



Community Radio 104.1 CHY FM Inc  
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## STATION CONSTITUTION: Community Radio 104.1 CHY FM Inc

June 2023

### OBJECTS OF COMMUNITY RADIO 104.1 CHY FM INCORPORATED

1. To operate a professional standard community radio station that is relevant and responsive to the needs of the Coffs Coast area's teenage youth and young adults.
2. To encourage young people to participate in the delivery of the station's services
3. To ensure information specific to young people to broadcast.
4. To provide an outlet for local and Australian music that is not widely available through other stations in either community, commercial or national sectors.
5. To promote participation in the station by members of the community of interest whose contribution will enhance the delivery of the service in the target audience's perception.
6. To advance and promote the target audience's education, welfare, cultural and social life.
7. To enhance an environment where cultural diversity is celebrated rather than just tolerated, particularly by youth.
8. To draw from and contribute to the resources and objectives of the Community Broadcasting Association of Australia.
9. To operate as a training facility for students undertaking journalism and media studies, including training in the delivery of current affairs and news content with a local area focus.
10. To use the facility as a training resource in broadcast radio for students and the broader community.
11. To broadcast news and music programs in a format that appeals to the greater proportion of youth in the broadcast area and strive for standards of broadcasting excellence in reporting on, promoting and providing informative and educational programming relating to youth.
12. To promote the broadcasting of local, original artistic content.
13. To provide an opportunity to forge greater links with the outside community and provide a greater interface with the community, in particular with youth.
14. To promote and recognise youth achievements and improve community understanding of their concerns and aspirations.
15. To assist youth organisations in promoting their activities and services, encourage the development of programs, services and facilities designed to serve youth, and actively promote the organisations providing such services.

### Part One – PRELIMINARY

#### 1. Title

The name of the Association shall be "Community Radio 104.1 CHY FM Inc" (hereafter called the Association).

#### 2. Address

The office of the Association will be 30 Orlando Street, Coffs Harbour, NSW, 2450

### 3. Definitions

- a. In these rules:
  - "act" means the Associations Incorporation Act 1981;
  - "committee" shall refer to the Committee of Management of the Association;
  - "financial year" shall be from the first day of July to the last day of June;
  - "general meeting" means the general meeting of members convened in accordance with Rule 22;
  - "member" shall refer to a full member of the Association;
  - "station" refers to the broadcasting facility operated by the Association 104.1 CHY FM;
  - "CHY Inc" means Coffs Harbour Youth Incorporated;
  - "youth" shall refer to people aged between 13 and 30.
- b. In these rules
  - i. Expressions referring to writing shall, unless the contrary intention appears, be constructed as including references to printing, lithography, photography and other modes of representation or producing words in a visible form.;
  - ii. A reference to a function includes a reference to a power, authority and duty;
  - iii. A reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty;
  - iv. Words or expressions contained in these rules shall be interpreted in accordance with the provisions of the Acts Interpretation Act 1931 and the act as in force on the date on which these rules are adopted by the Association.

## Part Two - MEMBERSHIP

### 4. Membership qualifications

A person is qualified to be a member of the Association if, but only if:

- a. The person has not ceased to be a member of the Association at any time after incorporation of the Association under the Act; or
- b. The person has applied for membership of the Association as provided by Rule 3

**OR**

A person is qualified to be a member of the Association if, but only if:

- a. The person has not ceased to be a member of the Association at any time after incorporation of the Association under the Act; or
- b. The person has
  - i. Applied for membership of the Association as provided by Rule 3; and
  - ii. Has been approved for membership of the Association by the Committee of the Association.

### 5. Application for Membership

- a. A person who has applied for membership as provided in the rules shall become a member of the Association on payment of the annual subscription prescribed in, or fixed under, these rules.
- b. An application for membership of the Association
  - i. Shall be made by the applicant in writing in the form set out in Appendix 1 to these rules;
  - ii. Shall be lodged with the Secretary of the Association (hereafter called the Secretary)
- c. Upon receipt of the application and membership fee, the Secretary shall enter the applicant's name in the register of members.

- d. An application may only be rejected if
  - i. There are reasonable grounds to believe that the applicant would not abide by the rules and objectives of the Association; or
  - ii. Required by law; or
  - iii. The applicant has been convicted of an indictable offence; or
  - iv. There are reasonable grounds to believe that the applicant would not abide by the Community Broadcasting Code of Practice; or
  - v. There are reasonable grounds to believe that the applicant would pose a security risk to the members or premises of the Association.
- e. Where the Secretary resolves to reject an application for membership, the applicant shall have the right of reply and appeal under Rules 13 and 14. Where the applicant exercises the right to reply to the resolution of the Committee, as a meeting held not earlier than 14 days and not later than 28 days after the service of the notice under Rule 13(1) confirms the resolution in accordance with this rule.
- f. The Secretary shall –
  - i. On payment of the applicant of the amounts referred to in Clause 9 within the period referred to in that clause; or
  - ii. Upon resolution of the committee to reject an application being overturned on reply or appeal and payment of the required membership fee by the applicant.Enter the applicant's name in the register of members, and once the name being so entered, the applicant becomes a member of the Association.

