

Constitution for The Nick Balcombe Foundation Inc.

1. Name of the Association

The name of the association is "The Nick Balcombe Foundation Inc." ("the Association")

2. Objects and purposes of the Association

1. The principal purpose of the Association is the promotion of music.
2. Its other objects and purposes are:-
 - a. To establish and maintain a public fund that –
 - i. is listed on the register of cultural organisations mentioned in Subdivision 30-F of the Income Tax Assessment Act 1997; or
 - ii. by reason of any other provision concerning income tax qualifies the Association to receive for payment to the fund gifts that are tax deductible for any donor.
 - b. To continue to celebrate and promote the music of Nick Balcombe.

3. Association's Office

The office of the Association is to be at 12 Hickman Street, Lenah Valley TAS 7008 or at any other place the Committee determines.

4. Membership

A person who is nominated and approved for membership in accordance with this rule is eligible to be a member of the Association on payment of the annual subscription specified in this Constitution.

A person who is not a member of the Association at the time of the incorporation of the Association is not to be admitted as a member of the Association unless –

- (a) the person is nominated for membership in accordance with this rule, and
- (b) the person is approved for membership by the Committee.

A nomination of a person for membership is to be –

- (a) made in writing and signed by 2 members of the Association; and
- (b) accompanied by the written consent of the person nominated; and
- (c) lodged with the public officer of the Association.

As soon as practicable after the receipt of a nomination, the public officer is to refer the nomination to the Committee.

If a nomination is approved by the Committee, the public officer is to –

- (a) notify the nominee, in writing, that the nominee has been approved for membership of the Association; and
- (b) on receipt of the amount payable by the nominee as the first annual subscription, enter the nominee's name in a register of members.

A member of the Association may resign by serving on the public officer a written notice of resignation. On receipt of a notice from a member of the Association, the public officer is to remove the name of the member from the register of members.

A person -

- (a) becomes a member of the Association when his or her name is entered in the register of members; and
- (b) ceases to be a member of the Association when his or her name is removed from the register of members.

5. Right of membership not transferable

Any right, privilege or obligation of a person as a member of the Association –

- (a) is not capable of being transferred to another person; and
- (b) terminates on the cessation of the membership.

6. Affairs of the Association to be managed by a Committee

The affairs of the Association are to be managed by a committee of management constituted as provided in this Constitution.

The Committee:

- (a) Is to control and manage the business and affairs of the Association;
- (b) May exercise all the powers and perform all the functions of the Association, other than those powers and functions that are required by these rules to be exercised by general meetings of members of the Association; and
- (c) Has power to do anything that appears to the committee to be essential for the proper management of the business and affairs of the Association.

7. Officers of the Association

The officers of the Association are:

- (a) the Chairperson
- (b) the Secretary
- (c) the Treasurer
- (d) Director

8. Constitution of the Committee

The Committee consists of the following members elected at the Annual General Meeting of the Association each year:

- (a) The officers of the Association;
- (b) One other members as approved by vote at the Annual General Meeting from time to time.

The number of other members as provided for in this Rule may be altered by the members by special resolution.

9. Election

A committee member is to hold office until the Annual General Meeting next after the date of election, and is eligible for re-election.

If a casual vacancy occurs in the office of ordinary committee member, the Committee may appoint a member of the Association to fill the vacancy until the conclusion of the annual general meeting next following the date of appointment.

10. Records

The Committee will keep membership records, maintain accurate financial records and record activities for the Association.

11. Committee Meetings

Meetings of the Committee will be held as required at any place and time the Committee determines. Meetings of the Committee may be convened by the chairperson or any Officer. Committee members may attend Committee meetings via telephone or video presence as agreed by the Committee'

The Chairperson will preside as chairperson of the Association or in his/her absence as decided by the Officers present at the meeting.

12. Annual General Meeting

The Annual General Meeting of members will be held within three months of the end of the Association's financial year on a date and at a time determined by the Committee.

An Annual General Meeting is to be in addition to any other general meeting that may be held in the same year.

The notice convening an Annual General Meeting is to specify the purpose of the meeting.

The ordinary business of an Annual General Meeting is to be as follows:

- (a) to confirm the minutes of the last preceding Annual General Meeting and of any general meeting held since that meeting;
- (b) to receive from the Committee, and auditor of the Association reports on the transactions of the Association during the last preceding financial year of the Association;
- (c) to elect the officers of the Association and any ordinary Committee members;
- (d) to appoint the auditor and determine his or her remuneration;

An Annual General Meeting may transact special business of which notice is given in accordance with this Constitution.

13. Special General Meetings

The Committee may convene a special general meeting of the Association at any time.

The Committee, on the requisition in writing of at least 4 members, may convene a special general meeting of the Association.

A requisition for a special general meeting:

- (a) is to state the objects of the meeting; and
- (b) is to be signed by the requisitionists; and
- (c) is to be deposited at the office of the Association; and
- (d) may consist of several documents, each signed by one or more of the requisitionists.

If the Committee does not cause a special general meeting to be held within 21 days from the day on which a requisition is deposited at the office of the Association, the requisitionists, or any of them, may convene the meeting within 3 months from the day of the deposit of the requisition.

