitted as a Member.

(b) The President (or a Vice President or employee to whom the President delegates this task) must advise each applicant as soon as practicable of the contributions payable to the Association and the rules regarding cessation of membership.

(c) If an applicant is accepted for Membership, the President (or a Vice President or employee to whom the President delegates this task) must advise the applicant in writing of that acceptance and provide the Member with a copy of these rules and the amount of contribution or special levy payable.

(d) If:

(i) the business, or part of the business, of a Member is assigned or transferred to a person who is not a Member; or

(ii) such a person succeeds to the business, or part of the business, of a Member of the Association,

the Member must notify the Association of the assignment, transfer or succession within 14 days after it occurs.

(e) Membership of the Association ceases immediately if a Member becomes ineligible for membership in accordance with these rules.

**3.3 Nominated Representative**

(a) A Member must notify the Association of its Nominated Representative from time to time.

(b) The Nominated Representative of a Member will:

(i) represent the Member at meetings;

(ii) exercise the Member's right to vote; and

(iii) be eligible to be elected to Office.

(c) The Nominated Representative of a Member can only be nominated for and maintain that position while the Member is a Financial Member.

**3.4 Resignation from Membership**

(a) A Member may resign from membership by written notice addressed and delivered to the President of the Association.

(b) A notice of resignation takes effect:

(i) if the Member ceases to be eligible to become a Member:

(A) on the day on which the notice is received by the Association; or

(B) on the day specified in the notice, which is a day not earlier than the day when the Member ceases to be eligible to become a Member,

whichever is later; or

(ii) in any other case:

(A) at the end of 2 weeks after the notice is received by the Association; or

(B) on the day specified in the notice,

whichever is later.

(c) Any dues payable but not paid by a former Member, in relation to a period before the Member's resignation from the Association took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association.

(d) A notice delivered to the person mentioned in sub-rule (a) above is taken to have been received by the Association when it was delivered.

(e) A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with sub-rule (a).

(f) A resignation from Membership is valid, even if it is not effected in accordance with this section, if the Member is informed in writing by or on behalf of the Association that the resignation has been accepted.

**3.5 Discipline of Members and expulsion from Membership**

(a) If the contribution or special levy of a Member remains unpaid for a period of three calendar months then the Committee may, after notice of default, debar the Member from all privileges of membership, provided that the Committee may reinstate the Member on payment of all arrears if the Committee decides it is appropriate to do so.

(b) If the Committee is of the opinion that a Member:

(i) has persistently refused or neglected to comply with a provision or provisions of these rules; or

(ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Association,

then the Committee may, by resolution:

(i) expel the Member from the Association; or

(ii) suspend the Member from membership for a specified period of time.

(c) The Committee must confirm any decision made in accordance with sub-rule (a) at a meeting to be held not earlier than 14 days after the Association has served written notice of the disciplinary action on the Member.

(d) The President (or a Vice President or Secretary or employee to whom the President delegates this task) must advise a Member of any disciplinary action taken against the Member in writing and stating:

(i) the resolution of the Committee and the grounds on which it is based;

(ii) that the Member may address the Committee at a meeting to be held for that purpose;

(iii) the date, place and time of that meeting; and

(iv) that the Member may, by its Nominated Representative, do either or both of the following:

(A) attend and speak at that meeting;

(B) submit to the Committee at, or prior to, the date of that meeting written representation relating to the decision.

(e) At the meeting of the Committee called for the purpose, the Nominated Representative, on behalf of the Member, may make oral representations or written submissions to the Committee.

(f) The Committee must:

(i) consider any oral representations or written submissions made by the Member; and

(ii) confirm or revoke the resolution for disciplinary action.

(g) If the Committee confirms the resolution, the President (or a Vice President or a Secretary or employee to whom the President delegates this task) will advise the Member in writing of the confirmation.

## 4 Contributions

(a) The Committee, in General Meeting of the Committee, may set the annual contribution payable by Members.

(b) The Committee in General Meeting may decide to impose a special levy for a specific programme of action which Members must pay in addition to the normal Member contribution.

(c) Members must pay all contributions and special levies monthly unless decided otherwise by the Committee in General Meeting of the Committee.

(d) No levies raised by the Association may be used as payments for political objectives.

