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**The new governing structure of the Australian Electric Vehicle Association (AEVA) Ltd**

The AEVA’s new governing structure and [constitution](https://www.aeva.asn.au/files/1350/) was endorsed at an extraordinary general meeting on July 14th 2022. This was done to both comply with relevant legislation, and to ensure we can better represent the interests of electric mobility nationally. There should be no material difference in the function and purpose of the AEVA, just a few changes in how we are governed and the responsibility entailed. This document should serve as a guide to understanding the new constitution, code of conduct and some of the processes we resolved to implement.

**Public Company Limited by Guarantee**

In non-legal jargon, the AEVA is now a [public company, limited by guarantee (CLG)](https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/preparers-of-financial-reports/companies-limited-by-guarantee/obligations-of-companies-limited-by-guarantee/). This is a special purpose company, registered as a not-for-profit organisation (Clause 3.1) which conducts charitable activities in the field of electric mobility (Clause 2.1). The AEVA is a membership-based organisation and a registry of members must be kept (Clause 4.1c). The association is not registered with the Australian Charities and Not-for-profits Commission (ACNC) and are not on the Tax Deductable Gift Registry. However, this is an option we may choose to explore later. Our not-for-profit status affords us reduced annual fees and reporting requirements. The Australian Securities and Investments Commission (ASIC) oversee compliance with the Corporations Act (2001) Cth, and AEVA Ltd reports to ASIC. A public CLG also affords greater legal protection for individuals serving on the board and minimises any liabilities for the membership. The reporting obligations of a public CLG are generally less than that of a private or proprietary company, but are nonetheless more significant than an incorporated association.

**Registration for PAYG Withholding and Goods and Services Tax**

We are also now registered for pay-as-you-go (PAYG) withholding and the goods and services tax (GST). The PAYG withholding registration means that should we employ staff to manage the affairs of the AEVA (roles such as secretary, media manager, events planning etc.) we are set up to collect tax and superannuation on their behalf. This also means any revenue gathered by the AEVA attracts 10% GST from the federal government. Yes, this probably means that our annual membership fees will go up by 10% and will appear as a line item on our membership fees. Likewise if services are provided by the AEVA and an invoice is presented, this invoice must have a GST component.

**Board = National Council**

Public CLGs must have a board and for the purposes of our Association, the board is equivalent to the National Council (Clause 13.1). The intention of the board is to uphold the objectives of AEVA, ensure all dealings are fair and legal, identify and address any conflicts of interest, and to provide leadership and guidance for the organisation. Our constitution states that up to 7 directors are to be appointed (Clause 13.1a); consisting of representatives from each state and territory branch (Clause 13.2a) as well as up to 2 external appointments should specific expertise be sought (Clause 13.3). Any general meeting of the board needs a quorum of 5 directors, and that must include the president or vice president (Clause 9.4).

Once formed, **the board elects the president and vice president**, who will serve as chairperson and vice-chairperson at meetings of the National Council (Clause 15.1) and general meetings of the association. **The board will also appoint a national secretary and a treasurer**, who may or may not be a member of the board, along with any other official appointments deemed necessary (Clause 23.1). Directors are not entitled to remuneration for their roles as directors as we are a special purpose CLG (Clause 13.9) but are entitled to reimbursement for travel and accommodation. A director’s tenure is set to 3 years (Clause 13.5) but may retire earlier if requested (Clause 14.1) or be removed if the board agrees (Clause 14.2). The first election of directors of AEVA will include three directors who are content to serve for less than 3 years, so that no more than three directors are refreshed each year thereafter.

