

**NATIONAL RAILWAY MUSEUM INCORPORATED**

**CONSTITUTION**

**Under the Associations Incorporation Act 1985 (as amended)**

## PRELIMINARY

### A. Interpretation:

- (i) Sub headings are for reference purposes only and do not form part of this constitution;
- (ii) Words included in the singular number include the plural and in the plural include the singular;
- (iii) Words of one gender denote the gender appropriate to the context or subject matter; and
- (iv) Where these rules remain silent on any matter then the Act shall prevail.

### B. Definitions:

- (i) “**Act**” means Associations Incorporation Act 1985 as amended from time to time;
- (ii) “**Board**” means the committee of the association with the power to administer the affairs of the association under the Act;
- (iii) “**Collection Material**” means rolling stock, artefacts, documents, photographs and associated material that represents or is related to the history of railways in Australia but does not include material used merely to repair or maintain rolling stock and/or artefacts and other items as defined by NRM
- (iv) “**Commission**” means Consumer and Business Services in South Australia;
- (v) “**NRM**” means National Railway Museum Incorporated;
- (vi) “**Museum**” means the museum operated by the NRM;
- (vii) “**Objects**” means the objects of the NRM as set out in clause 2.1 of this constitution;
- (viii) “**Rules**” means the rules of the NRM as determined in accordance with the Act.

**1. NAME**

The name of the organisation shall be the **National Railway Museum Incorporated**.

**2. OBJECTS AND POWERS**

**2.1** The objects of the NRM shall be to operate a railway museum (currently at the former site of the Port Dock Station at Port Adelaide) and include the following:

- (a) to store, research, document, maintain, conserve, protect and preserve Collection Material;
- (b) to make available to the public an extensive and complete representation of Australia's railway history; and
- (c) to manage a railway museum and associated business activities for the benefit of the people of Australia, including the general public and members of the NRM;
- (d) to hold regular meetings of members of the NRM;
- (e) to publish a periodical journal, books and other material on subjects relevant to the NRM or any of its Objects;
- (f) to hold conferences, seminars and workshops on subjects related to any of its Objects.

**2.2** It is expressly provided that the NRM shall not own Collection Material.

**3. MEMBERSHIP**

**3.1** There shall be six categories of membership, namely Gold, Single, Family, Overseas Single, Overseas Family and Junior. All members will be entitled to free admission to the Museum during normal open hours.

**3.2** Gold, Single and Overseas Single members shall have full rights to vote at General Meetings, Annual General Meetings and Special General Meetings. Only the signatory to a Family or Overseas Family membership shall have the same rights.

- 3.3** Junior members shall be less than 18 years of age as at the date of membership renewal and shall not have voting rights . The annual subscription for Junior Members shall be less than that of Single membership subscription.
- 3.4** An application for membership shall be made on the prescribed form and be accompanied by payment of an amount equal to one year's subscription to the class of membership for which application is made. All such applications must be referred to the Board which may accept or decline any application and no person shall be deemed to have become a member until such time as their application has been accepted by the Board. Any decision of the Board to decline an application for membership shall be final and not subject to appeal.
- 3.5** A copy of this constitution will be available to members.
- 3.6** Any person applying for or being accepted to membership of the NRM is deemed to have agreed to be bound by this constitution.
- 3.7** NRM will maintain a register of current members.

#### **4. SUBSCRIPTIONS**

- 4.1** Each member will pay a renewal of their subscription annually the amount being in accordance with the category of membership to which that member belongs. The subscription rates shall be determined by the Board from time to time but any alteration to the rates shall not be effective until ratified by a majority of those members present at the next General Meeting following the determination.
- 4.2** Subscriptions shall be due and payable on the anniversary of the date upon which a person's application for membership was approved by the Board or, in the case of a person who was a member prior to 1993, in July of each year.
- 4.3** Each member is to be served with a notice stating that the membership subscription is due. If the membership subscription is not received within one month of the due date a reminder notice is to be served.
- 4.4** If any member fails to renew their subscription within two months of the due date they shall be deemed to be unfinancial and their name may be removed from the register of members without further notice to the member.

