



# THE CONSTITUTION OF ENGADINE COMMUNITY SERVICES

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## 1. Name

The name of the organisation shall be **Engadine Community Services Incorporated** (referred to in these rules as **ECS**).

## 2. Definitions

In these rules:

- **Commissioner** means the Commissioner of the Office of Fair Trading.
- **Ordinary member** means a member of ECS who is not an office-bearer of ECS, as referred to in rule 10.
- **Secretary** means the person holding office under these rules as Secretary of ECS, or if no such person holds that office, the Public Officer of ECS or delegate.
- **Special General Meeting** means a general meeting of ECS other than an Annual General Meeting.
- **The Act** means the Associations Incorporations Act 2009.
- **The Regulation** means the Associations Incorporation Regulation 2012.
- **Reference** to a function includes a reference to a power, authority and duty, and a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

The provisions of the *Interpretation Act 1987* apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

## 3. Objects

The vision of ECS is to make all people feel included in our community and to recognise all abilities, strengths and cultures. Our primary objective is to build resilient communities by providing leadership and responsive services to identified community needs. We do this through our key services:

- Provide community facilities and amenities to the residents of Engadine and neighbouring suburbs
- Social support for older individuals to remain at home and continue to be part of the community
- Resource Centre which provides support and personal development opportunities for individuals

Our services are provided with the following principles of respect to self-determination, embracing inclusion and diversity and responsiveness to community needs and government priorities.

#### **4. Membership Qualifications**

Membership of ECS is open to all persons desirous of participating in the voluntary work of a community organisation aimed at providing assistance to our community, direct support services and opportunity for development.

#### **5. Membership Application**

- A member must complete the Nomination for Membership application form (see *Appendix 1*).
- At the next General Meeting, the Nomination for Membership applications will be considered by the Committee.
- The Committee will decide the outcome of the application(s) via a unanimous vote.
- Applicants will be notified of the outcome of their application via mail.

#### **6. Register of Members**

- 6.1 The register of members of ECS shall specify the name and address of each person who is a member of ECS together with the date on which the person became a member. Provision for noting the date of cessation of membership shall also be contained in the register.
- 6.2 The register of members must be kept at the principal place of administration of ECS and must be open for inspection, free of charge, by any member of ECS at any reasonable hour.
- 6.3 A member of ECS may obtain a copy of any part of the register on payment of a fee of \$2 for each page copied or, if some other amount is determined by the committee, that other amount.
- 6.4 A person ceases to be a member of ECS if the person dies, resigns membership, is expelled from ECS or fails to pay the annual fee when due.

#### **7. Membership Fees & Subscriptions**

- 7.1 A member of ECS must, on admission to membership, pay to ECS a fee of \$5 or, if some other amount is determined by the committee, that other amount.
- 7.2 In addition to any amount payable by the member under rule 6.1 as a joining fee, a member of ECS must pay an annual membership fee of \$5 or, if some other amount is determined by the committee, that other amount.
- 7.3 The Annual membership fee falls due as from 1 July each calendar year and is payable no later than 30 September that same year.

#### **8. Members' Liability**

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

## **9. Disciplining of Members**

- 9.1 The procedure for disciplining members shall be as determined by the Management Committee and prescribed in the *ECS Policy & Procedures Manual*.
- 9.2 Any person seeking to appeal a decision refusing membership, or expelling them from membership or otherwise disciplining them may do so at the next general meeting of ECS.

## **10. Internal Disputes**

- 10.1 The mechanism for the resolution of disputes between members (in their capacity as members) and ECS shall be as determined by the Management Committee and prescribed in the *ECS Policy & Procedures Manual*.

## **11. Committee**

ECS shall have its affairs and management controlled by the office bearers known as the Management Committee.

### **11.1 Powers of the Management Committee**

11.1.1 The Management Committee and is subject to the Act, the Regulation and these rules and to any resolution passed by ECS in a general meeting.

11.1.2 The Management Committee is to control and manage the affairs of ECS, and may exercise all such functions as may be exercised by ECS, other than those functions that are required by these rules to be exercised by a general meeting of members of ECS, and has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of ECS.

### **11.2 Membership of the Committee**

11.2.1 The Committee is to consist of the Executive of ECS, and five ordinary members, each of whom is to be elected at the Annual General Meeting.

11.2.2 The Executive Members of ECS are to be the Chairperson, the Vice Chairperson, the Treasurer and the Secretary.

11.2.3 Each member of the Committee is, subject to these rules, to hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.