## 5 Management

**5.1 The Committee**

(a) Subject to these rules, the Committee is the governing body of the Association and is responsible for conducting the affairs of and administering the Association.

(b) The Committee may act through its servants and agents.

(c) The Committee consists of four Committee members, or another number as determined by the Committee before the Returning Officer calls for nominations, elected in accordance with these rules.

(d) A person is eligible to be a Committee member if that person is a Nominated Representative of a Financial Member.

(e) The Executive Officers, who must be elected from amongst the Committee members, are the:

(i) President; and

(ii) two Vice Presidents

(iii) Secretary.

(f) The Committee has full power and authority to act in the name of, and on behalf of, the Association in all matters provided for in these rules and to incur any expenditure necessary to conduct and carry out the functions of the Association.

(g) The Committee is responsible for the granting of any loan or donation.  The Association must not make a loan, grant or donation of an amount exceeding $1,000 unless the Committee:

(i) has satisfied itself:

(A) that the making of the loan, grant or donation would be in accordance with the rules of the Association; and

(B) in the case of a loan – that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and

(ii) has approved the making of the loan, grant or donation.

**5.2 Officers**

(a) Officers hold Office subject to these rules, generally for four years from the date of the declaration of the result of the election, or until their successors are elected.

(b) The Officers have the powers and duties provided in these rules or as otherwise delegated to them by the Association from time to time.

**5.3 Removal from Office**

An Officer may be removed from an Office if the person has:

(a) been found guilty under these rules of:

(i) misappropriation of funds of the Association;

(ii) a substantial breach of the rules of the Association;

(ii) gross misbehaviour or gross neglect of duty; or

(b) has ceased under these rules to be eligible to hold Office.

**5.4 Casual vacancy**

(a) A casual vacancy occurs if an Officer dies, resigns, is removed from Office, does not take up Office or ceases to hold Office.

(b) Casual vacancies should be filled promptly in accordance with this rule.

(c) If a casual vacancy occurs, and the unexpired portion of the term of Office is more than three years, the vacancy will be filled by election in accordance with these rules.

(d) If a casual vacancy occurs and the unexpired portion of the term of Office is less than three years, the vacancy will be filled by the General Committee appointing a Financial Member to that Office.

(e) The successful Candidate or appointee will hold the Office until the next election for that Office to be held in accordance with these rules.

**5.5 Executive Director**

(a) The Committee may appoint an Executive Director. The Executive Director is subject to the direction and control of the Committee.

(b) The Executive Director may perform any of the functions of the Executive Officers under these rules with the delegated authority of the relevant Executive Officer.

**5.6 Meetings of the Committee**

(a) Unless otherwise decided by the Committee, the Committee will meet at least once every six months on such day and at such place as the President may, from time to time, determine.

(b) Meetings of the Committee may also be called at any time by the President (or a Vice President or Secretary or employee to whom the President delegates this task).

(c) At least seven days' notice of any meeting must be given, specifying the place, the day and the hour of the meeting. Notices should generally be written; however, if the person calling the meeting considers the request for the meeting to be urgent, they may call a meeting by giving whatever form of notice is practicable, including by giving less than seven days' notice.

(d) No mention of business may be transacted at any meetings of the Committee unless a quorum of members of the Committee is present. At any meetings of the Committee, any two members of the Committee may constitute a quorum.

## 6 General Meetings

(a) The Association must, at least once in each calendar year and within six months after the expiration of the Financial Year, convene an Annual General Meeting of its Members.

(b) In addition to the Annual General Meeting required under sub-rule (a), an Extraordinary General Meeting may be called:

(i) if decided by the Committee; or

(ii) at the request in writing of two Members. The request must state the purpose of the meeting, signed on behalf of the Members concerned, and lodged with the President.

(c) Notification of all meetings will be mailed to all Members at least ten days before the date on which the meeting is to be held.

(d) No mention of business may be transacted at any General Meeting unless a quorum of Members entitled to vote under these rules is present.

(e) At any General Meeting, two Members entitled to vote under these rules may constitute a quorum.

(f) (i) If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting, if convened at the request of Members, will be dissolved and in any other case will 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.

(ii) 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 will constitute a quorum.

