Calling and holding meetings

Legal information for New South Wales incorporated associations

This fact sheet covers:

► calling and holding the annual general meeting
► calling and holding special general meetings
► rules for general meetings where there will be a special resolution
► calling and holding committee meetings

Incorporated associations (IAs) in New South Wales (NSW) hold different types of meetings to conduct their business. This includes general meetings (including the annual general meeting and special general meetings) and committee meetings.

This fact sheet summarises the key requirements for calling and holding each type of meeting.

There are rules and procedures for calling and holding each type of meeting. These rules and procedures set out in the Associations Incorporation Act 2009 (NSW) (AI Act) and the association's rules (sometimes called the constitution). Some IAs draft their own rules; others use the model rules as set out in the Associations Incorporation Regulations 2016 (NSW) (model rules).

The rules and procedures for calling and holding meetings for an IA will depend on the type of meeting, but typically include rules and procedures about:

• when the meeting must be held
• when and how members are to be notified of the meeting
• how the meeting should be run and who is in charge of the meeting
• what business is to be addressed at the meeting
• voting at the meeting, and
• taking and keeping meeting minutes (notes) of the meeting

Related Not-for-profit Law resource

This fact sheet provides a quick guide to the requirements for calling and holding meetings for IAs in NSW. More comprehensive information can be found in Not-for-profit Law’s Guide for running an IA in NSW. Chapter 5 of the guide addresses annual general meetings, Chapter 6 addresses special general meetings and Chapter 7 addresses committee meetings.

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General meetings

A general meeting of an IA is a ‘catch-all’ term for a meeting of the members that is held in accordance with the AI Act and the IA’s rules. General meetings may be:

• annual general meetings (AGM), or
• special general meetings (SGM)

Each type of general meeting, and the rules and procedures for calling and holding them are explained below.

Annual general meetings

The AI Act requires all IAs to hold an AGM every year.

The AGM is an important meeting for IAs, because it is one where all members are invited to attend, and at which certain topics of business need to be addressed, including:

• the presentation of the IA’s financial statement to members, and
• if required, new committee members and office bearers are elected

Often, the AGM will also address other general business of the IA and address any issues relevant to members.

A summary table of the requirements for calling and holding AGMs is below.

Special general meetings

An SGM is a meeting of the members of an IA that is not an AGM or a ‘disciplinary appeal meeting’. Typically, an IA will hold a special general meeting to address specific business that has arisen and which should not wait until the next AGM.
A ‘disciplinary appeal meeting’ is held for the purpose of a member (who has been subjected to disciplinary action by the committee) appealing the committee’s decision. The requirements for a disciplinary appeal meeting are set out in model rule 12. This fact sheet doesn’t deal with disciplinary appeal meetings.

A summary table of the requirements for calling and holding SGMs is below.

**Caution**
Where an AGM or SGM includes a special resolution (discussed below), additional requirements apply to the calling and holding of the meeting.

**Committee meetings**
Committee meetings are meetings of an IA’s governing body – the committee. Your IA may alternatively call these meetings ‘board meetings’.

A summary table of the requirements for calling and holding committee meetings is below.

**Common meeting terminology**
We use terminology associated with the holding of meetings by IAs in the summary tables below. You should familiarise yourself with the terminology to help you make sure your IA’s meeting is held in accordance with the *AI Act* and its rules.

**Motions and resolutions**
Motions and resolutions are related, but have different meanings. They can sometimes be confused.

A motion is a proposal put forward at a meeting seeking that a decision be made or some action done. The procedure for putting forward a motion will require:

- notice of the motion
- a member moving the motion at the meeting
- another member seconding the motion at the meeting, and
- the members at the meeting who are entitled to vote on the motion voting for or against the motion

If a motion is approved or passed in the vote, it becomes a resolution of the IA. A resolution is binding on the IA.

Depending on whether a motion is put forward to be an ordinary or a special resolution, the rules for voting on and passing the resolution will differ. The statutory requirements for a special resolution are outlined below. Your IA’s rules may also impose additional requirements (for example, a requirement to include certain extra information about the proposed special resolution in the notice of meeting), but can’t reduce or increase the 75% provision in respect of the number of votes required to pass the resolution.