11.2.4 Executive Members must not hold the same position on the Committee for longer than three consecutive years.

11.2.5 In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of ECS to fill the vacancy and the member so appointed is to hold office, subject to these rules, until the conclusion of the Annual General Meeting next following the date of the appointment.

11.2.6 The Secretary shall ensure records are made of all the appointments of office bearers and members of the Committee, and the names of members present at all proceedings and meetings of ECS.

11.2.7 A member of the Committee shall cease to hold office upon resignation in writing, death, expulsion from ECS or absence from three successive Committee meetings without approval by the Committee.

### **11.3 Executive Responsibilities**

11.3.1 The Chairperson, or in the Chairperson's absence or unwillingness to act, the Vice Chairperson shall act as chairperson at each general meeting and ECS Management Committee meeting.

11.3.2 The Treasurer shall ensure that all money received by ECS is paid into an account operated by ECS with a bank, building society or credit union.

The Treasurer shall ensure that correct books, accounts and financial records are kept showing the financial affairs of ECS. These records shall be available for inspection by any member and shall be accessible by the Treasurer.

11.3.3 The Secretary shall keep records of the business of ECS, not related to ECS's finances, including the rules, register of members, minutes of all general and Management Committee meetings in either written or electronic form at the registered office of ECS.

#### **11.4 Meetings of the Committee**

11.4.1 The Committee shall hold meetings monthly to conduct the business of ECS unless special circumstances exist in which case no less than once every two months and no less than 9 meetings per annum.

11.4.2 The quorum for meetings of the Committee shall be no less than half the numbers of Committee members elected at the previous Annual General Meeting currently serving on the Committee.

11.4.3 Notice of Committee meetings shall be given at the previous Committee meeting or by such other means as the Committee may decide upon.

11.4.4 The Committee may function validly provided its number is not reduced below the quorum. Where committee numbers fall below the quorum the remaining Committee members may act only to appoint new Committee members.

11.4.5 The Chairperson or, in the Chairperson's absence, the Vice Chairperson, shall preside as chairperson at each committee meeting of ECS. If the Chairperson and Vice Chairperson are both absent from a meeting or unwilling to act, the members present shall elect one of their number to act as chairperson at the meeting.

11.4.6 Questions arising at any meeting of the Committee shall be decided by the majority of votes of those present. In case of an equality of votes the person appointed to chair the meeting may exercise a second or casting vote.

11.4.7 If within half an hour of the time appointed for a Committee meeting a quorum is not present, the meeting shall be dissolved.

11.4.8 The Secretary will take [or oversee taking of] minutes of the proceedings of all committee meetings be kept in a suitable book which shall be open for inspection by any member of the ECS and that such minutes shall be signed by the Chairperson at the next succeeding meeting.

#### **11.5 Delegation by Committee to Sub Committee**

11.5.1 The Committee may by instrument in writing delegate to one or more sub-committees the exercise of such functions of the Committee as are specified in the instrument other than this power of delegation and a function which is a duty imposed on the Committee by the Act or by any other law.

- 11.5.2 A sub-committee may consist of such member or members of ECS or such other persons as the Committee thinks fit who may be co-opted in an advisory capacity, including ECS staff.
- 11.5.3 The function, the exercise of which has been delegated to a sub-Committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-Committee in accordance with the terms of the delegation.
- 11.5.4 A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.
- 11.5.5 Notwithstanding any delegation under this rule, the Committee may continue to exercise any function delegated.
- 11.5.6 Any act or thing done or suffered by a sub-Committee acting in the exercise of a delegation under this rule has the same force or effect as it would have if it had been done or suffered by the Committee.
- 11.5.7 The Committee may, by instrument in writing, revoke wholly or in part any delegation under this rule.

## **11.6 Limitations on payments to Committee Members**

- 11.6.1 Member of the Committee shall not be appointed to any salaried office of ECS or any office paid by fees, and no remuneration or other benefit in money or money's worth shall be given by ECS to any member of the Committee except for repayment of out-of-pocket expenses.
- 11.6.2 The Office of a member of the Committee shall become vacant if the member holds an office of profit in ECS or the member is directly or indirectly interested in any contract with the ECS.