(g) (i) The President, or in the President's absence, one of the Vice Presidents, will chair each General Meeting.

(ii) If the President, or in the President's absence, both of the Vice Presidents, are absent from a General Meeting or unwilling to act, the Nominated Representatives of the Members present must elect one of their number to chair the meeting.

(h) (i) 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 may be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(ii) If a General Meeting is adjourned for 14 days or more, the President (or a Vice President or employee to whom the President delegates this task) 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.

(iii) Except as provided in sub-rules 0 and 0, 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.

### (i) (i) A question arising at a General Meeting will be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, 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 loss, 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.

#### (ii) At a General Meeting, a poll may be demanded by the chairperson or by not less than two Members present in person or by proxy at the meeting.

#### (iii) If a poll is demanded at a General Meeting, the poll must be taken:

##### (A) immediately, in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment; or

##### (B) in any other case, in such a manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter will be deemed to be the resolution of the meeting on that matter.

### (j) (i) Upon any question arising at a General Meeting, a Member has one vote only.

#### (ii) All votes must be given personally or by proxy, and no Member may hold more than two proxies.

#### (iii) In the case of an equality of votes on a question at a General Meeting, the President is entitled to exercise a second or casting vote.

### (k) (i) Each Member is entitled to appoint another Member as proxy by notice given to President no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.

#### (ii) The notice appointing the proxy must be in the form set out in Appendix 1 of these rules.

## 7 Circulating Resolutions for Members

### (a) The Association may pass a resolution without a General Meeting being held if a document is signed on behalf of the Members entitled to vote on the resolution which contains a statement that they are in favour of the resolution set out in the document. Each Member of a joint membership must sign.

### (b) Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

### (c) The resolution is passed when the last Member signs.

## 8 Policies and procedures

The Association must develop and implement policies and procedures relating to its expenditure.

## 9 Disclosure of Officer's Relevant Remuneration and Non-Cash Benefits

(a) Each Officer must disclose to the Association any Remuneration paid to the Officer:

(i) because the Officer is a member of a board, if:

(A) the Officer is a member of the board only because the Officer is an Officer of the Association; or

(B) the Officer was nominated for the position as a member of the board by the Association or a Peak Council; or

(ii) by any Related Party of the Association in connection with the performance of the Officer’s duties as an Officer.

(b) The disclosure required by sub-rule (a) must be made to the Association:

(i) as soon as practicable after the Remuneration is paid to the Officer; and

(ii) in writing.

(c) The Association must disclose to the Members of the Association:

(i) the identity of the Officers who are the five highest paid in terms of Relevant Remuneration for the Disclosure Period; and

(ii) for each of those Officers:

(A) the actual amount of the Officer’s Relevant Remuneration for the Disclosure Period; and

(B) either the value of the Officer’s Relevant Non-Cash Benefits, or the form of the Officer’s Relevant Non-Cash Benefits, for the Disclosure Period.

(d) For the purposes of sub-rule (c), the disclosure must be made:

(i) in relation to each Financial Year;

(ii) within six months after the end of the Financial Year; and

(iii) in writing.

## 10 Disclosure of Officer's material personal interests

10.1 Obligation to disclose

(a) Each Officer must disclose to the Association any material personal interest in a matter that:

(i) the Officer has or acquires; or

(ii) a Relative of the Officer has or acquires; or

(iii) relates to the affairs of the Association.

(b) The disclosure required by sub-rule (a) must be made to the Association:

(i) as soon as practicable after the interest is acquired; and

(ii) in writing.

(c) The Association must disclose to the Members any interests disclosed to the Association pursuant to sub-rule (a).

(d) For the purposes of sub-rule (c), the disclosures must be made:

(i) in relation to each Financial Year;

(ii) within six months after the end of the Financial Year; and

(iii) in writing.

## 11 Disclosure by Association of payments

(a) The Association must disclose to the Members either:

(i) each payment made by the Association, during the Disclosure Period:

(A) to a Related Party of the Association; or

(B) to a Declared Person or Body of the Association; or

(ii) the total of the payments made by the Association, during the Disclosure Period:

(A) to each Related Party of the Association; or

(B) to each Declared Person or Body of the Association.