**Special resolutions**
The business of an IA is frequently put to the members or committee to vote on. Where this business is put to the vote, and the vote is in favour, the business becomes a ‘resolution.’

Special resolutions are important resolutions that are put to an IA’s members at a general meeting (ie. at the AGM or a SGM). Some types of resolution must be put to members as special resolution, including:

- the IA’s amalgamation with another association
- changes to the IA’s name, and
- changes to the IA’s rules

The *AI Act* contains a number of requirements for calling a special resolution.

Under section 39 of the *AI Act*, members entitled to vote on the proposed resolution must be given at least 21 days’ notice (or more if the IA’s rules require it), and the notice must:

- specify the time, date and place of the general meeting at which the resolution will be voted on
• state in full the proposed resolution, and
• state that it is intended to be a special resolution

A special resolution will only be passed if:
• not less than 75% of the members voting at the meeting (whether in person or by proxy, if permitted) vote in favour of the resolution, and
• any further requirements in the IA’s rules relating to the passing of a special resolution have been met

Your IA’s rules may place additional conditions on the passing of a special resolution.

Related resource

Section 39 of the AI Act outlines the procedure for passing a special resolution. If you are not sure of the legal requirements, you may wish to review this section.

Quorum

The ‘quorum’ of the meeting is the minimum number of people that need to be present at a meeting for that meeting to proceed. If a decision is made at a meeting where there is no quorum, it will have no effect.

Your IA’s rules must specify the quorum for AGMs and other types of meetings. If your IA has adopted the Model rules, model rule 29 specifies that the quorum for general meetings is 5 members entitled to vote present at the meeting. If your IA uses the Model rules, under Model rule 20, three committee members present constitute a quorum for the purposes of a committee meeting.

The IA’s rules should set out what will happen if there is no quorum at a general meeting. For example, model rule 29 provides that:

• no item of business may be conducted at the meeting unless a quorum of members entitled to vote is present when the meeting is considering that item, and
• if, within half an hour after the time set for the start of the meeting, a quorum is not present, then either:
  – if the meeting has been convened at the request of members, the chairperson must cancel the meeting, or
  – in any other case, the chairperson must adjourn (reschedule) the meeting to the same day in the following week at the same time and same place (unless another place is specified at the time of the adjournment and subsequently notified in writing), and
• if at the adjourned meeting a quorum is not present within half an hour of the commencement time, a quorum can be constituted if there are 3 members present

Tip

The AI Act now permits meeting attendance by technology (for example, phone or video conferencing). The quorum of a meeting for your IA may be reached without members needing to be physically present at the meeting.

Proxy

A proxy is a person who is appointed by a member to vote on their behalf at a meeting (that is, be the member’s proxy). There is no right to appoint a proxy under the AI Act, however whether or not a proxy is appointed must be addressed in the IA’s rules. So, whether proxy voting is allowed by your IA will depend on the rules.

You should also check to see if there are any requirements attaching to appointing a proxy, for example some IAs specify a deadline for when a proxy form must be received, or specify whether a proxy can be appointed generally to vote on behalf of a member, or can only be appointed for a particular meeting.
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Related Not-for-profit Law resources
You can find more information about topics related to the calling and holding of meetings for your IA in our fact sheets:

- Financial reporting obligations
- Changes to an organisation’s constitution or rules
- Members’ rights