## **6. Cessation of Membership**

A person ceases to be a member of the Association if the person:

- a. dies, or;
- b. resigns membership, or;
- c. is expelled from the Association.

## **7. Membership Entitlements Not Transferable**

A right or obligation which a person has by being a member of the Association:

- a. Is not capable of being transferred or transmitted to another person; and
- b. Terminates on cessation of the person's membership.

## **8. Resignation of Membership**

- a. A member of the Association is not entitled to resign that membership except in accordance with this rule.
- b. A member of the Association who has paid all amounts payable by the member to the Association in respect of their membership may resign from membership of the Association by first giving the Secretary written notice of at least one month (or such period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member of the Association.
- c. If a member of the Association ceases to be a member under Clause (2), and in every other case where a member ceases to hold membership, the Secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member of the Association.

## **9. Register of Members**

The Secretary of the Association must establish and maintain a register of members of the Association specifying the name and address of each person who is a member of the Association, together with the date on which the person became a member.

The register of members must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any member of the Association at any reasonable hour.

## **10. Fees and Subscriptions**

- a. A member of the Association must pay to the Association an annual membership fee of \$250.00 or, if some other amount is determined by the committee, that other amount shall become payable after the Annual General Meeting of the Association each year.
- b. Any member

## **11. Members' Liabilities**

The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding-up of the Association are limited to the amount if any, unpaid by the member in respect of membership of the Association as required by Rule 8.

## **12. Resolution of Internal Disputes**

Disputes between members (in their capacity as members) of the Association, and disputes between members and the Association, are to be handled according to the constitution and Code 6 of the Community Broadcasting Codes of Practice.

## **13. Disciplining of Members**

- a. A complaint may be made by any member of the Association that some other member of the Association:
  - i. has persistently refused or neglected to comply with a provision or provisions of these rules; or
  - ii. has persistently and wilfully acted in a manner prejudicial to the interests of the Association.
- b. On receiving such a complaint, the Committee:
  - i. must cause notice of the complaint to be served on the member concerned; and
  - ii. must give the member at least 14 days from the time the notice is served within which to make submissions to the Committee in connection with the complaint; and
  - iii. must take into consideration any submissions made by the member in connection with the complaint.
- c. The Board/Committee may, by resolution, expel the member from the Association or suspend the member from membership of the Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.

## **14. Right of Reply of Rejected Applicant or Disciplined Member**

- a. Where the Committee passes a resolution under rule 3(3)(b) or rule 11(3), the Secretary shall, as soon as practicable, cause a notice in writing to be served on the applicant or member subject of the resolution –
  - i. setting out the resolution of the Committee and the grounds on which it is based;
  - ii. stating that the applicant or member subject to the resolution may address the Committee at a meeting to be held not earlier than 14 days and not later than 28 days after the service of the notice;
  - iii. stating the date, place and time of that meeting; and
  - iv. informing the applicant or member subject of the resolution that he may do either or both of the following:
    - 1. attend and speak at that meeting;
    - 2. submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.

- b. At a meeting of the Committee held as referred to in clause (1), the Committee shall –
  - i. give the applicant or member subject of the resolution an opportunity to make oral representations
  - ii. give due consideration to any written representations submitted to the Committee by the applicant or member subject to the resolution at or prior to the meeting; and
  - iii. by resolution, determine whether to confirm or to revoke the resolution
- c. Where the Committee confirms a resolution under Clause (2), the Secretary shall, within seven days after that confirmation, by notice in writing, inform the applicant or member subject of the resolution of the reasons for the confirmation and of the right of appeal under Rule 13.
- d. A resolution confirmed by the Committee does not take effect:
  - i. until the expiration of the period within which the applicant or member subject of the resolution is entitled to appeal against the resolution where the applicant or member subject of the resolution does not exercise the right of appeal within that period; or
  - ii. where within that period, the applicant or member subject of the resolution exercises the right of appeal, unless and until the Association confirms the resolution under Rule 13(4), whichever is the latter.