(b) Sub-rule (a) does not apply to a payment made to a Related Party if:

(i) the payment consists of amounts deducted by the Association from Remuneration payable to Officers or employees of the Association; or

(ii) the Related Party is an Officer, and the payment:

(A) consists of Remuneration paid to the Officer by the Association; or

(B) is reimbursement for expenses reasonably incurred by the Officer in performing the Officer’s duties as an Officer.

(c) For the purposes of sub-rule (a), the disclosures must be made:

(i) in relation to each Financial Year;

(ii) within six months after the end of the Financial Year; and

(iii) in writing.

## 12 Officers to undertake approved training

All Officers whose duties include Financial Duties must, within six months after the Officer begins  
to hold the Office, undertake training:

(a) approved by the General Manager under section 154C of the Act; and

(b) that covers each of the Officer's Financial Duties.

## 13 Nomination and Election of Officers

**13.1 Nomination and election of the Committee Members**

(a) Committee members must be elected by direct election in accordance with this rule.

(b) Notwithstanding anything else contained in these Rules, a person is eligible to vote in a ballot if they are, on Close of Roll Day, a Nominated Representative of a Financial Member of the Association.

(c) A Nominee or a Nominator must be a Nominated Representative as at the day that the Returning Officer calls for nominations.

(d) Nominations will open on the seventh day of the first month of the quarter which immediately precedes the quarter in which the term of office of the Officers for election expires.

(e) Nominations will close at 12 noon on the twenty-first day after nominations have opened. Nominations received by the Returning Officer after that time will not be accepted.

(f) If any of the above dates fall on a weekend or a public holiday, the relevant day will be the Returning Officer’s next standard working day after that date.

* 1. **Nomination and election of the Executive Officers**

(a) The Executive Officers must be elected by a Collegiate Electoral System by and from the Committee members in accordance with this rule.

(b) The election of the Executive Officers must occur immediately after the election of the Committee members.

(c) Nominations must be called by the Returning Officer fourteen days prior to the meeting at which the election is to be held. If that day falls on a weekend or a public holiday, the relevant day must be the Returning Officer's next standard working day after that date. Nominations must close at the meeting in descending order as identified in the hierarchy in this rule.

(d) Despite the preceding paragraph, if a meeting is not scheduled to occur before the expiry of the term of Office, nominations must close at a date and time to be determined by the Returning Officer and ballots, if any, must be conducted as a postal ballot in accordance with rule 13.11.

(e) A person's eligibility to participate as a Nominee or Nominator will be determined as of the date the meeting is held. A person is eligible to be a Nominee or Nominator if the person is a Committee member.

(f) A Nominee may self-nominate, or may be nominated by another Committee member.

(g) Voting must occur at the meeting of the Committee immediately after nominations have closed. A person is eligible to vote in a ballot if, on the date of the meeting, they are a Committee member.

(h) Ballots must be conducted so that the ballot for the Office highest in the hierarchical order is completed first before the ballot for the next highest Office is conducted. The hierarchical order of the organisation is set as per 13.7 (a).The Returning Officer must conduct each ballot in sequence in descending order as identified in these rules. Once a Candidate is successful in being elected for an Office, the Candidate is excluded from any subsequent election.

(i) If ballots are conducted as a postal ballot or attendance ballot, the Returning Officer must instruct the voters to vote using sequential numbers commencing with the number 1, so that a Candidate who is successful in being elected for a higher Office may be excluded from the ballot for any subsequent Office which the Candidate cannot simultaneously hold. In case of a tie, the Returning officer will decide the ballot by lot.

**13.3 Returning Officer – powers and duties**

(a) The Retuning officer will be appointed by Australian Electoral Commission to conduct the election after receiving the order from Registered Organisation Commission.

(b) The Association must appoint a Returning Officer (not being the holder of any Office, or an employee of the Association) to conduct elections for any position which is not an office. If a Returning Officer is required to conduct an election for any position other than an Office, the Returning Officer will apply these election rules making any necessary changes and will have the same powers and duties as apply under these rules to the conduct of an election for Office.

(c) The Returning Officer must prepare and circulate a notice calling for nominations in accordance with these rules.

