

# Memorandum

<b>To:</b> SLSNSW Club Management Teams
<b>From:</b> Phil Ayres, Chief Operating Officer, Surf Life Saving NSW
<b>Date:</b> 13 July 2021
<b>Pages:</b> 3
<b>Subject:</b> Guidance for SLS Entities on Conduct of Annual General Meetings (AGMs) During Covid-19

This advice is updated from that issued in June 2020.

COVID-19 has caused, and continues to cause, disruptions, challenges and cancellation of events, workshops, meetings and gatherings.

Annual General Meetings (AGMs) are not and have not been immune to these impacts.

The following sets out guidance to support Clubs and Branches in fulfilling their requirements in the conduct of an AGM.

## **When can I hold the AGM?**

The Incorporated Associations Act address the timing of AGMs. This is within 6 months from the end of the association's financial year. The end of the financial year and the timing of the AGM should be set out in the constitution. See:

<https://www.legislation.nsw.gov.au/#/view/act/2009/7/part4/div3/sec37>

The club constitution may outline specific dates and/or time frames to hold its AGM.

## **Can we postpone our AGM and how do we do that?**

Please note that associations can also seek extensions in which to hold their AGMs and can also postpone the AGM. If the members do not want the meeting to proceed electronically it can also be adjourned (if opened).

**Whilst Fair Trading NSW permitted incorporated associations to not be formally required to apply for an extension of time to hold 2020 annual general meetings by lodging the form: A11 - Application for extension of time for holding annual general meeting due to COVID in 2020, this provision is not currently being applied.**

**This means your club MUST formally apply for an extension of time to hold 2021 annual general meetings by lodging the form: A11 - Application for extension of time for holding annual general meeting. [FORM A11 - Application for extension of time for holding annual general meeting or lodging annual summary of financial affairs \(nsw.gov.au\)](#)**

It is recommended that any changes to dates should be communicated to the membership with reasoning. There is also a procedural resolution they should pass at the start of the AGM:

*“MOVED THAT notwithstanding anything in the Club Constitution the timing, format and conduct of the meeting be accepted and that any challenge arising from any procedural irregularity in, or to, notice, or the conduct, of the meeting be waived.”*

### **How do we conduct an AGM in social isolation?**

New South Wales incorporated associations legislation expressly acknowledges and allows the use of technology for the purposes of association meetings. See:

<https://www.legislation.nsw.gov.au/#/view/act/2009/7/part4/div3/sec37> It may also be captured in an association’s constitution.

Such meetings may be held at two or more venues through technology that affords instantaneous communication and that a member participating thereby is taken to be present at the meeting and if the member votes at the meeting is taken to have voted in person.

Even if such express terms around electronic meetings are not in your constitution, AGMs can still be held electronically in the current circumstances.

Your SLS entity will need to avail itself of some form of electronic platform by which it can hold the meeting. Such platforms as Zoom and any other secure platform, advised by the government. Depending on the number of members it could also be held by telephone.

Note when looking at a platform seek one that registers attendees so you can track members and guests attending and have a clear record as to who is present in the electronic meeting room. Zoom for example does this and also allows persons in the meeting to raise an electronic hand (to vote) and to ask questions electronically.

### **Key steps to follow for the AGM?**

- Ensure your AGM date is within the timeframe set by your Act and your constitution.
- If possible given the nature and requirements for the AGM this year try NOT to have any special business at the AGM other than the statutory business required under the constitution and your Act.
- Issue your notice for AGM as usual and in accordance with your constitution. **PLEASE ENSURE** the notice states (1) that the meeting will be held electronically and (2) the technological platform that will be used and (3) that the relevant access will be sent to members or made available through the entity’s website prior to the meeting.
- Regardless of the platform the meeting will need to ensure it meets the quorum requirements under your constitution. So, if you require 20 voting members present for a quorum you will need to ensure that you have these numbers and are aware who is present.
- As noted above some electronic platforms allow you to register attendees (so name) and whether they are a voting member or a guest. Some electronic platforms have a “raise hand” function which can be used to call for a vote.
- The notice of, and agenda for, the business for the meeting should have the following procedural motion as the first item of business after the meeting is opened:

*“MOVED THAT the format and conduct of the meeting be accepted and that any challenge arising from any procedural irregularity in, or to, the conduct of the meeting be waived.”*

- This motion is an ordinary resolution and should be passed by an ordinary majority of voting members (50% + 1).
- All reports and other documents to be considered at the meeting including the annual financial statements should be made available to members either by email or to a private link to the entity’s website. This should be done as far in advance of the meeting as possible.
- When the notice is sent and previous AGM minutes and the current reports are provided to members, members should be asked to submit any questions they have to a dedicated email address so answers to all questions received can be prepared and provided prior to the meeting. These questions can be referred to at the meeting if necessary.
- Note the putting of resolutions at the meeting should be put in the negative first so the chairman should call for all votes against first. If none are received the positive can be put with the assumption that the members are in favour of the resolution.
- The chair should follow the agenda and ensure it is clear when the meeting is moving to a new agenda item. See attached Tips for chairing electronic meetings.
- Minutes should be kept and prepared as normal. Some electronic platforms allow for the meeting to be electronically recorded. If you do this the chairman should advise the meeting that it is being electronically recorded. Your minutes should also state that the meeting was held electronically. It is important to know who was in attendance so these can be recorded in the minutes.

### **Voting generally**

1. A resolution is passed by an association as an **ordinary resolution**—
  - (a) at a general meeting of the association, or
  - (b) in a postal or electronic ballot conducted by the association, if it is supported by more than half of the votes cast by members of the association who, under the association’s constitution, are entitled to vote on the proposed resolution.
2. A postal or electronic ballot referred to in subsection (1) (b) may only be conducted in relation to resolutions of a kind that the association’s constitution permits to be voted on by means of a postal or electronic ballot and, if conducted, must be conducted in accordance with the regulations.

**If you need further advice on AGMs, please email [ifullagar@surflifesaving.com.au](mailto:ifullagar@surflifesaving.com.au).**

<b>TIPS FOR CHAIRING VIRTUAL MEETINGS</b>
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**Preparation**

1. Ensure and test (directly, or via your entity administrator) your virtual meeting IT requirements (including ensuring all participants have access to dial-in details, IT Support, correct time, etc).
2. Ensure agenda sent out beforehand (including papers). Avoid distributing new papers during the meeting.

**At the meeting**

3. Maintain control of the meeting. Ensure meeting stays on track (as per the agenda), and participants do not become too unruly. Usual 'in-person' meeting techniques apply:
  - (a) Chair to intervene when a particular discussion has gone too far.
  - (b) Chair to stop arguments, and ensure everyone has had opportunity to speak.
  - (c) Chair (directly, or via Company Secretary) should be able to mute participants, if required.
4. At start of meeting, conduct a role call (directly, or via Company Secretary), so everyone knows who is on the call, and lay down meeting protocols. Advise members that the meeting is being recorded electronically (if it is). During meeting, any late/new participants should be introduced.
5. At beginning and throughout meeting, establish and enforce key meeting protocols:
  - (a) Depending on platform ask attendees to mute themselves, to avoid background interference.
  - (b) Ask attendees to remain focused on the meeting (avoid multi-tasking / checking emails, etc) to avoid unnecessary repetition.
  - (c) Pass above procedural resolution.
  - (d) Chair to be clear on which agenda item is being considered, and then invite Agenda Item lead to introduce item.
  - (e) Again depending on platform each attendee is to identify themselves before making comment. Comments to be succinct and prioritized.
  - (f) If more than one attendee wishes to comment, Chair to intervene and then invite each person to speak.
  - (g) At the end of each agenda item, Chair is to summarize the key actions/outcome
  - (h) If vote required, Chair to set out the motion, and Again depending on platform functionality then individually ask each attendees to confirm their vote for or against the item. (e.g. "the motion for agenda item 1 is that the meeting protocols be approved by the Board.

- (i) At the end of meeting, Chair to ask each individual participant (by name) whether they have any other comments/questions, before formally closing the meeting.
- (j) There should be NO general business at an AGM.

**Post meeting**

- 6. Ensure minutes / action items promptly distributed after meeting, and feedback promptly provided