

MINUTES OF THE PENSHURST RSL CLUB LIMITED 2023 AGM

Held in the Auditorium of the Penshurst RSL Club
58A Penshurst Street, Penshurst, NSW
Sunday 28 May 2023 at 10:04am

Directors Present: John Hoban (President)
Kim Thompson (Vice-President)
Kevin Kelly
Graham Grant
Susie Bourke
Garry Johnson
Michael Korfias

Chief Executive Officer: Chris Hendley

Auditor: Clayton Eveleigh (BDO)

Solicitor: Ray Travers (Pigott Stinson)

Members: 47 Present

Mr. Hoban opened the meeting at 10:04am and welcomed everyone to the club's Annual General Meeting for 2023.

Mr. Hoban advised everyone that the meeting would be recorded in order for the minutes to be accurately produced in writing.

Mr. Hoban confirmed that there was the minimum number of members in attendance for the meeting to continue.

Mr. Hoban introduced the club's Solicitor Mr. Ray Travers from Pigott Stinson and the club's Auditor Mr. Clayton Eveleigh from BDO.

Mr Hoban advised the members in attendance that they had the following documents printed for them and they included; the agenda of the meeting, the minutes of the previous AGM and the club's strategic plan.

Item 1: Apologies

Nil

Item 2: To receive and consider the Minutes of the Annual General Meeting held on 29 May 2022. Business Arising.

No business arising.

Moved: Kevin Kelly (28)

Seconded: Michael Korfias (270)

CARRIED

Item 3: To Receive and Consider the:

- a. Financial Report;**
- b. Directors' Report; and**
- c. Auditor's Report,**

For the year ended 31st December 2022*.

It was noted that there were no questions received in writing, and the reports have been on the club's website for a number of months.

Moved: Graham Grant (91)

Seconded: Kevin Kelly (28)

CARRIED

Mr. Hoban then introduced the club's CEO Mr. Chris Hendley to comment on the club's performance for the year 2022.

Mr. Hendley welcomed all members to the meeting, and then made the following points of the club's operations ending 2022;

Profit of \$1.4m, Loans of \$2.6m from previous 7 years paid out to zero, with last payment in Aug 2023. Current balance sheet position of Members Funds at \$17.8m versus \$7.7m at year end 2013.

Congratulated the board, staff and caterers on this achievement.

Some tough decisions have had to be made, and there are tough times ahead with the suggested future gaming legislation changes, to cashless gaming.

The good news is that Penshurst RSL club will not need to sign up to a Developer or need to Amalgamate with another club.

Next year the board and management will commence the master planning for the club, which will involve major refurbishments for the club in the future.

Last year the club supported a number of community groups with providing over \$100k to them.

The club's staff will be dressed in new uniforms from next week.

The board is very strategic and is continually planning for the future of the club and our staff are friendly and always providing great customer service.

The current Development Application is progressing with council and the next step is to attend a local planning committee meeting in the next few weeks.

Item 4: To consider and, if thought fit, pass the Three Ordinary Resolutions (set out below) conferring of benefits on Directors and specific members of the Club.

First Ordinary Resolution:

That pursuant to Section 10(6A)(b) of the Registered Clubs' Act 1976, the members hereby approve and agree to the Board and the other persons referred to below, during the period preceding the 2024 Annual General Meeting, receiving the following benefits outlined in sub-paragraphs (i) to (iv) and the members further acknowledge that the benefits are not available to members generally but only to those members of the Club specified in this Ordinary Resolution:

- (i) the reasonable cost of a meal and beverage for each Director immediately after a Board or Committee Meeting on the day of that meeting.*
- (ii) the reasonable cost of a meal and beverage for each Director, whenever each Director is performing a duty at the Club.*
- (iii) the reasonable expenses incurred by Directors in relation to such other duties including entertainment of special guests to the Club and other promotional activities performed by Directors, such activities and expense being approved by the Board before payment is made, on the production of receipts, invoices, or other proper documentary evidence of such expenditure.*
- (iv) the reasonable cost of a Board Christmas Lunch attended by the Directors and their partners and senior management and their partners.*
- (v) the reasonable cost of providing each Director a half ham prior to Christmas.*
- (vi) the cost of providing each Director with up to fifty (50) drink vouchers per annum to be redeemed at their discretion.*
- (vii) the provision of two (2) reserved car spaces as follows:*
 - a. one (1) for a Director;*
 - b. one (1) for the Sub Branch Secretary.*