(d) After the close of nominations the Returning Officer must consider all nominations received during the nomination period. The Returning Officer must:

(i) reject any nominations received after the nomination period has closed;

(ii) accept all nominations which satisfy the requirements of these rules; and

(iii) treat any defective nominations in the manner prescribed in these rules.

(e) If a ballot is required, the Returning Officer must conduct the ballot in accordance with the provisions of these rules.

(f) In respect of any matter pertaining to the conduct of any election, and despite anything else contained in these rules, the Returning Officer may take such action and give such directions as the Returning Officer considers necessary, including but not limited to making void a step already taken in the election, to ensure the secrecy of the ballot and to prevent or remedy an Irregularity.

**13.4 Advertising**

(a) The Returning Officer must cause an election notice to be published:

(i) on the Association's website; and

(ii) in a journal or bulletin or newsletter published by the Association and circulated to all Members eligible to participate in the election, either directly to the Member’s known postal address or via circulation to all workplaces at which Members are employed; or

(iii) if no journal or bulletin or newsletter is available at the time nominations are called, in a newspaper circulating throughout the region to which the functions of the Office or Offices relate; or

(iv) by distribution of such notice directly to each Member eligible to participate in the election, at the Member’s postal address.

(b) The election notice must:

(i) state that the election is being conducted by the Returning Officer;

(ii) list the Offices for which nominations are sought;

(iii) invite nomination for election from all eligible persons;

(iv) fix the time and date for the opening and closing of nominations;

(v) fix the time and date for the opening and closing of the ballot;

(vi) specify the place where nomination forms may be obtained;

(vii) specify the place where nominations must be lodged;

(viii) specify the accepted method/s of lodgement;

(ix) fix a time and date for withdrawal of nominations; and

(x) if applicable, specify other documentation required to be submitted with the nomination.

**13.5 Scrutineers**

### (a) Each Candidate may appoint, in writing, one person as scrutineer to represent the Candidate’s interests in the conduct of the ballot. A scrutineer may not be a Candidate for any position which is also included in a ballot in the election. The Candidate may appoint one or more substitute scrutineers, if required.

### (b) A scrutineer may be present at any stage in the ballot. This includes:

#### (i) countersigning any seals or placing their own seal on any receptacle being used for the ballot;

#### (ii) bringing to the attention of the Returning Officer any alleged Irregularity in:

#### (A) the issue of ballot papers;

#### (B) the admission of envelopes to scrutiny;

#### (C) the formality or informality of ballot papers; or

#### (D) the counting of votes.

(c) A scrutineer may not:

(i) interrupt the scrutiny without lawful reason;

(ii) disclose any knowledge acquired by him/her concerning the votes of any particular voter or voters;

(iii) fail to carry out any lawful request by the Returning Officer;

(iv) touch any ballot material; or

(v) act in any other manner which may interfere with the proper conduct of the election.

(d) Failure of a scrutineer to attend any scheduled event will not delay any step in the election.

**13.6 Nominations**

Nominations lodged with the Returning Officer must be in writing and include:

(a) the full name of the Nominee;

(b) the form in which the Nominee’s name is to appear on a ballot paper if different to the name shown above;

(c) the Nominee’s contact details;

(d) the name and address of each Nominator, if required;

(e) the Office for which the Nominee is nominating;

(f) the signed endorsement/consent of the Nominee;

(g) the signature of each Nominator; and

(h) any further information or documentation required by the Returning Officer.

**13.7 Nomination for more than one Office**

(a) No person may simultaneously hold more than one of the following Offices, which also determines the hierarchical order:

(i) President; or

(ii) Vice President.

(iii) Secretary.

(b) If a person nominates for more than one Office which cannot be simultaneously held, the Returning Officer must conduct the election for each Office in the order they appear in rule 13.7 (a). If a person is elected to an Office, the person must be excluded from any subsequent Office which is unable to be held simultaneously.

(c) If a person holding any Office is elected to another Office the person cannot hold simultaneously with the Office currently held, the person is deemed to have relinquished the Office already held. The ensuing vacancy will be filled by appointment or election in accordance with the rules concerning casual vacancies.

**13.8 Defective nominations**

(a) If the Returning Officer finds that a nomination is or may be defective, the Returning Officer must, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination within a period of time the Returning Officer determines is reasonable, and where practicable, a period of not less than seven days after being notified.