## **5. LIFE MEMBERSHIP**

**5.1** The Board may submit at any General Meeting the name of any member of the NRM who, by virtue of having made an outstanding or valuable contribution to the work and aims of the NRM, is deemed by the Board to be worthy of having life Membership bestowed upon them. Selection criteria for life membership to be determined by the Board from time to time.

**5.2** The NRM shall not elect more than one Life Member in any one year, and the total number of Life Members at any one time shall not exceed one-twentieth part of the then total membership with a maximum of ten. Life Members shall be afforded all the privileges of Gold membership but shall not be required to pay an annual subscription.

## **6. RESIGNATION OF A MEMBER**

A member may resign their membership by giving notice in writing to that effect to the Board, and any such resignation shall be deemed to have taken effect seven days after being received and accepted by the Board.

## **7. EXPULSION FROM MEMBERSHIP**

**7.1** Subject to having given any member the opportunity to make an oral or written submission, the Board may resolve to expel a member for conduct or action deemed detrimental to the interests of the NRM.

**7.2** The reason for the proposed expulsion shall be communicated in writing to the member concerned at least one calendar month before the meeting of the Board at which the matter will be determined.

**7.3** The decision of the Board shall be communicated in writing to the member within seven days of the decision being taken. In the case of an adverse decision, subject to action under clause 7.4, the person shall cease to be a member fourteen days after the date of such communication.

**7.4** An expelled member may appeal against their expulsion to the NRM in General Meeting. That appeal must be communicated in writing to the Chairperson of the Board within twenty eight days of the date of the original determination by the Board. The Chairperson must put the appeal to the members at the next General Meeting.

**7.5** In the event of an appeal under clause 7.4, the applicant's membership of the NRM is automatically terminated if the Board's decision to expel the member is upheld in General Meeting.

## **8. BOARD**

**8.1** The affairs of the NRM shall be managed and controlled exclusively by the Board which, in addition to any powers and authorities conferred by this constitution, may exercise all such powers and do all such things as are provided for in the objects and are not required by the Act or by these rules to be done in General Meeting.

**8.2** The Board may delegate any of its powers, authorities and discretions to any officer or employee or committee of the Association. A delegation must be in writing and may be revoked, modified or varied at any time by the Board. A delegation does not derogate from the powers of the Board to act in any matter.

**8.3** The Board shall appoint or engage such officers and persons as are required to carry out the day to day running of the NRM and its activities.

**8.4** The Board shall appoint a Public Officer as required by the Act. The Public Officer shall hold office until another person is appointed to the position by the Board.

**8.5** The Board shall comprise eight persons. Six persons of the Board shall be voted to the Board in accordance with clause 9, and from whom, one shall be elected to the position of Chairperson and one to the position of Vice Chairperson. In addition, the Board shall include two persons appointed by the Minister of the Crown holding the portfolio relevant to the Museum with any such appointments being for a term as decided by the Minister.

- 8.6** The Board may appoint a person to fill any casual vacancy occurring in the Board and such person may hold office until the next Annual General Meeting of the NRM at which elections are held when they shall be eligible for election to the Board in accordance with this Constitution.
- 8.7** The Board shall have the right to co-opt no more than two additional persons for their expertise for a fixed term not exceeding the life of the current Board and any such persons shall hold voting rights and privileges of membership of the Board.
- 8.8** In the event that the Minister of the Crown chooses not to exercise the option to nominate up to two persons to the Board, then replacement persons, not exceeding two, shall be elected to the Board in accordance with Clause 9 of these rules.

## **9. ELECTION OF BOARD**

- 9.1** Election of Board members will be conducted in even-numbered years for terms as set out in clauses 9.2 and 9.3.
- 9.2.** Every second year, three elected positions on the Board shall become vacant and be filled in the manner described in the following clauses.
- 9.3** The term for Board members shall be four years but at the first election due after acceptance of the constitution, three persons shall assume office for 2 years and three shall assume office for 4 years with this being decided by those persons. If this cannot be mutually agreed to this will then be achieved by the drawing of lots.
- 9.4** At the General Meeting four months prior to an Annual General Meeting when elections are due, a Returning Officer shall be elected and the person so elected shall not have the right to be nominated for a position at the election over which they shall preside.
- 9.5** At the General Meeting two months prior to an Annual General Meeting when elections are due, the Returning Officer shall call for nominations for the number of Board positions that fall vacant at the next Annual General Meeting.

