

## **FAQs – RSL NSW MODEL COMPANY LIMITED BY GUARANTEE CONSTITUTION**

A company limited by guarantee (CLG) is a common structure for not for profits and charities. The process of setting up a CLG is set out in the Corporations Act 2001 (Cth) and the Act also sets out what you need to do to keep your status as a CLG. CLGs are administered by ASIC.

All CLGs must have their own Constitution. RSL NSW sub-Branches will adopt the RSL NSW Model Constitution. The Model Constitution has been developed to ensure that sub-Branches can access a vehicle to hold property outside of the trustee model and to do business as a company, while minimising any change in the way that sub-Branch members engage with them. Some questions have arisen in relation to the terms of proposed Model Constitution. They are set out below along with answers.

***RSL NSW Members must note that this document does not constitute legal advice for sub-Branches and only provides information for them to consider when assessing their sub-Branch's particular circumstances.***

**1. How does incorporation and the Company Limited by Guarantee Model Constitution affect my membership of RSL NSW and my attachment to the sub-Branch?**

Incorporation of your sub-Branch does not affect your rights as a member of RSL NSW, or your attachment to your sub-Branch.

**2. What control does RSL NSW have over the operations and decisions of the sub-Branch as the sole corporate member?**

RSL NSW under this arrangement, would have no more control than it has over sub-Branches who do not incorporate under the RSL NSW Constitution.

**3. Why is RSL NSW the sole corporate member of the Company Limited by Guarantee?**

The chosen structure of a sub-Branch should not affect the way that RSL NSW Members engage with it. Having RSL NSW as the sole corporate member ensures that there is no difference between the rights of members attached to one type of sub-Branch compared to another and the rights of all RSL NSW Members are the same. It also ensures that an RSL sub-Branch which incorporates and becomes a company limited by guarantee remains part of RSL NSW. Afterall, there is only one RSL NSW.

**4. Why is the sole member of the Company Limited by Guarantee referred to as a Corporate Member?**

This is to satisfy company law requirements. It will also help avoid confusion between the RSL NSW Constitution and the Company Limited by Guarantee Model Constitution. It otherwise has no impact on the day to day operations of the relevant sub-Branch.

**5. What does this mean for the RSL NSW Constitution? Can the sub-Branch operate outside of the RSL NSW Constitution by incorporating?**

The answer is no. All sub-Branches must comply with the RSL NSW Constitution.

**6. Why can't we draft our own Company Limited by Guarantee Constitution?**

It is important that all members of RSL NSW have the same rights whether the sub-Branch to which a member belongs is incorporated or not. The model constitution ensures that every single member of RSL NSW enjoys the same rights of being a member of our organisation.

The RSL NSW Board will only amend the Company Limited by Guarantee Model Constitution where it is necessary for the amendment to be made, for example to ensure that the model Constitution complies with either the Corporations Law or any amendments that are made by RSL NSW Members to the RSL NSW Constitution.

**7. What then, is the point of the Company Limited by Guarantee Model Constitution?**

The point of the Company Limited by Guarantee Model Constitution is to allow those sub-Branches with significant amounts of property to more efficiently deal with those assets. Whether or not a sub-Branch does incorporate as a company limited by guarantee is solely a matter for the members of that sub-Branch and the decision to incorporate and adopt the Company Limited by Guarantee Model Constitution is something of importance and therefore that decision must be made completely in accordance with the RSL NSW Constitution.

**8. Does my sub-Branch have to incorporate as a Company Limited by Guarantee?**

No. It is not necessary for your sub-Branch to become a company limited by guarantee. RSL NSW will continue to support sub-Branches which decide not to incorporate and to keep their current structure.