## **12. General Meetings**

### **12.1 Annual General Meeting**

- 12.1.1 An Annual General Meeting of ECS shall be held within three months of the end of the financial year.
- 12.1.2 An Annual General meeting can be held at two or more venues using any technology approved by the Committee. The technology must be used in real time and give each member a reasonable opportunity to participate. Members who participate in an Annual General Meeting using such technology have the same rights as members who attend the meeting in person, including voting rights.
- 12.1.3 At the Annual General Meeting the following business shall be transacted:
- Confirmation of the minutes of the last Annual General Meeting and any Special General Meeting held subsequent to that Annual General Meeting.
  - Receipt of the Committee's Reports upon the activities of ECS in the financial year preceding the Annual General Meeting.
  - Election of office bearers of the Committee.
  - Receipt and consideration of an audited financial statement relating to the financial affairs of ECS in the financial year preceding the Annual General Meeting.
  - Election of the Auditor of ECS.
  - Committee members to delegate lodgement of required forms to NSW Fair Trading to the Public Officer.

### **12.2 Special General Meetings**

- 12.2.1 All general meetings, other than the Annual General Meeting, Ordinary General Meetings, and Management Committee Meetings shall be Special General Meetings.
- 12.2.2 The Committee may, whenever it thinks fit, convene a Special General Meeting of ECS for purposes as set out in the instrument of advice informing members of the meeting. For instance, making amendments to this Constitution.
- 12.2.3 No business other than that specified in the notice convening a Special General Meeting shall be transacted at the meeting.

### **12.3 Members may call Special General Meeting**

- 12.3.1 The Committee shall, on the requisition in writing of not less than 10% of members (being members entitled to attend and vote at a general meeting of ECS), convene a Special General Meeting. No business other than that specified in the notice convening a Special General Meeting shall be transacted at the meeting.

## **12.4 Procedures for calling Special General Meeting**

- 12.4.1 A requisition of members for a Special General meeting:
- shall state the purpose or purposes of the meeting;
  - shall be signed by the members making the requisition;
  - shall be lodged with the secretary; and may consist of several documents in similar form, each signed by one or more of the members making the requisition.

## **12.5 Committee to respond within one month**

- 12.5.1 If the Committee fails to convene a Special General Meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a Special General Meeting to be held not later than three months after that date.

## **12.6 Expenses of members calling a Special General Meeting**

- 12.6.1 A Special General Meeting convened by a member or members as referred to above, shall be convened as nearly as is practicable in the same manner as general meetings convened by the Committee and any member who can demonstrate costs have been incurred relevant to the meeting is entitled to be reimbursed for that expense.

## **13. Procedure at Meetings**

### **13.1 Necessity of a quorum**

- 13.1.1 No item of business shall be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present at the time the meeting is considering that item. A quorum for a general meeting shall be not less than 5 members entitled under these rules to vote at a general meeting, present in person or by proxy, if permitted.

### **13.2 Absence of a quorum**

- 13.2.1 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 upon the requisition of members shall dissolve and in any other case shall 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 conveyed by written notice to members given the day before the meeting is adjourned) at the same place

### **13.3 Quorum for an adjourned meeting**

- 13.3.1 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present, being not less than three shall constitute a quorum.

### **13.4 Presiding Member**

13.4.1 The Chairperson or, in the Chairperson's absence, the Vice Chairperson, shall preside as chairperson at each general meeting of ECS. If the Chairperson and Vice Chairperson are both absent from a general meeting or unwilling to act, the members present shall elect one of their number to act as chairperson at the meeting.

### **13.5 Adjournment of a meeting**

13.5.1 The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no other business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

13.5.2 Where a general meeting is adjourned for 14 days or more, the secretary shall give written or oral notice of the adjournment of the meeting to each affiliate of ECS stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

13.5.3 Except as provided above 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

### **13.6 Making of decisions**

13.6.1 A question arising at a general meeting of ECS is to 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 lost, or an entry to that effect in the minute book of ECS, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

13.6.2 At a general meeting of ECS, a poll may be demanded by the chairperson or by at least 3 members present in person or by proxy at the meeting.

13.6.3 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 manner and at such time before the close of the meeting as the chairperson directs and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting to the matter.

13.6.4 The Secretary will take minutes of the proceedings of all committee meetings and such minutes shall be signed by the Chairperson at the next succeeding meeting.

## **13.7 Special Resolution**

13.7.1 A resolution of ECS is a special resolution if:

- a) It is passed by a majority which comprises not less than two thirds of such members of ECS as, being entitled under these rules to do so, vote in person or by proxy at a meeting of which not less than 21 days written notice specifying the intention to propose the resolution was given in accordance with these rules; or
- b) Where it is made to appear to the Office of Fair Trading that it is not possible or practicable for the resolution to be passed in the manner specified in paragraph (a) the resolution is passed in a manner specified by the Commissioner.