(b) If the Returning Officer has notified a person of a nomination defect, and that person has remedied the defect and advised the Returning Officer within the time prescribed by the Returning Officer, the Returning Officer will accept the nomination.

(c) If the Returning Officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the Returning Officer within the time prescribed by the Returning Officer, the Returning Officer will reject the nomination.

**13.9 Withdrawal of nominations**

(a) A person nominating for any Office may withdraw the nomination by notice in writing to the Returning Officer at any time before the closing time for the receipt of nominations.

(b) The notification in writing referred to above must include the signed endorsement of the Nominee and be in a form acceptable to the Returning Officer.

(c) Once a Nominator has endorsed the nomination of a person for election to any Office, that Nominator may not subsequently withdraw that endorsement.

**13.10 Uncontested elections**

If, after the close of nominations, the number of valid nominations received for an Office does not exceed the number of positions to be filled, the Returning Officer will declare elected the person or persons nominated.

**13.11 Contested elections and secret postal ballot**

(a) If the number of valid nominations received for an Office exceeds the number of positions to be filled, the Returning Officer must conduct a secret postal ballot of persons entitled to vote.

(b) Voting for all elections conducted under these rules will open on the first day of the last month of the quarter in which nominations are called.

(c) The ballot will close at 10:00am on the twenty-first day after the day that the ballot opened. Ballot material received by the Returning Officer after that time will not be included in the scrutiny.

(d) If any of the above dates fall on a weekend or a public holiday, the relevant day will be the Returning Officer’s next standard working day after that date.

(e) Despite the provisions of this rule, if the Returning Officer is unable to commence the nomination period so as to comply with this rule, the election timetable will be established by applying the timeframes identified in this rule, but commencing from the date of the opening of nominations.

(f) The Returning Officer may include a number of ballots on the same ballot paper.

(g) The following features must appear on all ballot papers prepared in respect of a secret postal ballot for an election for Office:

(i) the name of the Association;

(ii) the initials of the Returning Officer or other authenticating mark;

(iii) the name and number of Office/s to be filled;

(iv) instructions for marking the ballot paper;

(v) the names of the Candidates in the format and order required by these rules;

(vi) instructions for returning the ballot paper;

(vii) the name of the Returning Officer; and

(viii) any other instruction that the Returning Officer considers necessary.

(h) The Returning Officer must arrange for the printing of ballot papers and distribution to Members eligible to vote.

(i) The ballot papers must contain the names of the Candidates with the surname first followed by the given names. No other Candidate information will be printed on the ballot paper.

(j) The order of names in each ballot on the ballot paper must be determined by lot drawn by the Returning Officer.

(k) The ballot must be conducted under the first-past-the post system described in rule 13.12.

(l) The voter must vote for the number of Candidates to be elected otherwise the ballot paper will be informal.

(m) The Returning Officer must, for the purpose of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule should be limited to:

(i) persons authorised by Australia Post;

(ii) the Returning Officer; and

(iii) persons authorised in writing by the Returning Officer.

(n) On or before the opening day of the ballot the Returning Officer will forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.

(o) Ballot material must include:

(i) one or more ballot papers showing the time and date of the close of the ballot;

(ii) a reply paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter; and

(iii) an inner ‘Declaration Envelope’ as prescribed by the Act, suitable for containing the ballot paper/s.

(p) If a Member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the Member may make an application to the Returning Officer for the issue of replacement ballot material. The application must:

(i) be in writing;

(ii) set out the applicant’s full name and postal address;

(iii) set out the grounds on which the application is made;

(iv) contain a declaration that the applicant has not voted in the ballot; and

(v) be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.

(q) If the Returning Officer is satisfied that the information contained in the application is true and correct, the Returning Officer must issue replacement ballot material to the applicant.

**13.12 Voting system**

(a) The voting system is the first-past-the-post system as detailed in this rule.

(b) Eligible persons vote by placing a cross in the square next to the names of the Candidates for whom he/she wishes to vote.

(c) The voter must vote for the number of Candidates to be elected.

(d) The Candidates with the highest number of votes will be elected.