- 9.6** Nominations for the Board positions must be made in writing on the form provided by the Returning Officer and this form must bear the signature of the proposer, seconder and the candidate. The nominee shall not be less than 18 years of age at the time of election. Nominations will be lodged in accordance with whatever conditions are laid down by the Returning Officer. Prior to the elections proceeding under the direction of the Returning Officer, the candidates may present their reasons for accepting nomination either in writing or orally.
- 9.7** Where more nominations than for the number of Board positions falling vacant are received, the Returning Officer shall appoint two scrutineers to check and count the votes cast with such votes being cast by secret ballot under the direction of the Returning Officer.
- 9.8** If no more nominations than the number equivalent to the number of vacant Board positions are received, then the Returning Officer shall declare those persons duly elected.
- 9.9** All matters pertaining to the election shall be under the direct control of the Returning Officer from the time that person assumes the chair until the time they declare the results and vacate the chair.
- 9.10** In the event of tied voting causing a deadlock the retiring Chairperson shall have a secret casting vote in addition to an ordinary deliberate vote.

## **10. DISQUALIFICATION FROM BOARD**

- 10.1** The position of Board member shall become vacant if such member:
- (a) resigns in writing
  - (b) is disqualified by the Act;
  - (c) is expelled under this constitution;
  - (d) is permanently incapacitated by ill health; or

- (e) is absent without apology or leave of absence from more than three consecutive Board meetings or more than three Board meetings in any financial year.

## **11. BOARD PROCEDURE**

- 11.1** The Board shall meet together for the dispatch of business at least once every two months.
- 11.2** Proposals made at any meeting shall be decided by a majority of votes and, in the event of equal votes, the Chairperson shall have a casting vote in addition to a deliberate vote.
- 11.3** A quorum for a meeting of the Board shall be four persons holding voting rights with at least one being a Government representative.
- 11.4** A member of the Board who has a pecuniary interest in a contract or other matter with the NRM must disclose that interest to the Board as required by the Act and may be requested by the Chairperson to absent himself or herself from the meeting and must not vote in respect to that contract or other matter.

## **12. FINANCIAL YEAR**

The financial year of the NRM shall be for the period of twelve months commencing on the 1st day of July in any year and ending on the 30th day of June in the following year.

## **13. BORROWING POWERS**

- 13.1** The NRM may borrow collection material relevant to the Objects of the Museum on such terms and conditions as the Board sees fit.
- 13.2** The NRM may borrow money upon such terms and conditions as the Board sees fit.
- 13.3** Subject to Section 53 of the Act the NRM may invite and accept deposits of money from any person on such terms and conditions as may be determined by the Board.

## **14. RULES**

**14.1** The constitution binds the NRM and every member to the same extent as if they had respectively signed and sealed them and agreed to be bound by all of the provisions thereof.

**14.2** This constitution may be altered (including an alteration to name) or be rescinded and replaced by substituted clauses by the resolution of a simple majority of the members of the NRM at a General Meeting of which not less than 14 days written notice including notice of the proposed amendments or substituted rules has been distributed to all members. Any such alteration shall be registered with the Commission as required by the Act.

## **15. THE SEAL**

**15.1** The NRM shall have a common seal upon which its corporate name shall appear in legible characters.

**15.2** The seal shall not be affixed without the express authority of the Board and each authority granted for use of the seal shall be recorded in the minute book of the NRM. The affixing of the seal shall be witnessed by two persons named by the Board at the time of granting authority for its use.

**15.3** The seal shall be kept in the custody of the Chairperson or such person as the Board may from time to time appoint to be the custodian.