Summary table – AGMs for NSW IAs

<table>
<thead>
<tr>
<th>Explanation</th>
<th>Relevant law (and model rules if they apply to your IA)</th>
<th>Example</th>
<th>Top tips</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>When must the AGM be held?</strong></td>
<td>AI Act section 37 Model rule 25</td>
<td>An IA that has a financial year that ends on 30 June must hold its second and all subsequent AGMs before 30 December each year.</td>
<td>Check your IA’s rules because they may have further requirements for the conduct of the AGM, including date, time and place for the AGM. Section 37(3) of the AI Act allows general meetings to be conducted at two or more locations using technology.</td>
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<td>An AGM must be held:</td>
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<td>• at least once in each calendar year, and</td>
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<td>• within 6 months of the end of each financial year</td>
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<tr>
<td>An IA may hold its first ever AGM at any time within 18 months after its incorporation. Subject to the requirements of the AI Act, the committee may decide the specific date, time and place to hold the AGM.</td>
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<tr>
<td><strong>What happens if the AGM is not held on time?</strong></td>
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<tr>
<td>You should hold the AGM as soon as possible. The timing of the AGM may affect the timing of the lodgement of the association’s financial documents with the regulator for which late lodgement fees apply.</td>
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<td>You can read more in our fact sheet Financial Powers and Reporting Obligations.</td>
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<tr>
<td><strong>Who must be notified of the AGM? How and when should notice be given?</strong></td>
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<tr>
<td>Under the AI Act, an IA must give notice of the date, time and place of the AGM to each member who is entitled to vote at the AGM. The IA’s rules must prescribe the manner in which the notice is to be given (e.g. in writing, by email, in person). Notice of meetings (containing ordinary resolutions only) For AGMs not proposing a special resolution, the IA’s rules will determine how and when the notice is to be given. This can include the method of giving notice (e.g. given to each member in person, posted or sent by email), and the length of notice.</td>
<td>AI Act sections 37 and 39 Model rule 28</td>
<td>If your IA has adopted the model rules, at least 14 days’ notice must be given. If a special resolution is proposed for an AGM, at least 21 days’ notice must be given and the notice must: • specify the date, time and place of the meeting • state in full the proposed resolution, and</td>
<td>The secretary of the IA is usually responsible for preparing and giving out notices of meetings including the AGM. This is an important job - If the notice is not properly prepared and given to members, the AGM may be invalid and the decisions made at it void (of no legal effect). Even if your IA’s rules provide that notice may be given by putting the notice up on a notice board, it’s good practice to give each</td>
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</table>
time before the AGM that notice must be given.

**Notice of meeting (containing special resolutions)**
The *AI Act* sets out the requirements for a notice of an AGM at which a special resolution will be proposed. An IA must comply with these requirements in addition to the standard notice requirements for the AGM set out in the IA’s rules.

- state the intention to propose the resolution as a special resolution
- notice of meeting (containing special resolutions)

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- state the intention to propose the resolution as a special resolution
- notice of meeting (containing special resolutions)

For the purpose of determining the notice period, the day on which notice is given (being the date on which the recipient receives the notice) and the day of the meeting should be excluded.

**What is the usual procedure at an AGM?**

The procedure for the conduct of the AGM will depend on your IA’s rules and customs. Refer to your IA’s rules and follow the requirements for:

- the agenda for the AGM
- the quorum required
- how resolutions are passed
- the voting methods (eg. by a show of hands, or by a poll)
- whether proxy voting is allowed, and
- how meetings can be adjourned

If your IA has adopted the model rules, the business of the AGM must include:

- to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- to receive from the committee reports on the activities of the IA during the last preceding financial year,
- to elect office-bearers of the IA and ordinary committee members,
- to receive and consider any financial statement or report required to be submitted to members under the Act.

Under the *AI Act*, all IAs must submit financial documents to members at the AGM.

Commonly, notices for (and the agendas of) AGMs include a catch-all item such as ‘any other business’ or ‘general business.’ This allows members to discuss any additional matters which arise at the next meeting (such as setting a time and place for the next meeting) without needing to have provided advance notice.

It can be a good idea to include a meeting agenda with the notice of meeting. A typical AGM agenda might include:

- welcome
- apologies
- confirmation of minutes of the previous AGM and any general meeting held since
- business arising from the minutes
- correspondence
- chairperson’s report
- treasurer’s report
- presentation of the financial statement (audited if required)
- election or appointment of committee members and secretary
- general business
- guest speaker
- date of next general meeting, and
- close and refreshments

**Voting at an AGM**
If members at an AGM want to make a decision about a matter, motion or amendment, it is usual for each member to cast a vote – usually in favour (for) or against. There are different ways in which votes can be taken at an AGM. The most common methods are voting by show of hands or by poll (that is, a vote in writing). The procedure for voting will be set out in your IA’s rules.