**Directors**

National Councillors of AEVA are directors, and are elected by their branch (Clause 18.1). There are very specific requirements for directors set out by ASIC – [you can read more about these here](https://asic.gov.au/for-business/small-business/starting-a-company/small-business-company-directors/how-to-become-a-company-director/). A director must have a Tax File Number, a recent Notice of Assessment from the ATO, a valid passport, and several other forms of identification, including a driver’s license and/or Medicare card. The process of becoming a director through ASIC is not too onerous, but be prepared to provide plenty of ID. All directors must have a Director ID; [details about this process can be found here](https://asic.gov.au/for-business/running-a-company/company-officeholder-duties/director-identification-number/) while the [documentation you’ll need to have ready can be found here](https://www.abrs.gov.au/director-identification-number/apply-director-identification-number/verify-your-identity). **Directors are obliged to disclose any conflicts of interest, perceived or otherwise, to the board**. Please consider these matters **before** nominating! Improper dealings as a director attract hefty fines from ASIC.

Our new constitution states that a **call for nominations for directors** will be made 28 days before a branch Annual General Meeting (Clause 13.2) which must happen before the end of September (Clause 18.3). **Nominations for directors** **will close 7 days before the AGM**. This is to ensure the branch membership knows who is nominating for the role, while also giving the nominees an opportunity to make their case to the membership. If more than one person from that branch nominates, an election should be held to decide on their director. This will generally happen at the branch AGM, but a poll may be held online.

According to the Corporations Act (2001), directors must notify ASIC of their appointments, and this may be done through the Director ID process. The National Secretary should also be notified; they will help you with the process. Finally, you must read and sign the [AEVA Code of Conduct](https://www.aeva.asn.au/files/1512/), which can also be found as an addendum to the constitution (Clauses 4.5 and 18.2c(*x*)).

As national councillors, the **elected directors will represent both the interests of the AEVA organisation, and the interests of their state branch**. Ideally they will be well versed in volunteer roles with NGOs, have experience in service to community, and are familiar with the expectations of representative leadership. If a state branch committee has resolved to host an event or conduct an activity which requires additional resources, the state branch director may raise it with the National Council for support. It’s highly likely to be supported, but a well-written proposal with all necessary details may be requested. This is no different to our previous arrangements.

**General meeting of the board**

The National Council of newly elected and continuing directors will meet in October (online most likely) to ensure that all documentation is in order. At this meeting, the Chairperson and Vice Chairperson will be elected from the board, and will preside over meetings of the National Council for that year. Arrangements must be made to appoint the National Secretary and Treasurer. If these appointments are not already members of the board, details of their appointment including remuneration should be finalised ahead of the AGM. ASIC must be notified of any changes to the roles and responsibilities of officers of the AEVA Ltd.

Meetings of the board are official meetings and must be minuted by the Secretary as per ASIC requirements. The Treasurer shall oversee the AEVA’s finances but may employ an accountant to manage taxation affairs. A decision must be made on the timing of the Annual General Meeting, along with any other coincidental events, which will typically be held in November.

**The Annual General Meeting of AEVA Ltd**

Twenty-one (21) days notice must be given by the National Council for any Annual General Meeting of the Association (Clause 9.3b) and the meeting must be held no later than November 30th (Clause 9.1a). All resolutions to be considered, particularly those relating to governance and the constitution, should first be voted on at a branch meeting before being brought to the National Council *ahead of the AGM*. Attendance at an AGM is not compulsory, but a quorum must be reached before the meeting may proceed. In our constitution, **quorum is deemed to be the square root of the number of financial members** on the registry that day (Clause 9.4). So for 1000 members, that’s 32 people. This may include proxies (Clauses 9.4 and 9.10). The AGM Agenda will generally follow the usual format:

**General agenda of the Annual General Meeting of the AEVA Ltd**

|  |  |  |
| --- | --- | --- |
| Agenda item | | Responsible person |
| 1 | Welcome and introductions | Chairperson |
| 2 | Apologies | Secretary |
| 3 | Review of actions from previous annual general meeting | Chairperson |
| 4 | Acceptance of minutes of previous annual general meeting | Chairperson |
| 5 | President’s report | Chairperson |
| 6 | Treasurer’s report | Treasurer |
| 7 | Questions to directors | Chairperson |
| 8 | Proposed resolutions (numbered) | Chairperson |
|  | Moved by:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Seconded by:\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| 9 | Acceptance of financial statements | Treasurer |
| 10 | Acceptance of annual report | Chairperson |
| 11 | Appointment of and questions to the auditor | Treasurer |
| 12 | Acceptance of the appointments of elected directors and other roles (if changed since last AGM) | Chairperson |
| 13 | Meeting close | Chairperson |

Minutes must be kept of the meeting, and circulated at the earliest convenience by the National Secretary. General business may be included as an item, however this is not normally done unless a specific forum has been set up to discuss a particular matter. No new resolutions may be introduced at an AGM. The time for that was before the last meeting of the National Council. Only members may vote in an AGM either in person, or by proxy (Clauses 9.10 and 10.2)

**The Annual General Meeting of an AEVA Branch**

Branches are at the heart of AEVA. Because transport is largely a state-based issue, addressing the issues of electrification of transport needs a specific focus at the state or territory level. Community events and advocacy will generally be run by branches, so provision is made to ensure this can continue. Sub-branches may be formed in regional areas, but remain under the auspices of the state branch committee. Branches have a fair degree of autonomy in conducting their affairs, provided the goals and objectives are consistent with that of the national association (Clauses 18.4 and 18.5).

Branches of the AEVA are covered broadly by Clause 21, while the election of a committee and the responsibilities of the branch are covered extensively in Clause 18. **Branches must hold their AGM no later than September 30th**. At this AGM, the branch committee should be elected, and all elected committee members must read and sign the AEVA code of conduct. A director may also be elected at this meeting, but this will depend on the cycle of tenure of the director. The agenda of the branch AGM may look similar to that of the AGM of AEVA Ltd and include motions to be voted on, and/or general business. If an issue of national significance is to be brought to the attention of the National Council, it must be moved in a branch general meeting and forwarded to the national secretary so that they may present it to the board for consideration. If it is deemed worthy of inclusion in the national AGM, it may be added to the agenda for circulation.

**Conflict resolution**

Sometimes, a disagreement or dispute may lead to tensions and conflict. The AEVA is run by humans, and disputes amongst humans are not uncommon. But when this happens, please remember this: We’re all here for our own reasons, and we’re here because we choose to be here. Nothing is so important that it’s worth burning bridges and bringing the AEVA into disrepute. We have a code of conduct (Clause 4.5) which should be read and signed by all elected officers of the AEVA. It sets out the expectations of members and representatives, and they’re pretty simple; be professional, be truthful, and be kind.

Sometimes disputes elevate and must be resolved methodically. Section 4.6 is dedicated to the stepwise approach to disciplining of members. Despite the unfortunately patronising heading, the process is less about discipline and more about ensuring the dispute is heard by the board and action is taken quickly (Clause 4.6 d). If the aggrieved member deems the action is unjust or inappropriate they may appeal (Clause 4.7). At this point the board may either decide to enlist the support of an independent adjudicator, or take it to a special general meeting of the membership. If the adjudication path is taken, the adjudicator may only resolve to either endorse, or revoke the decision made by the board in 4.6 d. If a special general meeting is called, the issues may be brought to the attention of members for discussion. A resolution may be voted on by secret ballot. This is a bit like a jury, and nobody wants to be on jury duty. In either case, the decision is final and further action should be raised outside the organisation.

**And finally**

Governance is boring, but should serve as a sound foundation for conducting our activities now, and into the future. Since 1973, the AEVA has existed to promote, educate and inform Australia about the incredible opportunity that is electrified mobility. We provide a friendly forum for anyone to learn about EVs big or small, four wheels, two wheels, one or none. We have a common goal of ensuring Australia electrifies transport quickly, and fairly. *Be professional, be truthful and be kind*.