## **16. MEETINGS**

**16.1** The Board shall call an Annual General Meeting in accordance with the Act and may call a Special General Meeting as required, but in accordance with the Act.

**16.2** On receiving a requisition in writing the Board shall, within one calendar month, give notice of the date of a Special General Meeting for the purpose of dealing with the business stated in the requisition.

**16.3** Every requisition for a Special General Meeting shall state the purpose for which the meeting is requested and be signed by no fewer than twenty members of the NRM.

- 16.4** If a Special General Meeting is not convened within one month as required by clause 16.3 the requisitionists may convene a Special General Meeting. Such a meeting shall be convened in the same manner as a meeting convened by the Board and, for this purpose, the Board shall ensure that the requisitionists are supplied free of charge with particulars of the members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the NRM.
- 16.5** Subject to clause 16.6 at least fourteen days notice of any General Meeting shall be given to members. Such notice shall set out where and when the meeting is to be held, together with particulars of the business to be transacted at the meeting. In the case of an Annual General Meeting the order of business at the meeting shall be: the consideration of the accounts and reports of the Board and the Auditor; the appointment of Auditor and Board members (if required); and such other business requiring consideration by the NRM in Annual General Meeting.
- 16.6** Any meeting at which a special resolution is to be proposed shall be classed as a Special General Meeting, for which at least twenty-one clear days notice prior to the date of the meeting shall be given.
- 16.7** The NRM may give notice to its members by serving them with the notice personally, or by electronic means.

## **17. PROCEEDINGS AT MEETINGS**

- 17.1** Twenty members present in person or by proxy shall constitute a quorum at any General Meeting.
- 17.2** If within thirty minutes of the time appointed for the meeting a quorum of members is not present, a meeting convened upon the requisition of members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and if at such adjourned meeting a quorum is not present within thirty minutes of the time appointed for the meeting the members present shall constitute a quorum.

- 17.3** At any General Meeting of the NRM the Chairperson of the Board or the Vice Chairperson of the Board shall preside or in their absence or on their declining to take or retiring from the Chair, one of the Board persons chosen by the meeting shall preside.
- 17.4** If there is no such suitable person as per clause 17.3 present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be the Chairperson.
- 17.5** The Chairperson may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 17.6** When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as if that meeting were an original meeting of members.
- 17.7** At any General Meeting, a resolution put to vote shall be decided on a show of hands, and a declaration by the Chairperson of the meeting that a resolution has been carried or lost, shall, unless a poll is demanded, be conclusive evidence of the fact, without proof of the number or the proportion of votes recorded in favour of, or against, the resolution.
- 17.8** If a poll is demanded by the Chairperson of the meeting or by three or more members present personally or by proxy, it shall be taken in such manner as the Chairperson directs. The result of such poll shall be the resolution of the meeting, except that, in the case of a special resolution, a majority is required of not less than three quarters of the members entitled to vote personally or by proxy at the meeting.
- 17.9** A poll demand on the election of a Chairperson of a meeting or on any question of an adjournment, shall be taken at the meeting and without adjournment.

## **18. MINUTES**

- 18.1** Proper minutes of all proceedings of meetings of the NRM and of meetings of the Board shall be recorded, within fourteen days, in the minute book kept for this purpose.
- 18.2** The minutes kept pursuant to this clause shall be signed at the next succeeding meeting by the Chairperson.
- 18.3** Where minutes are entered and signed they shall be evidence that the meeting was convened and duly held and that all proceedings of the meeting and all appointments made at the meeting are deemed to be valid.
- 18.4** Members of the NRM have the right to inspect the minute book after having given reasonable notice of such intention to the Chairperson or the Chairperson's delegate. Such inspection shall be at a time mutually convenient to the member and the Chairperson or the Chairperson's delegate.

## **19. VOTING RIGHTS**

Subject to this Constitution each member present at any duly constituted meeting of the NRM either in person or by proxy shall be entitled to one vote on any matter placed before the meeting for decision save that, in the event of a tied vote, the Chairperson may exercise a casting vote.

