**'REGIONAL' BOWLING ASSOCIATION ESTABLISHMENT CHECKLIST**

The sport of bowls in NSW (as administered by Bowls NSW) is undergoing a change that will unify the existing 16 men's zones and 40 women's districts, becoming 16 regions consisting of both men and women. We have advised existing zones and districts which region they comprise and the respective boundaries.

This checklist sets out the process that each of the zones, districts and new regions must follow to establish the 16 regional bowling associations, and to wind up each existing zone and district association (**Existing Zone & District Association**). In essence, the process will involve incorporating an association for each of the 16 regions (**Regional Bowling Association**), transferring the assets of each Existing Zone & District Association to the applicable Regional Bowling Association for the region, and winding up each Existing Zone & District Association.

Bowls NSW are assisting with the incorporation process where possible so as to minimise the workload for the Existing Zone & District Associations. In particular, Bowls NSW will lodge the application form for registration of each Regional Bowling Association, pay the incorporation fee, and establish an interim committee as required under law to authorise registration of the Regional Bowling Associations. The functions performed by Bowls NSW are set out in further detail at paragraphs 1 and 2 below.

The members of each Existing Zone & District Association will become members of their respective Regional Bowling Association once NSW Fair Trading approves the incorporation application lodged by Bowls NSW.

**Process**

Incorporation

1. Bowls NSW will incorporate each Regional Bowling Association in Q1 2024.

To incorporate each Regional Bowling Association:

* + 1. Four Directors of Bowls NSW and the CEO will be appointed as 'founding members' of the Regional Bowling Association (**Founding Members**). The Founding Members will later be replaced by members of the Regional Bowling Association, as set out below at paragraph 3(b).
    2. Current Bowls NSW CEO Tim Rowe will be appointed as the public officer of the Regional Bowling Association. Tim will later be replaced as public officer by a member of the Regional Bowling Association, as set out below at paragraph 3(c).
    3. The Founding Members will pass a unanimous resolution authorising the incorporation of the Regional Bowling Association.
    4. The Founding Members will lodge with NSW Fair Trading an application for the registration of the Regional Bowling Association, as authorised by the Founding Members.
    5. The application to NSW Fair Trading will be accompanied by:
       1. A Constitution for the Regional Bowling Association;
       2. the first official address of the Regional Bowling Association, which will be the address of Bowls NSW; and
       3. the email address established for the Regional Bowling Association.

1. Bowls NSW will notify the Existing Zone & District Associations once NSW Fair Trading has approved the incorporation of the Regional Bowling Association that will represent them.

The Constitution and By-Laws of each Regional Bowling Association will be made available by Bowls NSW to the Founding Members of the Regional Bowling Association and the existing Zone and District working groups.

Post-Incorporation

1. As soon as practicable following incorporation of the Regional Bowling Association:

### Subject to any formal requirements, each member of an Existing Association will become a member of the Regional Bowling Association that represents the region. Members that have joined the Regional Bowling Association may seek appointment to the management committee of the association (**Interim Management Committee**). The Interim Management Committee will comprise of 6 members, with the Founding Members stepping down once enough persons have been appointed to the Interim Management Committee.

### The Interim Management Committee of each Regional Bowling Association will appoint a person to replace Tim Rowe as public officer.

## The public officer must:

#### be aged 18 years or more;

#### reside in NSW;

#### not be a bankrupt; and

#### not be a mentally incapacitated person.

### Once Tim Rowe is replaced as public officer, the official address of the Regional Bowling Association will be updated by the Interim Management Committee to the address of a member club. This will become the 'main premises' of the Regional Bowling Association.

## The official address must be an address in NSW where:

#### The public officer can be found; and

#### Documents can be served on the association by post (i.e., not a PO Box).

### The Interim Management Committee of each Regional Bowling Association will apply for an ABN for taxation purposes.

### The Interim Management Committee of each Regional Bowling Association will establish a bank account to ensure that it can receive the funds and any assets transferred from the Existing Zone & District Associations that comprised the region.

1. As soon as practicable after a sufficient number of members have joined the Regional Bowling Association:
   * 1. Each Existing Zone & District Association must convene a General Meeting of its members to consider and approve an Ordinary Resolution and Special Resolution in a similar form to those set out in the Annexure below.

The resolutions annexed to this Checklist are intended to reflect the state of events at the time that each Existing Zone & District Association will convene its General Meeting. As at the date this Checklist was circulated, the respective Regional Bowling Associations are not yet incorporated.

Prior to giving members notice of and convening the General Meeting, each Existing Zone & District Association should ensure that the annexed resolutions are reviewed to ensure consistency with the Existing Zone & District Association's Constitution. Each Existing Zone & District Association should prepare a Notice of General Meeting containing the annexed resolutions (amended as necessary), which is to be provided to members at least 21 days' prior to the date the General Meeting is to be convened.