Under the model rules, the following rules apply to voting at an AGM:

- each member has only 1 vote
- a member is only entitled to vote at the AGM if the member is over 18 and all money due and payable to the IA by the member has been paid, and
- if there is a tied vote, the chairperson may vote again to decide the vote (sometimes called the casting vote). Under the model rules, proxy votes are not permitted.

An IA can conduct a postal or electronic vote (other than in respect of an appeal against disciplinary action).

The AGM should not pass resolutions on important matters which have not been previously notified to members. If additional matters of business are raised at the meeting, it is best for the IA to convene a special general meeting (with sufficient notice to members) to consider the issues properly, and vote on any resolutions.

The usual procedure for voting at an AGM is that the chairperson will:

- clearly state the motion to be put to the meeting
- take a vote (usually by show of hands) from those present (including via technology) and entitled to vote (including those present by proxy)
- determine the result, and
- announce the result of the vote.

Some decisions passed by special resolution (for example, changing the IA’s name) are not official under the AI Act until they have been registered. Depending on the type of decision, you may need to notify Fair Trading of the special resolution and seek approval for the change.

Members may wish or be required to ‘abstain’ from voting (eg. if they have a material personal interest in the motion), or may oppose a motion and request that their opposition is noted.

Taking minutes

Under the AI Act, an IA’s rules must include provisions about keeping accurate minutes. Other laws (such as defamation and privacy) may apply too.

Finalised minutes are generally entered into a minute book and should be kept as members have a legal entitlement to inspect and copy the minutes.

The accuracy of minutes should be confirmed at the next meeting by way of a resolution, and the chairperson of the AGM or the next meeting must verify the accuracy of the minutes.

Write up the first draft of minutes as soon as possible after the AGM. Your memory will be fresh and the task can be done more quickly and efficiently than leaving it until just before the next meeting.

The minutes are an official historical record of the IA, so it’s good practice to record the name and position of office bearers (chairperson, secretary, treasurer) as well as names.
the confirmed minutes, (for example by signing them).

- the date, place and opening time of the meeting
- the name of the chairperson and the members present and anyone else attending
- the names of those who have sent apologies for not attending
- confirmation of the previous meeting’s minutes
- records of motions, resolutions and amendments
- names of the people who move and second motions
- summaries of the debates on motions
- the method of voting on motions, and details of any proxies or direct voting
- the results of voting
- details of documents tabled
- details of next meeting
- closing time
- list of tasks arising

### What to do after your AGM

| **Within one month of the AGM (or 7 months of the end of the previous financial year, whichever occurs earlier), an IA must lodge with the Secretary of Fair Trading certain financial documents** |
|---|---|
| **If your IA is not registered with the Australian Charities and Not-for-profits Commission (ACNC) it must provide its financial reports to Fair Trading within one month of the AGM (or 7 months of the end of the previous financial year, whichever occurs earlier).** |
| **For all IAs (regardless of whether they are registered with the ACNC) some decisions passed (such as changes to the constitution) are not official under the Act until they have been registered with Fair Trading. Depending on the resolutions passed, you may need to notify Fair Trading of the resolution.** |

*AI Act Part 5 Read more in our fact sheets on financial reporting obligations*
# Summary table – SGMs for NSW IAs