## **20. PROXIES**

A member shall be entitled to nominate in writing for presentation to the Chairperson of the meeting any person who is also a member of the NRM to act as their proxy and vote on their behalf at any meeting of the NRM at which members are entitled to vote.

## **21. ACCOUNTS**

- 21.1** The NRM shall keep such accounting records as are necessary to correctly record and explain the financial transactions, position and performance of the NRM.

- 21.2** The accounts shall be audited as soon as practicable after the end of the Financial Year. Such auditor shall not be a member of the NRM but shall be a qualified accountant or firm of accountants in public practice and shall be appointed each year by the members at the Annual General Meeting to hold office for one year to audit the accounts for the ensuing year and to report thereon to the next Annual General Meeting.
- 21.3** If for any reason a vacancy should occur in the office of auditor during the appointed term, the Board shall appoint another person to act during the balance of that term.

**22. BY-LAWS**

- 22.1** The Board may from time to time make, repeal and amend such by-laws and regulations (not being inconsistent with this constitution) as may be necessary for the efficient management and well being of the NRM.
- 22.2** All by-laws and regulations made shall remain in force until repealed by the Board.
- 22.3** All by-laws made, repealed or amended by the Board shall be laid before the members of the NRM at the next General Meeting.

**23. NO PROFIT TO MEMBERS**

- 23.1** All of the income and property of the NRM shall be applied solely towards the Objects and no portion thereof may be directly or indirectly paid (whether by way of dividend, bonus or otherwise) to any member of the NRM or to anyone who has been a member of the NRM or to any person claiming through them provided that:
- (a) nothing in this clause prevents the payment in good faith to any member of the NRM or to any other person in return for goods or services supplied in the ordinary or usual way of business or prevent the payment of interest at a reasonable rate on monies lent or reasonable and proper rent for premises demised or let by any member to the NRM; and

- (b) nothing in this clause prevents the gratuitous distribution among or sale at a discount to subscribers to the NRM of any books, records, films or similar merchandise owned by the NRM, whether produced by the NRM or otherwise.

## **24. COLLECTION MATERIAL**

**24.1** Subject to the "Transitional Provisions" of this constitution, if the NRM purchases, accepts a gift or otherwise comes to own (either equitably or legally) any item of Collection Material, it must divest itself of such material within 12 months by, in the first instance, offering that material by way of gift to The Port Dock Railway Trust. In the event that such acquisition consists of a massed number of items, The Port Dock Railway Trust shall be offered the acquisition as an entity pending identification and listing of the individual or groups of the entity.

**24.2** In the event that The Port Dock Station Railway Trust declines a gift offered to it by the NRM under clause 24.1, the NRM may (subject to clause 23), dispose of the relevant material as it sees fit.

## **25. DISSOLUTION AND APPLICATION OF SURPLUS ASSETS**

**25.1** The NRM may be wound up in the manner provided for by the Act provided that, if after the satisfaction of all its debts and liabilities, there remains any property whatsoever, that property may not be paid or distributed among members of the NRM but shall be given or transferred to:

- (a) the Minister for the Arts and his successors, a body corporate pursuant to the Administrative Arrangements Act 1994 (SA), to hold on trust for the History Trust of South Australia; or, if the Minister for the Arts is unwilling to accept the property, then to
- (b) any other museum located in Australia having objects similar (wholly or in part) to the Objects, provided that:
  - i. the constitution of such organisation prohibits the distribution of its property among its members; and

- ii. is a body which qualifies for exemption from income tax under Subdivision 30-B, section 30-100, of the *Income Tax Assessment Act 1997* as amended from time to time.

## **26. TRANSITIONAL PROVISIONS**

The NRM shall establish a defined program immediately following the acceptance of this Constitution to identify the elements of its assets holdings worthy of transfer/collections owned presently to be defined as "Collection Material" within the meaning of this Constitution, both individually or as groups, and proceed with the divestiture of these elements as defined in Clause 24, regularly in tranches transferred at two monthly intervals within 24 months as they so identified, and in any case within twelve months for all of the pre-existing items of rolling stock.