

## **TUGGERANONG DOG TRAINING CLUB**

### **Re: General Meeting to consider a Special Resolution**

#### **FREQUENTLY ASKED QUESTIONS**

##### ***Legal advice***

In response to a request from a number of members, the Committee sought, and has received, legal advice on the proposed revised Constitution.

The result was very pleasing in that the lawyers made only 'slight amendments' in their words, principally adding wording in relation our Fees and fee structure, and Dispute Resolution.

Their legal advice in respect of affiliation was that this should be generic in the Constitution, with decisions in respect of specific affiliations rightly the responsibility of the Committee.

##### ***What is the purpose of the General Meeting?***

To consider and vote on a Special Resolution that proposes the adoption of a revised Constitution.

##### ***Why does this process require a Special Resolution?***

The Club is an Incorporated Association under ACT Government legislation (*Associations Incorporation Act 1991 and Associations Incorporation Regulations 1991*). The legislation requires that changes to the Constitution must be processed in this manner.

##### ***What is the intent of the revisions?***

The current Constitution was adopted in 1998, and has not been updated since then. The intent of revising the Constitution is to:

- bring it up-to-date with current ACT Government legislation;
- reflect the current aims, objectives and activities of the Club;
- facilitate the on-going implementation of best-practice corporate governance standards and procedures;
- ensure the effective and efficient management of the Club for the benefit of all members; and
- provide appropriate protections to office-bearers of the Club in the discharge of their responsibilities.

##### ***What is the process at the General Meeting?***

The process for conducting a General Meeting to consider and vote on a Special Resolution is defined by the ACT Government legislation referred to above.

A Special Resolution differs from an ordinary Resolution as follows:

- it is the only item of business that can be considered and voted on at the General Meeting; and
- the content of the Special Resolution cannot be amended in any manner at the General Meeting.

If voting results in rejection, the Committee may then choose to consider any proposal for amendment to the content of the document. If the Committee agrees that an amendment be made, the General Meeting/Special Resolution process to consider and vote on a revised document re-commences. This process is intended to ensure that all Members are informed of, and able to consider, the amended content.

### ***Who can vote?***

The current Constitution provides for three (3) categories of membership - “household”, “honorary”, and “life”. Only “household” and “life” members are entitled to vote.

Each “household” membership is a single membership, and thus only one (1) vote may be made by per “household”. (*NOTE: This has been confirmed in discussion with the relevant ACT Government officer.*)

### ***What percentage of votes is required for the adoption of a Special Resolution?***

The current Constitution provides that a majority of two-thirds of the Members “present and voting” is required for a Special Resolution to be adopted.

This provision is over-riden by the ACT legislation, which requires a three-quarter majority for the revised Constitution to be adopted.

### ***Is proxy voting allowed?***

The Club’s current Constitution does not provide for proxy voting.

However, the *Associations Incorporation Act 1991* has been amended to include a provision that proxy voting is permitted if a Public Health Emergency Declaration is in place. In response to the COVID-19 situation, the ACT Minister for Health has made a number of such these Declarations, with the most recent expiring on 8 October 2021. However, effective as of that date, the Act was further amended, now stating that the relevant section “expires at the end of a 12-month period during which no COVID-19 emergency has been in force.” Thus, proxy voting is allowed at the General Meeting.

The Committee has agreed an implementation process for proxy voting on the Special Resolution. The details are available on the Club’s website, together with the proxy voting form. (*NOTE: This form is mandated by the ACT Government for use in these matters.*)

***What was the main concern at the previous General Meeting that led to the adjournment?***

A small number of Members are concerned with the proposed change of the affiliation provision (Clause 3).

The current wording is specific in one sense, in that it refers to affiliating with “the appropriate Controlling Authority in the Australian Capital Territory”. However, the term “Controlling Authority” is not a defined term within the Constitution, and open to interpretation. Importantly, there is no legislated “Controlling Authority” in the ACT.

The Club is currently affiliated with the ACT Canine Association (ACTCA - aka Dogs ACT), as such affiliation is necessary for the Club to be able to conduct dog sports trials sanctioned by ACTCA on the Club’s grounds. Clubs that are not affiliated with ACTCA are required to pay a higher fee to ACTCA to be able to hold dog sports trials.

The revised wording is broader, providing for the Club to affiliate with “another legal entity having similar objects to those of the Club” at its discretion.

The concern was that this broader wording would allow the Committee to cease affiliation with ACTCA (either now or at some future time). The Committee’s position is:

- the Club has no intention to cease affiliation with ACTCA, nor has such action been discussed;
- the Club’s commitment to continue affiliation is considered to be unequivocally demonstrated by the fact that the affiliation has been renewed each year when due; and
- the Club has formally advised ACTCA that we value the affiliation, and intend to maintain it.

***What happens if the Special Resolution is not adopted by the Club?***

If the Special Resolution is not adopted, then this will leave the Club, its members (and particularly its office bearers) vulnerable, as the Constitution will:

- be out of date with current ACT Government legislation;
- not reflect the current aims, objectives and activities of the Club for its members;
- not reflect best-practice corporate governance standards and procedures;
- negatively impact on the effective and efficient management of the Club for the benefit of all members; and
- not provide appropriate protections to the office-bearers of the Club in the discharge of their responsibilities.

***Where can I find a copy of the current and proposed revised Constitution?***

A copy of these documents can be found on the Club’s website - [www.tdtc.asn.au](http://www.tdtc.asn.au).

***If the Special Resolution is adopted at the General Meeting, what is the next step?***

Within one (1) month of the General Meeting, the Club must lodge a notice with the ACT Registrar-General. This notice must include a copy of the revised Constitution, and a list of the alterations from the current Constitution. The revised Constitution comes into effect once the notice has been approved by the Registrar-General.

***Are there any financial implications from revising the Constitution?***

A fee of \$44.00 is payable when lodging the above-mentioned notice with the Registrar-General.

***Can the ACT Government reject the revised Constitution?***

Only if it is non-compliant, in the legal sense, with the *Associations Incorporation Act 1991*, and the *Association Incorporation Regulations 1991*.

For instance, neither the Act or Regulations specify the number of Committee members and their particular duties, nor whether or not the Club has one or more classes of membership and the associated membership fees.

The Committee, and the lawyers, consider the revised Constitution to be compliant with the above-mentioned legislation.