(e) If two or more Candidates each receive the same number of votes, the Returning Officer will decide by lot which Candidate is to be elected.

(f) A ballot paper will be informal if marked other than in accordance with this rule.

**13.13 Supply of listings for the roll of voters**

(a) The Returning Officer will request the Prescribed Officer to supply the name and postal address of every Member eligible to vote at an election. The Returning Officer may also request the Prescribed Officer to supply additional information which does not form the roll of voters but is to be used to ensure no Irregularity occurs, and to supply the information in electronic form. The Prescribed Officer must comply with such a request.

(b) The Prescribed Officer must take all reasonable steps to ensure the listings supplied to the Returning Officer contain, where practicable, each eligible Member’s residential or other postal address rather than workplace address.

(c) Any Candidate for election and any Member entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

**13.14 Absent voting**

(a) Any person who is entitled to vote at any election held under these rules and who will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the Returning Officer for ballot material to be sent to an address that the person so nominates.

(b) Notification to the Returning Officer must be in a form acceptable to the Returning Officer and must set out the person's name and usual address and the address to which the person elects to have ballot material sent.

(c) If a Returning Officer receives a request for an absent vote made in the form described in this rule, the Returning Officer must comply with that request.

**13.15 Scrutiny**

(a) During the course of the ballot the Returning Officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The Returning Officer must make a final clearance of returned envelopes so that all envelopes received by the Returning Officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot will be admitted to the scrutiny.

(b) The Returning Officer will conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The Returning Officer may commence the preliminary scrutiny prior to the close of the ballot.

(c) Before proceeding to count the votes to ascertain the result of the ballot, the Returning Officer must:

(i) remove the ‘Declaration Envelope’ from the reply paid envelopes; and

(ii) examine the voter’s declaration attached to each ‘Declaration Envelope’, and mark off the voter’s name against a copy of the roll of voters.

(d) A voter’s returned ballot material must be rejected and set aside if:

(i) the ‘Declaration Envelope’ has not been returned;

(ii) the voter has not completed the declaration on the ‘Declaration Envelope’ to satisfy the Returning Officer;

(iii) the voter is ineligible to vote; or

(iv) the Returning Officer is unable to identify the voter on the roll of voters.

(e) If a voter returns more than one set of ballot material, only one set of ballot material will be admitted into the count. The Returning Officer will decide which set of ballot material is to be rejected.

(f) The Returning Officer must note on any rejected ballot material that it has been rejected and the reason for rejection, and set it aside for separate custody.

(g) Once the Returning Officer has determined which 'Declaration Envelopes' are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope will then be opened and the ballot papers extracted to be counted.

(h) The Returning Officer must reject as informal a ballot paper that:

(i) does not bear the initials or other authenticating mark of the Returning Officer; and/or

(ii) has upon it any mark or writing by which the voter can be identified; and/or

(iii) is not marked substantially in accordance with the instructions included on the ballot paper; and/or

(iv) the marking is such that the intention of the voter is not clear; and/or

(v) is not returned inside the declaration envelope.

(i) If, during the ballot, the Returning Officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the Returning Officer must decide whether the returned envelope or ballot paper is to be admitted or rejected and endorse the decision on the envelope or ballot paper. The decision of the Returning Officer is final.

**13.16 Declaration of results**

(a) The Returning Officer must declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to the President at the Association's registered office.

(b) The Returning Officer must, at the same time and in the same manner as the Returning Officer declares the result of the election, also declare the total numbers of:

(i) persons on the roll of voters;

(ii) ballot papers issued;

(iii) envelopes that were returned undelivered by the closing date of the ballot;

(iv) ballot papers received by the Returning Officer; and

(v) ballot papers rejected as informal.

## 14 Expenses and accounts

(a) The Committee has sole management and control of the funds of the Association and its income, provided that the funds of the Association may only be expended on:

(i) achieving the objects of the Association; and

(ii) expenses of management.

(b) The Committee must cause proper books of account to be kept recording a true account of the financial transactions of the Association and of all receipts and expenditure and the assets and liabilities of the Association. The books of account must be kept at the registered office of the Association.