## **13.8 Votes & Voting**

13.8.1 Upon any question arising at a general meeting of ECS, a member has one vote only.

13.8.2 In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

## **13.9 Proxies**

13.9.1 Each member is entitled to appoint another member as proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.

13.9.2 The notice appointing proxy is to be in the form set out in *Appendix 3* to these rules.

## **14. Insurance**

### **14.1 Requirement for insurance**

ECS shall effect and maintain insurance pursuant to the Act.

### **14.2 Additional insurance if desired**

In addition to the insurance required under the above rule ECS may effect and maintain other insurance.

## **15. Funds Source**

### **15.1 Source of funds**

The funds of ECS shall be derived from membership fees, donations, sponsorship, grants and allocations from Federal, State and Local Government funding bodies and, subject to any resolution passed by ECS in general meeting, such other sources as the Committee determines.

### **15.2 Need for a Bank Account**

All money received by ECS shall be deposited as soon as practicable in an account operated by ECS with a bank, building society or credit union.

## **16. Funds Management**

### **16.1 Non- Profit Clause**

The assets and income of ECS shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the members of ECS except as bona fide compensation for services rendered or expenses incurred on behalf of ECS.

### **16.2 Financial Year**

The financial year shall conclude on the 30<sup>th</sup> June of each year.

### **16.3 Committee to determine expenditure**

Subject to any resolution passed by ECS in general meeting, the funds of ECS shall be used in pursuance of the aims and objectives of ECS in such manner as the Committee determines and in compliance with the safeguards and accounting procedures required by funding bodies.

### **16.4 Issue of receipts**

ECS shall, as soon as practicable after receiving any money issue an appropriate receipt.

### **16.5 Payment of Accounts**

Accounts shall be paid by cheque or by Electronic Fund Transfer.

## **16.6 Authority to sign**

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two members of the executive or employees of ECS, being members or employees authorised to do so by the committee.

## **16.7 Electronic accounting practices**

The utilisation of electronic systems to manage the control and transfer of monies and the application of relevant accounting systems is subject to the implementation of appropriate safeguards as contained in the *ECS Policies & Procedures Manual* and monthly scrutiny by the Committee.

## **17. Alteration of Objects or Rules**

The statement of objects and these rules may be altered, rescinded or added to only by a special resolution of ECS.

## **18. Public Officer**

### **18.1 Role of the Public Officer**

The Public Officer will act as the official point of contact for ECS and is an authorised signatory.

### **18.2 Who can be a Public Officer**

The Public Officer can be a Committee member, Ordinary member or member of the general public as long as they;

- are over the age of 18
- reside in NSW
- are available to act on behalf of ECS as required under the Constitution and at the instruction of the elected Committee.

### **18.3 Approval and Removal of the Public Officer**

The Public Officer will be approved at each Annual General Meeting.

The Public Officer will vacate their position if they;

- i. die
- ii. resign in writing to the Committee
- iii. is removed by the passing of a resolution at a General meeting
- iv. become bankrupt
- v. become mentally incapacitated
- vi. cease to reside in NSW

### **18.4 Responsibilities of the Public Officer**

The Public Officer is responsible for:

- notifying Fair Trading of a change in ECS's Public Officer
- notifying Fair Trading of any change in the association's official address within 28 days

- collecting all association documents from former committee members and delivering the documents to the new committee member
- returning all association documents to a committee member within 14 days, upon vacating office
- acting as the official contact for the association, including taking delivery of documents served on the association and bringing them to the attention of the Committee as soon as practicable
- custody of any documents as required by the Constitution.

## **19. Common Seal**

### **19.1 Custody of Common Seal**

The common seal of ECS shall be kept in the custody of the Public Officer or otherwise as the Committee shall determine.

### **19.2 Use of Common Seal**

The common seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal must be attested by the signatures either of two members of the Committee, or of one member of the committee and of the Public Officer or Secretary.

## **20. Inspection of Books etc.**

The records, books and other documents of ECS shall be open to inspection by prior arrangement and free of charge, by any member of ECS at any reasonable hour unless to do so would breach confidentiality for another member of ECS.