* + 1. After the Existing Zone & District Association's General Meeting, the Existing Zone & District Association will transfer its assets and records (including all minutes of committee meetings and General Meetings) to the newly incorporated Regional Bowling Association, pursuant to an Asset Transfer Deed to be provided by Bowls NSW. An Asset Transfer Deed is being utilised to ensure that the transfer of assets is sufficiently documented. This transfer process will need to comply with any requirements contained in the Existing Zone & District Association's Constitution. The Asset Transfer Deed will also set out further information in relation to the transfer of Existing Zone & District Association records.
    2. Employees of an Existing Zone & District Association will need to transfer to the respective Regional Bowling Association. Bowls NSW will provide further advice directly to any association with a transferring employee.

1. As soon as practicable after the assets of the Existing Zone & District Association have been transferred to the respective Regional Bowling Association:
   * 1. the Existing Zone & District Association will either:
        1. be voluntarily wound up; or
        2. have its registration voluntarily cancelled (where the association is registered): or
        3. be dissolved (where the association is unincorporated).

The appropriate steps to wind up or deregister each association and the appropriate timing will vary depending on the circumstances of the association and its solvency.

Further information on whether an Existing Zone & District Association must wind up or be deregistered is set out below under the heading 'Winding up'.

* + 1. Notification will need to be provided to NSW Fair Trading in the case of Existing Zone & District Associations which are incorporated under the *Associations Incorporation Act 2009* (NSW).

1. Ongoing:

### The Regional Bowling Association must maintain a register of committee members (which will initially include the Founding Members and Interim Management Committee), which must record the following details:

#### the committee member’s name, date of birth and residential address,

#### the date on which the committee member takes office,

#### the date on which the committee member vacates office,

#### such other particulars as may be prescribed by the regulations, for example, maintaining membership registers, holding of annual general meetings, preparing annual accounts, lodging of annual returns and the like.

### The register of committee members must be kept at the main premises of the association. The main premises of the Regional Bowling Association may be the premises of a member. If the register of committee members cannot be kept at the main premises of the association, it may be kept at the premises of the public officer if necessary.

### The Regional Bowling Association must also maintain a register of members in accordance with its Constitution.

### **Winding up**

### Overview

### In advance of winding up, voluntary cancellation of the association's registration, or dissolution, each Existing Zone & District Association should have transferred its assets to the relevant Regional Bowling Association. This transfer is to be done in accordance with the Existing Zone & District Association's Constitution. Where this transfer of assets occurs prior to winding up, it is unlikely that the Existing Zone & District Association will have to deal with many surplus assets, which will simplify the winding up process.

### Once an Existing Zone & District Association has transferred its assets to the relevant Regional Bowling Association, the process for winding up or deregistration varies between types of entity:

### incorporated associations:

#### *voluntary cancellation* - members of the association must pass a Special Resolution, passed by at least 75% of the votes cast by members who are entitled to vote on the resolution, to apply to cancel the association's registration; or

#### *voluntary winding up* – the members of the association must pass a Special Resolution, passed by at least 75% of the votes cast by members who are entitled to vote on the resolution,[[1]](#footnote-1) to wind up the association;

### unincorporated associations:

#### the Existing Zone & District Association may wind up in accordance with the dissolution provision in its Constitution (if any); or

#### the members of the Existing Zone & District Association may unanimously resolve to dissolve the association; or

#### the Existing Zone & District Association may amend its Constitution via a Special Resolution to provide for dissolution, and follow this dissolution process.

#### It should not be necessary for an association to appoint a liquidator where one of the above processes are followed.

### Existing Zone & District Associations must ensure that winding up, voluntary cancellation of the association's registration, or dissolution occurs in accordance with its Constitution.

#### Option 1 – Voluntary cancellation of registration (**incorporated association**) [Recommended/preferred]

### Bowls NSW recommends that, where possible, incorporated Existing Zone & District Associations pursue this option and apply to have the registration of the Existing Zone & District Association voluntarily cancelled. This approach is recommended as a liquidator does not need to be appointed where an association is deregistered.

### Generally, an Existing Zone & District Association may have its registration voluntarily cancelled where it:

#### has a simple financial structure;

#### does not have significant assets;

#### has no outstanding contractual obligations;

#### has no outstanding liabilities; and

#### is not subject to current or likely legal action.

### The Special Resolution approved by the Existing Zone & District Association enables the Existing Zone & District Association to apply to the Commissioner for NSW Fair Trading, Department of Customer Service, to have its registration voluntarily cancelled (this may be done through NSW Fair Trading's website).

