



## Inner South Canberra Community Council

### ISCCC Annual General Meeting 2024

#### Paper by the Chair

#### Amendment of Constitution

#### Recommendation

**That the AGM adopts the two proposals for amendment to the constitution set out in this paper.**

#### Detail

There are two motions to amend the Constitution. They were approved for submission to the AGM by the ISCCC Committee at its meeting on 28 October 2024.

2. The first motion relates to Winding Up of the Council and the second on Reducing the Quorum and handling business when there is no quorum.
3. The Treasurer has proposed that the ISCCC constitution be amended by the insertion of a new clause, 6A, in relation to “Winding Up of the Council”.

#### “6A. Winding Up of the Council

In the event that it becomes necessary or desirable to wind up the Council, to remove all doubt the Council will be bound by the provisions of s.92 of the Associations Incorporation Act 1991, as amended from time to time, in relation to the treatment of any surplus property of the Council.”

#### Explanation

4. This is proposed not out of concern about how any surplus assets of the wound up ISCCC are distributed, but so that we do not mislead the ATO. This requires that we amend the constitution before 30 June 2025. The Committee has no interest in winding up the ISCCC and is happy to leave the details of how that objective should be carried out to others running the ISCCC at that time, should it occur.
5. When securing income tax exempt status for the ISCCC as a not for profit organization, the Treasurer noted that the ISCCC had “clauses in its [governing documents](#) that prohibit the distribution of income or assets to members while it is operating and winding up. Clause 6 provides that assets and income of the ISCCC may not be transferred to any member of the

Council. However, the Constitution is silent on the issue of whether members of the Council might benefit from the distribution of surplus assets if the ISCCC were to be wound up.

6. It could be argued that as this issue is dealt with in the *Associations Incorporation Act 1991* it is implicitly covered in our governing documents. However, the possibility exists that the ATO would not accept this argument. To be on the safe side, the Treasurer recommends that we should amend the constitution.

7. The Committee's preference is that our solution to this issue be simple, easy and quick. Unfortunately, the Model Rules laid out in the Associations Incorporations Regulation 2023 are silent on this issue, presumably on the grounds that the issue is dealt with in the Act (except for Rule 71 which provides that the association may pass a special resolution nominating another association, body, in which surplus property of the association will vest if the association is wound up). Rather than attempting to identify a suitable body for this eventuality which seems likely to take place some indefinite time in the future, it would be simpler to insert a clause which states we will comply with whatever requirements are in s92 of the Associations Incorporation Act.

#### **Motion to amend the constitution in relation to quorums**

8. It has become apparent that a quorum of nine for Committee meetings is often hard to achieve, given other claims on Committee members' time, including bouts of ill health. The proposal is to delete these clauses in the Constitution

24 (4) Any nine members of The Committee constitute a quorum for the transaction of business of a meeting of The Committee.

24 (5) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place at the same hour of the same day in the following week unless it was a Special Meeting in which case it lapses.

and replace them with:

24 (4) Any six members of The Committee constitute a quorum, subject to at least three members being representatives of residents associations (listed in clause 21 (3)).

24 (5) No business shall be transacted unless a quorum is present. In the absence of a quorum, business may be considered. Decisions taken shall be considered to be drafts and shall be referred to The Committee, which shall have 14 days to raise any objections in writing, copied to all members of The Committee. If a majority of The Committee raises objections to any draft decision, that decision will be null and void. Otherwise, draft decisions supported by Committee members will stand and be recorded in the minutes as passed.

#### Explanation

9. These changes firstly make it easier to have a quorum at Committee meetings while protecting the representation of constituent groups in decision making. They also provide a more practical pathway for making decisions if a quorum is not achieved at a committee meeting.