- (viii) *the cost associated with management issuing drink vouchers to those members who carry out volunteer work within the Club.*
- (ix) *the reasonable expense in the provision of free refreshments to members who have attended the Annual General Meeting at the conclusion of the Annual General Meeting for a period not exceeding two (2) hours as determined by the Chairman or his nominated representative.*
- (x) *the reasonable cost of Club apparel being provided to directors as required.*
- (xi) *the reasonable cost of an electronic device (for example laptop or iPad).*

Moved: Kevin Kelly (28)

Seconded: Garry Johnson (7924)

CARRIED

Second Ordinary Resolution:

That pursuant to Section 10(6A)(b) of the Registered Clubs' Act 1976, the members hereby approve and agree to the expenditure by the Club of a sum not exceeding \$20,000 during the period preceding the 2024 Annual General Meeting, for the professional development and education of Directors as follows:

- (i) *the reasonable cost of a delegation of Directors attending the Clubs NSW Annual General Meeting.*
- (ii) *the reasonable cost of Directors attending seminars, lectures, trade displays and other similar events as may be determined by the Board from time to time.*
- (iii) *the reasonable cost of Directors attending other registered clubs for the purpose of viewing and assessing their facilities and method of operation providing such attendances are approved by the Board as being necessary for the betterment of the Club.*

The members acknowledge that the benefits conferred in this Second Ordinary Resolution are not available to members generally but only to those members of the Club specified in this Second Ordinary Resolution.

Moved: Michael Korfias (270)

Seconded: Susie Bourke (965)

CARRIED

Third Ordinary Resolution:

That pursuant to Section 10(6)(b) of the Registered Clubs' Act 1976, the members hereby approve and agree to the confer the following sums of honoraria on the Directors specified in respect of their services as a member of the Board:

- *President – sum of \$1,875 per quarter*
- *Vice-President – sum of \$1,625 per quarter*
- *Each Ordinary Director – sum of \$1,375 per quarter*

The members acknowledge that the benefits conferred in this Third Ordinary Resolution are not available to members generally but only to those members of the Club specified in this Third Ordinary Resolution.

Moved: Kevin Kelly (28)

Seconded: Keith Pratt (216)

CARRIED

Item 6: General Business:

Member Mr. Denis Cunneen (2334) congratulated the board on such a profitable year, and realises that the club has some major plans for redevelopment but the current members should be considered in regards to the amenities of Foxtel. Mr. Cunneen believes the cancellation of Foxtel was intended to be a cost saving measure for the club but the board isn't aware of how much this decision has cost the club. The club has suffered from a distinct lack of patronage and the saving measure is out of proportion. The friendly atmosphere no longer exists at the front of the club and Friday nights are not as busy with the football raffle. The club is here for the benefit of members and not for 25 years of planning ahead. Under the club's constitution it states that income should be promoted to the objects of the club for the recreational benefit of members and guests, but Mr. Cunneen believes the benefit of members and guests has been forgotten with the decision to discontinue Foxtel, and asks the board to review their decision and to bring Foxtel back.

Mr. Hoban thanked Mr. Cunneen for his presentation, and stated that the board and management do not have a closed mind on the Foxtel issue or any other issue, but Foxtel simply refused to negotiate. Mr. Hoban corrected Mr. Cunneen's comment that the planning horizons for the club are 12 months and 5 years, not 25 years planning ahead as he suggested. The club cannot predict the future, as we could not predict the pandemic nor the government with future gaming legislation changes. The club will likely suffer large costs in the future with the

governments cashless gaming plans, and it will be very important to have surplus funds available to combat these future costs to ensure the success of the club for all members.