<table>
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</table>
| **When must the SGM be held?** | | Examples of when an SGM will be held include:  
• to remove a committee member from office  
• to make changes to the IA’s constitution, or  
• to propose to remove an auditor  
If your IA has adopted the model rules, an SGM must be convened if a request is made in writing by at least 5% of the total members. | Remember, an IA needs to give advance notice of the time and place of a SGM to all its members. If a special resolution will be put to members at the SGM, extra requirements will need to be met, including providing members with at least 21 days’ notice of the meeting. |
| **What happens if a SGM is not held as scheduled?** | | Usually the chairperson is required to adjourn the meeting if there is no quorum present after a specified time. There may also be other circumstances where adjourning the meeting is appropriate. | If a meeting is adjourned, you will need to consider whether a new notice is required. Check your IA’s rules for any specific provisions about this. If in doubt its best to send out a new notice. For example, Model rule 31 provides that if a meeting is adjourned for 14 days or more, then a notice of the rescheduled meeting must be given in accordance with the rules for notices of general meetings. |
| **Who must be notified of a SGM? How and when should notice be given?** | | Refer to the ‘Summary table – AGMs for NSW IAs - Who must be notified? How and when should notice be given?’ above | |
| **What is the usual procedure for running a SGM?** | | A typical agenda might include:  
• welcome  
• apologies  
• confirmation of minutes of previous SGM  
Commonly, notices and agendas from SGM’s include a catch-all item such as ‘any other ‘business’ or ‘general business’. This allows members to discuss any additional matters which arise at the meeting (such | Follow the procedures set out in your IA’s rules.  
AI Act section 107  
Model rules 29 – 37 |
Calling and holding meetings (NSW)

- clearly set out the issues to be determined
- vote on resolutions
- close meeting

If your IA has adopted the model rules, the only matters that can be discussed are those set out in the notice.

as setting a time and place for the next meeting) and could otherwise not be discussed.

It can be a good idea to include a meeting agenda with the notice of meeting.

Voting at a SGM

Refer to the 'Summary table – AGMs for NSW IAs - Voting at an AGM' above

Taking minutes

Refer to the 'Summary table – AGMs for NSW IAs – Taking minutes at an AGM' above

Summary table – committee meetings for NSW IAs

<table>
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<tr>
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<tbody>
<tr>
<td>When must a committee meeting be held?</td>
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<tr>
<td>Committee meetings must be held in accordance with the IA’s rules. The rules may specify that the committee must meet a certain number of times per year or that they can hold additional (special) meetings as required.</td>
<td>AI Act section 107 Schedule 1 Model rule 20</td>
<td>If your IA has adopted the model rules, your committee will need to meet at least three times in a 12 month period, and may also hold special committee meetings and urgent committee meetings where required.</td>
<td>Under section 30 of the AI Act, a committee meeting may be held through technology, and committee members may participate in committee meetings by using technology. Technology such as videoconferencing and conference calls can make it cheaper and easier for committees of IAs to meet.</td>
</tr>
</tbody>
</table>

What happens if there is no quorum or the meeting can’t be held as scheduled?

Follow the procedure set out in your IA’s rules. | Model rule 20 | The chairperson is usually required to adjourn a committee meeting if there is no quorum present after a specified term. There may be other circumstances where it is appropriate to adjourn the meeting. | If a meeting is adjourned, you will need to consider whether a new notice is required. Check your IA’s rules for any specific provisions about this. If in doubt, it’s better to send out a new notice. |

How to notify committee members
Provide notice in accordance with the IA’s rules.
The notice should provide an outline of the general business to be discussed at the meeting.
A committee meeting notice doesn’t usually need to specify all the business to be dealt with, and any business raised by committee members can generally be considered at the committee meeting.
However, important business not specified in the committee meeting notice may not be considered at the committee meeting until all committee members are present and they all agree to consider that item of business. Check your IA’s rules and policies for any special requirements.

<table>
<thead>
<tr>
<th>Model rule 20</th>
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<tbody>
<tr>
<td>If your IA has adopted model rule 20, notice of a committee meeting must be given to each committee member at least 48 hours before the time of the committee meeting (unless the committee members unanimously agree to a different period of notice).</td>
<td>Even if your IA’s rules provide for a shorter notice period, it’s good practice to give at least a week’s notice of a committee meeting so that committee members have time to prepare properly for the meeting. It can also be a good idea to schedule the dates for all required committee meetings at the first meeting of the year. This helps the committee members to plan ahead to be available.</td>
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</tbody>
</table>

### The usual procedure

The *Al Act* requires that the rules of your IA set out the procedure to be followed at committee meetings.

You may wish to adopt a procedure for committee meetings that is essentially the same as for general meetings. However, the procedure for committee meetings is generally less formal than for general meetings – mainly because of the smaller number of people involved and tendency to meet more frequently.