### Prior to applying to voluntarily cancel its registration, the Existing Zone & District Association should ensure:

#### all the debts and liabilities of the Existing Zone & District Association have been paid;

#### the assets of the Existing Zone & District Association have been transferred to the relevant Regional Bowling Association in accordance with the Asset Transfer Deed; and

#### it has lodged any outstanding annual summaries of financial affairs (Form A12-T1 or A12-T2) required to be lodged under section 45 or 49 of the *Associations Incorporation Act* *2009* (NSW) (as the case may be) for the 3 financial years before the application is made.

### At the time of applying to have its registration voluntarily cancelled, the Existing Zone & District Association should have assets of less than $1,000.

### Where an Existing Zone & District Association is to have its registration voluntarily cancelled, the Existing Zone & District Association must lodge Form A8 (accessible at the following link <https://www.fairtrading.nsw.gov.au/__data/assets/pdf_file/0015/1184001/Form-A8-Application-for-voluntary-cancellation-of-registration-of-an-association-v1-accessible.pdf>). This application must be accompanied by a copy of the Special Resolution passed by the Existing Zone & District Association.

### The Commissioner for NSW Fair Trading, Department of Customer Service, will then determine an application for cancellation of the Existing Zone & District Association's registration by cancelling the registration or by refusing the application.

### Provided that the Existing Zone & District Association has no outstanding obligations under the *Associations Incorporation Act 2009* (Cth), no outstanding liabilities, and that the distribution of its remaining assets has complied with the Resolutions approved by the Existing Zone & District Association, the application should be approved by the Commissioner for NSW Fair Trading, Department of Customer Service (s 74(2) *Associations Incorporation Act*).

### Option 2 – Winding up (**incorporated association**) [Not recommended/least preferred to Option 1]

### An Existing Zone & District Association may need to follow a winding up process where the association has:

#### a complex financial structure;

#### significant assets;

#### outstanding liabilities or provisions, including if it has insufficient assets to meet its debts;

#### outstanding contractual obligations, including to employees; or

#### current or likely legal actions.

### Provided that the association is solvent, the association that is winding up must, in a General Meeting, appoint a liquidator for the purpose of winding up the affairs and distributing the property of the association (s 495 Corporations Act).

### The Special Resolution approved by the Existing Zone & District Association enables the Existing Zone & District Association to be voluntarily wound up.

### The Existing Zone & District Association should have paid out any debt prior to transferring its assets to the Regional Bowling Association and being wound up.

### Where the association has passed a resolution to wind up voluntarily, it must:

#### within 7 days of passing the resolution for voluntary winding up, lodge with ASIC, in the prescribed form, a notice setting out the text of the resolution; and

#### cause a notice setting out the information prescribed by clause 5.5.01 of the *Corporations Regulations 2001* (Cth) to be published.

### Option 3 – Dissolution (**unincorporated association**)

### An Existing Zone & District Association that is an unincorporated association must be dissolved.

### Where the Existing Zone & District Association's Constitution contains a rule providing for its dissolution, the Existing Zone & District Association must comply with that rule when dissolving the association.

### If there is no rule in the Existing Zone & District Association's Constitution providing for the dissolution of the association, the members may either:

#### obtain a unanimous resolution to dissolve the association; or

#### obtain a Special Resolution to amend the Existing Zone & District Association's Constitution to provide for the dissolution;

### Prior to applying to dissolve the association, the Existing Zone & District Association should ensure:

#### all the debts and liabilities of the association have been paid; and

#### the assets of the Existing Zone & District Association have been transferred to the relevant Regional Bowling Association in accordance with the Asset Transfer Deed.

**Annexure 1**

**Ordinary Resolutions**

Ordinary Resolution 1: [To be adopted by incorporated and unincorporated associations alike]

*That the members hereby approve the transfer and disposal of all assets, including real property, of [insert name of existing zone or district association] to [insert name of new regional bowling association inc.], and all necessary steps required to effect the transfer.*

Explanatory notes to Ordinary Resolution 1:

1. This General Meeting has been called to consider the Ordinary Resolution for the proposed transfer of assets of [insert name of existing zone or district association] (**Existing Association**) to [insert name of new regional bowling association inc.] (**Regional Association**).
2. The (new) Regional Association has been incorporated, which will govern bowls competitions in the new competition boundary of [insert] (**Region**).
3. In order to ensure a smooth transition of bowls competitions, existing zone and district associations must transfer all their assets to the newly incorporated regional bowling association for the region. The Existing Association will transfer its assets to the Regional Association.
4. The transfer of assets will be formalised in accordance with an Asset Transfer Deed entered into between the Existing Association and the Regional Association. The Asset Transfer Deed provides, amongst other things, that all assets, including the real property of the Existing Association and its records, will be transferred to the Regional Association on the Transfer Date. [**Optional:** "Attached to this Notice is a copy of the Asset Transfer Deed"]
5. As communicated by Bowls NSW, the Regional Association for each Region will manage bowls competitions going forwards.
6. To continue partaking in competitions in the sport of bowls in the Region, each member must apply for membership of the Regional Association. The Regional Association is now incorporated, and members are encouraged to apply for membership of the Regional Bowling Association promptly. Member Clubs must apply for membership of the Regional Association by completing an online form provided by the Region Secretary. .