Mr. Hendley advised the members that both the board and management agreed that the decision to discontinue Foxtel was based on it being extremely poor value of members funds, as it would have cost the club over \$300,000 over the next 5 years to retain Foxtel. Mr. Hendley also advised that the club did try and negotiate a better price but Foxtel would not budge. It was mentioned that it was unfortunate for a number of members who did enjoy Foxtel, however the board and management must consider all members of the club and the club's future viability. Mr. Hendley stated that the club did receive numerous emails from members providing positive feedback on the decision, and that we all must be mindful of the future government changes to gaming that are coming. Mr. Hendley advised that the comments from

Mr. Cuneen suggesting the club is losing patronage was incorrect, and in fact the club has more active members than ever before and the club's revenue streams are at record highs.

Mr. Hendley said that the club would be continuing with the monthly food and beverage vouchers for all members, which was a wonderful benefit for all members.

Mr. David Potter (237) congratulated the board on getting rid of Foxtel and this decision is one of the best decisions that club has ever made. For the club to pay the amount of over \$300,000 over the next 5 years would have been ridiculous. Mr. Potter said that there is enough football on free to air television and that other clubs in area should also consider doing the same.

Mr. Hoban advised the board and management would consider the feedback provided.

Member Mr. Ian Ryan (1234) said on 17 April this year he hand delivered a document to the club's CEO requesting that a special resolution be presented to this AGM.

The resolution was asking for a deletion of clause 28.5e that was included in the club's constitution when the company changed from a co-op to club limited. This clause refers to an employee of the club waiting a period of at least 10 years after ceasing their employment before they can nominate or be elected to the board.

Mr. Ryan stated that this clause was specifically inserted to get rid of a sitting vice president of this club, Mr. Trevor James.

Mr. Ryan stated the 10 year term was specifically included (which was a ridiculous term in any case) so that he could not re-nominate for the board at the next election. He stated that is an absolute and utter disgrace.

Mr. Hoban interjects and asks Mr. Ryan on what basis does he make these claims that the then board of directors specifically inserted this clause into the constitution.

Mr. Ryan then said he is not making the claim that the board of directors inserted the clause. Trevor James was the sitting vice president and he was completely unaware of that clause going in.

Mr. Ryan then said that he does not believe that the clause was put to a board meeting. He also said that there was another member of the board that was unaware of that clause being put into that constitution.

Mr. Hoban then called Mr. Ryan out of order making such wild and unsubstantiated claims, and to validate the claims being made.

Mr. Ryan asked why was that clause was put in? and then stated at the staff Christmas party when he was on staff at the club, he said that the CEO asked him what he was going to do in retirement and Mr. Ryan advised that he would have liked to have nominated for the board but he couldn't because you put that clause in deliberately to get rid of Trevor James because he was unpopular. Mr. Ryan then said the CEO Chris Hendley said to Mr Ryan he was useless as a director and he had to go.

Another member by the name of Lesley (ex-partner to Mr. James) requested to Mr. Ryan to stop speaking ill of the dead, Mr. Ryan then said that he is not and to not interrupt him whilst he was speaking.

Mr. Hoban then advised Mr. Ryan to ask his question if he had a question.

Mr. Ryan said that he had received a letter from the club saying his request was denied and invalid.

Mr. Hoban continued to ask what is your question.

Mr. Ryan said that he received further correspondence from the club advising that the information requested would not be provided by the club.

Mr. Ryan made the comment, I don't know what sort of secret organisation you are running here.

Again Mr. Hoban asked for the question from Mr. Ryan.

Mr. Ryan asked why was this special resolution deemed ineligible?

Mr. Hoban thanked Mr. Ryan for his question and asked him to be seated.

Mr. Ryan then asked was it because it was undated?

Mr. Hoban again asked him to be seated and he will be given the answer.

Mr. Hoban then introduced the club's legal advisor Mr. Ray Travers.

Mr. Travers said that he would answer the question in two parts talking about rule 28.5e and then the requisition.

Mr. Travers said that the rule is in the club's constitution and the only way it could have got into the club's constitution is that members would have had to pass a special resolution for it, and stated that any suggestion that a director did not know about it cannot be made. It is a common rule in club constitutions and often recommended that a minimum term be put into a club's constitution after an employee ceases employment before they can be eligible to become a director. The registered clubs act of 1976 states that an employee cannot be a director of the club. It is becoming more and more common that club constitutions have a minimum term for ceased employees before they can nominate for the board. It is a policy reason reflecting in the fact that employees can't vote in the board elections. The only way the rules go into the constitution is if members approve them and this rule is in the club's constitution.