14. Notices of General Meetings

At least 14 days notice must be given of a meeting of members. The notice must be sent to all members and must specify:

- (a) the place, day and time at which the meeting is to be held; and
- (b) the nature of the business that is to be transacted at the meeting.

15. Quorum

At Committee meetings a minimum of 3 Committee members will form a quorum for the meeting.

At General Meetings a minimum of 4 members will form a quorum for the meeting.

16. Voting

A consensus approach to decision making will be encouraged.

When voting formally, each member has one vote only.

The Chairman may exercise a deliberate and casting vote where a deadlock in voting arises.

Votes may only be given personally and not by proxy.

17. Finance Records

A true and accurate record will be kept by the Treasurer for monies received and expended by the Association.

The Records will be open to inspection by the members, subject to reasonable restrictions.

18. Accounts

The Committee will open and hold accounts in financial institutions as determined by the Committee in to which all monies received will be paid as soon as possible.

No cheques or cash will be drawn on the accounts except for payment of expenditure authorised by the Committee.

Payments will be authorised by at least 2 of the following officers:

- (a) the Chairperson
- (b) the Secretary
- (c) the Treasurer

19. Public Fund

1. The Association will establish and maintain a public fund as specified in rule 2(2)(a).
2. All donations to the Association will be deposited into the fund, will be kept separate from other money of the Association, and will be used only to further the principal purpose of the Association specified in rule 2(1).
3. Investments of money in the fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
4. To administer the fund the committee of the Association must appoint a management subcommittee, of which –
 - a. none of the members need also to be members of the Association; and

- b. the majority of members, because of their tenure of some public office or their professional standing, must have an underlying community responsibility, as distinct from obligations solely in relation to the cultural objectives of the Association.
5. No money or other asset of the fund may be distributed to members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
6. The Association must furnish to the Department responsible for the administration of the Register of Cultural Organisations –
 - a. statistical information on the gifts that have been made to the fund during each succeeding period of six months; and
 - b. prior notice of any amendments that the Association proposes to make to its provisions or arrangements concerning the fund, to enable the Department to assess their effect on the fund's continuing status as a Deductible Gift Recipient.
7. Receipts for gifts to the fund must state –
 - a. the name of the fund and that the receipt is for a gift made to the fund
 - b. the Australian Business Number of the Association; and
 - c. any other matter required to be included on the receipt pursuant to the Income Tax Assessment Act 1997.
8. The Association must comply with any rules that the Treasurer or the Minister for the Arts makes to ensure that gifts made to the fund will be used only for the Association's principal purpose.

20. Winding Up of Public Fund

If upon the winding up or dissolution of a public fund of the Association there remains after the satisfaction of all debts and liabilities relating to the fund any money or other assets, the money or other assets shall not be paid to or distributed to or among the Association or its members, but shall be given or transferred to some other fund authority or institution that –

1. has objects similar to those of the Association;
2. has rules prohibiting the distribution of its income among its members;
3. is eligible for tax deductibility of donations under Subdivision 30-B, section 30-100 of the Income Tax Assessment Act 1997; and
4. is listed on the Register of Cultural Organisations maintained under that Act.”

21. Subscriptions

The amount of annual subscription will be as determined by members at the Annual General Meeting.

22. Financial Year

The financial year of the Association will be from the First of July to the Thirtieth of June of the following year.

23. Notices

A notice may be served by or on behalf of the Association on any member

- (a) Personally; or
- (b) By sending it through the post in a prepaid envelope addressed to the member at his or her usual or last-known address; or
- (c) By sending it via email addressed to the member at his or her last known email address.

24. Model Rules

1. The Model Rules as in force at the date of the Association's incorporation apply to the Association except where inconsistent with or excluded or modified by this Constitution.
2. Rule 4(i) of the Model Rules in its application to the Association is modified to read -
“(i) the making of a gift, subscription or donation to any deductible gift recipient as defined in section 30.227(2) of the Income Tax Assessment Act 1997 or to any entity that any other law concerning income tax designates as one to which a gift subscription or donation is tax deductible”

25. Non Profit Association

The assets and income of the Association will be applied solely in furtherance of its objectives as provided for in this Constitution and no portion will be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

26. Dissolution

In the event of a dissolution of the Association any surplus assets will be transferred to a like Association or association having similar objectives and which is a non profit organisation exempt from income tax as referred to in Section 11.5 of the Income Tax Assessment Act 1997.

A motion to dissolve the Association may only be taken at a special general meeting to which all financial members must have been notified and only upon 75% of the members present approving of the dissolution.

27. Liability of members

In the event of the Association being wound up:

- (a) every member of the Association, and
- (b) every person who, within the period of twelve months immediately preceding the commencement of the winding up, was a member of the Association, is liable to contribute to the assets of the Association for payment of the debts or liabilities of the Association and for the costs, charges and expenses of the winding up and for the adjustment of the rights of the contributories among themselves such sum, not exceeding \$1.00, as may be required, but a former member is not liable to contribute in respect of any debt or liability of the Association contracted after he/she ceased to be a member.