**Special Resolutions**

[Option 1 – Only for use by incorporated associations where registration is to be voluntarily cancelled] [Recommended/preferred option]

Special Resolution 1:

*That, for the purposes of the Associations Incorporation Act 2009 (NSW) (****Act****), the members hereby approve that:*

1. *[insert name of existing zone or district association] apply to the* *Commissioner for NSW Fair Trading, Department of Customer Service for cancellation of its registration in accordance with section 72 of the Act;*
2. *any surplus assets remaining after any initial distribution of assets under the Ordinary Resolution are transferred to [insert name of new regional bowling association inc.], and*
3. *that the Committee take all necessary steps to effect the cancellation and transfer.*

Explanatory notes to Special Resolution 1:

1. This General Meeting has also been called to consider the Special Resolution in connection with the proposed voluntary cancellation of the [insert name of existing zone or district association] (**Existing Association**).
2. Under the *Associations Incorporation Act 2009* (NSW), the Existing Association is required to pass a Special Resolution approving that the registration of the Existing Association be voluntarily cancelled.
3. In the event of any surplus assets still remaining at the time of voluntary cancellation, the Special Resolution also authorises the transfer of those assets as contemplated by the Ordinary Resolution.
4. If approved, application will be made to NSW Fair Trading for the voluntary cancellation of registration of the Existing Association.
5. Once the assets of the Existing Association have been successfully transferred to [insert name of new regional bowling association inc.], pursuant to an Asset Transfer Deed, the Existing Association is to have its registration voluntarily cancelled.

[Option 2 – Only for use by incorporated associations where the association is to be wound up voluntarily] [Not recommended/least preferred option]

Special Resolution 1:

*That, for the purposes of the Associations Incorporation Act 2009 (NSW) (****Act****), the members hereby approve that:*

1. *[insert name of existing zone or district association] be wound up voluntarily in accordance with section 62 of the Act*
2. *that [add name of liquidator] is appointed as liquidator of [insert name of existing zone or district association];*
3. *any surplus assets remaining after any initial distribution of assets under the Ordinary Resolution are transferred to [insert name of new regional bowling association inc.], and*
4. *that the Committee and liquidator take such steps as necessary to effect the winding up and transfer.*

Explanatory notes to Special Resolution 1:

1. This General Meeting has also been called to consider the Special Resolution in connection with the proposed winding up of the [insert name of zone or district association] (**Existing Association**).
2. Under the *Associations Incorporation Act 2009* (NSW), the Existing Association is required to pass a Special Resolution approving that the Existing Association be wound up.
3. In the event of any surplus assets still remaining at the time of winding up, the Special Resolution also authorises the transfer of those assets as contemplated by the Ordinary Resolution.
4. If approved, the Existing Association will be wound up once the Existing Association's assets have been transferred to the [insert name of regional bowling association inc.] (**Regional** **Association**).
5. Once the assets of the Existing Association have been successfully transferred to the Regional Association, pursuant to an Asset Transfer Deed, the Existing Association is to be voluntarily wound up.

[Option 3 – Only for use by unincorporated associations where the association's Constitution does not adequately provide for dissolution]

Special Resolution 1:

*That [insert name of existing zone or district association] be dissolved and any surplus assets remaining after any initial distribution of assets under the Ordinary Resolution are transferred to [insert name of new regional bowling association inc.], and that the Committee take all necessary steps to effect the dissolution and transfer.*

Explanatory notes to Special Resolution 1:

1. This General Meeting has also been called to consider the Special Resolution in connection with the proposed dissolution of the [insert name of existing zone or district association] (**Existing Association**).
2. If approved, the Existing Association will be dissolved once the Existing Association's assets have been transferred to the [insert name of new regional bowling association inc.] (**Regional** **Association**).
3. Once the assets of the Existing Association have been successfully transferred to the Regional Association, pursuant to an Asset Transfer Deed, the Existing Association will be dissolved.

1. Sections 491(1) and 250MA of the *Corporations Act*. [↑](#footnote-ref-1)