<table>
<thead>
<tr>
<th>AI Act section 107 and Schedule 1 Model rule 20</th>
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<td>A typical agenda might include:</td>
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<td>• welcome</td>
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<tr>
<td>• apologies</td>
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<tr>
<td>• confirmation of minutes of the previous meeting</td>
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<tr>
<td>• reports prepared by staff volunteers or sub-committees financial reports, and</td>
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<tr>
<td>• important correspondence, proposals and resolutions</td>
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</tbody>
</table>

If your IA has adopted the model rules, the notice of the committee meeting should set out the business to be transacted at the meeting, and no other business is to be dealt with unless the committee members at the meeting unanimously agree to treat the business as ‘urgent business’.

The committee should be careful to:

- clearly record their decisions and actions (usually this is the secretary’s task)
- note any actual or potential conflicts of interest and details of how the meeting dealt with voting on contracts or matters to which these relate
- carefully consider the IA’s financial position, and
- approve or ratify any of the IA’s expenditure

### Taking minutes

The *Al Act* requires an IA to prepare and keep accurate minutes of committee meetings.

<table>
<thead>
<tr>
<th>AI Act section 50 Model rule 16</th>
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<tbody>
<tr>
<td>If your IA has adopted the model rules, the meeting minutes must record:</td>
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<tr>
<td>• the names of the members attending the meeting</td>
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</table>

It’s best to write up the first draft of minutes as soon as possible after the committee meeting. Your memory will be fresh and the task can be done more quickly and efficiently than
- the business considered at the meeting
- any resolution on which a vote is taken and the result of the vote, and
- any material personal interest disclosed

leaving it until just before the next meeting.

The minutes are an official historical record of the IA. It’s good practice to record the name and position of office bearers (chairperson, secretary, treasurer) as well as names of members and any other people present (such as observers) in the minutes.

It’s useful for the secretary to circulate draft minutes with an action list to the people or sub-committees who have been given specific tasks at the committee meeting. Make sure the official meeting minute are secure, and easily identifiable.

### Voting

Check your IA’s rules and policies about voting methods carefully. There are different ways in which votes can be taken at a committee meeting. The most common methods are voting by **show of hands** or **by poll** (that is, a vote in writing).

| AI Act section 107 and Schedule 1 Model rule 24 (voting) Model rule 20 (quorum) | If a vote is tied, most IAs’ rules say that the chairperson has a second (or ‘casting’) vote to decide the matter. This is the position under rule 24(2) of the model rules. Commonly, the chairperson will exercise this vote to maintain the existing situation (so that a controversial resolution will not be passed using this power). | Some IAs permit the committee to pass resolutions in the absence of a meeting, provided it’s agreed in writing by all committee members. Committee members may want or be required to ‘abstain’ from voting (e.g. if they have a material personal interest in the motion), or may oppose a motion and request that their opposition is noted. |

If a vote is tied, most IAs’ rules say that the chairperson has a second (or ‘casting’) vote to decide the matter. This is the position under rule 24(2) of the model rules. Commonly, the chairperson will exercise this vote to maintain the existing situation (so that a controversial resolution will not be passed using this power).
Resources

Not-for-profit Law resources

► Annual reporting to government
   This page outlines an IA’s financial reporting obligations, including requirements for the annual general meeting.

► Keeping records
   This page outlines the requirements for an IA’s record keeping, including obligations to keep meeting minutes.

► Rules or constitution
   This page explains an IA’s rules and how they can be changed.

► Guide
   This is a comprehensive resource for NSW IAs that addresses the role and responsibilities of the company secretary in detail, including in relation to calling and holding meetings and keeping meeting minutes. For a more detailed explanation of all matters discussed in this fact sheet, please consult the secretary’s satchel.

NSW Fair Trading

► Running an Association
   NSW Fair Trading is the regulator of incorporated associations in NSW. This page on their website contains information about running an association in NSW, including the different types of meeting an incorporated association will need to hold.

Legislation

► Associations Incorporation Act 2009 (NSW)
► Associations Incorporation Regulation 2010 (NSW)