## **21. Service of Notices**

### **21.1 Method of serving notices**

For the purpose of these rules, a notice may be served by or on behalf of ECS upon any member either personally or by sending it by post or by electronic means to the member's address shown in the register of members.

### **21.2 *Recognition of time of despatch***

Where a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of the post.

### **21.3 Use of Electronic systems**

Where a notice is sent by facsimile or e-mail, service of the notice shall be deemed to be effected if the sender's facsimile or e-mail machine produces a transmission confirmation report indicating that the facsimile or e-mail was sent to the recipient's facsimile or e-mail and to have been effected at the time indicated on that report.

## 22. Dissolution

- a) In the event of ECS membership numbers falling to less than 5 persons then, upon a special resolution being passed by a three-fourths majority at a Special General Meeting convened to consider such a question, ECS shall be dissolved.
- b) If the organisation is wound up or if the endorsement of the organisation as a deductible gift recipient is revoked, the following assets remaining after the payment of the organisation's liabilities shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made:
  - Gifts of money or property for the principal purpose of the organisation
  - Contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation, and
  - Money received by the organisation because of such gifts and contributions.
- c) Upon a special resolution being passed in accordance with paragraph (a) of this rule, after the payment of all ECS liabilities, any surplus assets still remaining shall be transferred to another tax exempt organisation which is a public benevolent institution for the purposes of any Commonwealth taxation Act.
- d) ECS may at any time pass a special resolution determining how any surplus property is to be distributed in the event that it should dissolve. The distribution of surplus property shall be in accordance with Section 53 of the Associations Incorporation Act 1984.



Appendix 1



**Engadine Community Services Incorporated  
Nomination for Membership**

The Membership Fee for this period is \$5. Membership is subject to the *ECS Constitution*, which also outlines members' rights and responsibilities at <https://www.ecs.org.au/about-us>

**Given Name:** \_\_\_\_\_ **Preferred Name:** \_\_\_\_\_

**Family Name:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Gender:** Male  Female  Intersex/Indeterminate  Not Stated

**Country of Birth:** \_\_\_\_\_ **Language/s spoken:** \_\_\_\_\_

**Culture:** Aboriginal  Torres Strait Islander  Other \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**Suburb:** \_\_\_\_\_ **Postcode:** \_\_\_\_\_

**Landline:** \_\_\_\_\_ **Mobile:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**EMERGENCY CONTACTS** [Please supply 2 names to be called only in case of emergency]

**1. Name:** \_\_\_\_\_ **Relationship to you:** \_\_\_\_\_

**Landline:** \_\_\_\_\_ **Mobile:** \_\_\_\_\_

**2. Name:** \_\_\_\_\_ **Relationship to you:** \_\_\_\_\_

**Landline:** \_\_\_\_\_ **Mobile:** \_\_\_\_\_

To be completed by office staff.

Date fees paid:	Receipt Number:	ECS Membership Number:
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**Appendix 2**



**Engadine Community Services Incorporated  
Nomination for Committee**

I, ..... being a member of ECS, nominate  
*full name of nominator*

..... for election to the Management Committee 20\_\_ - 20\_\_  
*nominee*

in the position of:

- Chairperson  
*responsible for chairing all general meetings and ECS Management Committee meetings*
- Vice Chairperson  
*responsible for supporting the Chairperson, including chairing meetings in his/her absence*
- Treasurer  
*responsible for overseeing the financial affairs of ECS*
- Secretary  
*responsible for overseeing all records of ECS's business affairs, excluding financial documentation*
- Member

Signed .....  
*nominator*

I, ..... being a member of ECS, second the nomination  
*full name of seconder*

Signed .....  
*seconder*

I accept the nomination for the position designated above.

.....  
*Signature of nominee*

.....  
*Date*

**Appendix 3**



**Engadine Community Services Incorporated  
Form of Appointment of Proxy**

I, ..... of .....  
(full name) (address)

being a member of Engadine community Services Incorporated

Hereby appoint ..... of .....  
(full name of proxy) (address)

being a member of Engadine Community Services Incorporated, as my proxy to vote for me on my behalf at the general meeting of ECS (annual general meeting or special general meeting, as the case may be) to be held on the

..... and at any adjournment of that meeting.  
(day, month and year)

My proxy is authorised to vote in favour of/against (delete as appropriate) the following resolution:

.....  
.....  
.....

..... (signature of member giving proxy) ..... (date)

**Note: A proxy vote may not be given to a person who is not a member of ECS.**