## 15 Register of Members

A register of Members must be kept which will show (inter alia):

(a) the name of each Member and the Member's Nominated Representative;

(b) the registered address of each Member;

(c) the financial status of each Member;

(d) the date of admission by the Committee of each Member to membership; and

(e) such other details as may be required by the Committee, the Act and the Regulations from time to time.

## 16 Documents and property

(a) Except as expressly provided for in these rules or otherwise required by law, documents pertaining to the Association must be signed by two Executive Officers or a person to whom power is delegated by the Committee.

(b) The Officers are responsible for the manner in which property is controlled and the manner in which funds are invested.

## 17 Bank account

(a) A bank account must be kept in the name of the Association into which all money received must be paid.

(b) All payments from this account must be made by cheque signed by any two of the President and Vice Presidents or by any two employees of the Association with authority of the Association, or by any other means decided by the Committee.

## 18 Inspection of books

The Committee must ensure that the records, books and other documents of the Association are be open to inspection, free of charge, by a Member of the Association at any reasonable hour.

## 19 Auditor

(a) An auditor or auditors must be appointed at the Annual General Meeting each year and if a vacancy arises in such position, the vacancy should be filled at the next General Meeting.

(b) An auditor may only be removed during the term of appointment by resolution passed at a General Meeting, and only by a majority of the Members of the Association voting at the meeting.

(c) Written notice of the intention to remove the auditor must be given to each Member of the Association within a reasonable time before the resolution is moved.

(d) The auditor must be given reasonable notice of the resolution to remove the auditor and must be given the opportunity to make written representations. If the auditor makes written representations, the auditor may require the Association to provide a copy of the written representations to each Member.

(e) The appointed auditor must inspect and audit the accounting records kept by the Association in relation to each Financial Year and issue a report for that Financial Year to the Association.

## 20 Industrial disputes

If the Association is required to or decides to notify the Fair Work Commission of an industrial dispute, the President (or a Vice President or employee to whom the President delegates this task) must notify the Fair Work Commission of the dispute in writing.

## 21 Alteration of Rules

(a) These rules may be altered, rescinded or added to only by a resolution of the Committee and a vote in favour of the change by a majority of Members eligible to vote.

(b) A resolution to alter these rules will be deemed to be carried if a minimum of 75.1% of the authorised voting Members at the meeting are in favour.

## 22 Dissolution of the Association

(a) At a General Meeting called for that purpose, the Members may, by a vote of at least 75.1% of those eligible to vote, decide to dissolve the Association.

(b) Notice of the meeting must be in writing to all Members, sent not less than fourteen days before the date of the meeting and must state the object of the meeting.

(c) Following the decision, the President (or a Vice President or employee to whom the President delegates this task), must take all steps required to wind up the Association, including payment of all debts and liabilities of the Association.

(d) On dissolution of the Association, the liability of a Member will be limited to any contribution or levy owed by that Member.

(e) If after satisfaction of all debts, liabilities of winding up charges, a surplus of funds exists then the surplus must be dealt with in accordance with the law.

## 23 Common seal

(a) The common seal of the Association must be kept in the custody of the President.

(b) The common seal may not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal will be attested to by the signatures of either of two Members of the Committee or of one Member of the Committee.

## Appendix 1

I,

(full name)

of

(address)

being a Member of Clay Brick & Paver Association of New South Wales (**Association**)

hereby appoint

(full name of proxy)

of

(address)

being a Member of that incorporated association as my proxy to vote for me on my behalf at the General Meeting of the Association (Annual General Meeting or Extraordinary General Meeting, as the case may be) to be held on the day of 2

and at any adjournment of that meeting.

\* My proxy is authorised to vote in favour of / against (delete as appropriate) the resolution (insert details).

\* To be inserted if desired.

Signature of Member appointed proxy

Date

***Note:*** *A proxy vote may not be given to a person who is not a Member of the Association.*

## Schedule

FORM OF APPLICATION FOR MEMBERSHIP

The President

The Clay Brick & Paver Association of New South Wales (**Association**)

*I/We apply for membership of the Association and in the event of election I/we agree to abide and be bound by the existing rules of the Association as amended from time to time.*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **DATED** this |  | day of |  |  | 20 |

**SIGNATURE OF APPLICANT**

\*\*\*END OF RULES\*\*\*