Mr. Travers said in regards to the requisition that was received by the club requesting a special resolution, this was examined but the requisition was not valid as it did not comply with the requirements of the company law and the legal position is the club is not required to act on the requisition and include it for the AGM or convene a meeting for it.

Mr. Ryan asked why was it illegal?

Mr. Travers advised that it was not illegal but it was invalid it did not comply with the requirements of the company law.

Mr. Ryan asked which means what?

Mr. Travers advised that legal advice was given to the board of the club, and it would be a breach of duties disclosing any legal advice. He said the requisition was not a valid document under the company law for it to compel the board to act on it and put the resolution to members.

Mr. Ryan asked was it because it was undated?

Mr. Travers answered no it did not comply with the substantial requirements of the company law.

Mr. Ryan said that the members are entitled to know why the requisition was invalid.

Mr. Travers said respectfully you are not entitled to confidential legal advice.

Mr. Ryan stated that he would then like to put the special resolution to the members from the floor.

Mr. Travers then advised that this could not happen as a special resolution must be included in the notice of meeting whereby members receive at least 21 days' notice of it.

Mr. Ryan said I and the rest of the members are entitled to know why and what was wrong with this special resolution as to why it could not be presented at this meeting.

He then made the comment, "I believe there is something going on here that is being hidden".

Why was this clause put in and why can't it be taken out as a special resolution?

Mr. Ryan then made the comments that he believes this whole meeting has a closed mind to this special resolution, and there are reasons behind why this special resolution wasn't presented and we are entitled to know what they are. Mr. Ryan said the employee clause was not in the constitution prior to the change, and there was no special resolution put to the members at that change over, it was a vote to change the club from a co-op to a club limited and do you accept the constitution.

It was not highlighted as a special resolution, Mr. Ryan said "it was inserted by stealth I believe to get rid of Trevor James off the board".

Mr. Hoban had to call order to the meeting as a number of the members in attendance were getting upset due to Mr. Ryan's comments, particularly Mr. James ex-partner, Lesley.

Mr. Travers then made some respectful comments towards the members who knew the deceased man Mr. James in order to assist with calming the tone of the meeting.

He then made the made the following points in conclusion;

1. All members are made available of the information pertaining to any special resolution and constitution changes of the club.
2. This type of clause is common and becoming more common in club constitutions throughout the state.
3. If the club receives a valid requisition the club must act on it.
4. The board has been given legal advice on the matter and it would be illegal for him to disclose any legal advice.

Mr. Ryan asked the chairman could the members come up with a special resolution that's agreeable to remove the clause illegally?

Mr. Hoban advised that members can do what they want.

Mr. Ryan asked the president why he is being so pedantic about the issue?

Mr. Hoban advised that he is not being pedantic but it is the rules of the club as voted on by the members.

Mr. Ryan made the comment "this clause was put in and hidden like where's wally".

Mr. Hoban advised that similar clauses are in most registered clubs.

Mr. Ryan asked why the vice president Trevor James wasn't notified about it?

Mr. Hoban advised that he could not answer for Mr. James as he has passed away.

A number of members became unsettled and this caused member Mr. Keith Pratt (216) to stand and raise a point of order. Mr Pratt stated that there should be no further discussion on the subject due to people of the deceased man becoming upset.

MOTION: Mr. Pratt (216) moved there be no further discussion on the subject due to people of the deceased man becoming upset; seconded by Mr. Kelly (28)

Mr. Ryan then said "all those against".


Mr. Hoban then advised Mr. Ryan to be quiet and to be seated and that he was not running the meeting.

Mr. Hoban then asked for a show of hands in favour of the motion, this totalled 33 votes.

Mr. Hoban asked for a show of hands against the motion, this totalled 13 votes.

Motion **carried**.

The President closed the meeting at 10:52am and invited all members in attendance to morning tea.


John Hoban
President
27 June 2023


Chris Hendley
Chief Executive Officer