#### **15. Right of Appeal of Rejected Applicant or Disciplined Member**

- a. A rejected applicant or member may appeal to the Association at a general meeting against a resolution of the Committee under Rule 11 within seven days after notice of the resolution is served on the rejected applicant or member by lodging with the Secretary a notice to that effect.
- b. The notice may, but need not, be accompanied by a statement of the grounds on which the rejected applicant or member intends to rely for the purposes of the appeal.
- c. On receipt of a notice from a rejected applicant or member under Clause (1), the Secretary must notify the Committee, which is to convene a general meeting of the Association to be held within 28 days after the date on which the Secretary received the notice.
- d. At a general meeting of the Association convened under Clause (3):
  - i. no business other than the question of the appeal is to be transacted; and
  - ii. the Board/Committee and the rejected applicant or member must be given the opportunity to state their respective cases orally or in writing, or both; and
  - iii. the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- e. If, at the general meeting, the Association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

### **PART THREE – THE BOARD/COMMITTEE**

#### **16. Powers of the Board/Committee**

The Board/Committee is to be called the Committee of Management of the Association and, subject to the Act, the Regulation and these rules and to any resolution passed by the Association in general meeting:

- a. is to control and manage the affairs of the Association; and
- b. exercise all such functions as may be exercised by the Association, other than those functions that are required by these rules to be exercised by a general meeting of members of the Association; and

- c. has the power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

## **17. Constitution and Membership**

- a. Subject in the case of the first members of the Committee to section 21 of the Act, the Committee is to consist of:
  - i. the office-bearers of the Association; and
  - ii. Three or four ordinary members, each of whom is to be elected at the annual general meeting of the Association under Rule 16.
- b. The office-bearers of the Association are to be:
  - i. the president/chair;
  - ii. the Treasurer;
  - iii. the Secretary; and
  - iv. the Board Administrator
- c. Each member of the Committee is, subject to these rules, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- d. In the event of a casual vacancy occurring in the membership of the Committee, the Committee may appoint a member of the Association to fill the vacancy, and the member so appointed is to hold office, subject to these rules, until the annual general meeting next following the date of the appointment.

## **18. Election of Members**

- a. Nominations of candidates for election as office-bearers of the Association or as ordinary members of the Committee:
  - i. must be made in writing, signed by one to two members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
  - ii. must be delivered to the Secretary of the Association at least 24 hours - seven days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- b. If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated are taken to be elected, and further nominations are to be received at the annual general meeting.
- c. If insufficient further nominations are received, any vacant positions remaining on the Committee are taken to be casual vacancies.
- d. If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- e. If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- f. The ballot for the election of office-bearers and ordinary members of the Committee is to be conducted at the annual general meeting in such usual and proper manner as the Committee may direct.

## **19. Secretary**

- a. The Secretary of the Association must, as soon as practicable after being appointed as Secretary, lodge notice with the Association of his or her address.
- b. It is the duty of the Secretary to keep minutes of:
  - i. all appointments of office-bearers and members of the Committee;
  - ii. the names of members of the Committee present at a committee meeting or a general meeting; and
  - iii. all proceedings at committee meetings and general meetings.

- c. Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

## **20. Treasurer**

It is the duty of the Treasurer of the Association to ensure:

- a. that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
- b. that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditures connected with the activities of the Association.

## **21. Casual Vacancies**

- a. In the event of a casual vacancy occurring in the membership of the Committee, the Committee may appoint a member of the Association to fill the vacancy, and the member so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- b. For the purpose of these rules, a casual vacancy in the office of a member of the Committee occurs if the member
  - i. dies; or
  - ii. ceases to be a member of the Association; or
  - iii. becomes an insolvent under administration within the meaning of the Corporations Law; or
  - iv. resigns office by notice in writing given to the Secretary; or
  - v. is removed from office under rule 20; or
  - vi. becomes a mentally incapacitated person; or
  - vii. is absent without the consent of the Committee from all meetings of the Committee held during a period of six months.

## **22. Removal of Member**

- a. The Association, in general meeting, may by resolution remove any member of the Committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- b. If a member of the Committee to whom a proposed resolution referred to in Clause (1) relates makes representations in writing to the Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the members of the Association, the Secretary or the President may send a copy of the representations to each member of the Association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **23. Meetings and Quorum**

- a. The Board/Committee must meet at least three times in each period of 12 months at such place and time as the Committee may determine.
- b. Additional meetings of the Committee may be convened by the President or by any member of the Committee.
- c. Oral or written notice of a meeting of the Committee must be given by the Secretary to each member of the Committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the Committee) before the time appointed for the holding of the meeting.
- d. Notice of a meeting given under Clause (3) must specify the general nature of the business to be transacted at the meeting, and no business other than that business is to be transacted at the meeting, except business which the

- e. committee members present at the meeting unanimously agree to treat as urgent business.
- f. Any three members of the Committee constitute a quorum for the transaction of the business of a meeting of the Committee.
- g. No business is to be transacted by the Committee 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 is to stand adjourned to the same place and at the same hour of the same day in the following week.
- h. If, at the adjourned meeting, a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- i. At a meeting of the Committee:
  - i. the President/chair or, in the President's absence, the Treasurer is to preside; or
  - ii. if the President and the Treasurer are absent or unwilling to act, such one of the remaining members of the Committee, as may be chosen by the members present at the meeting, is to preside.

#### **24. Use of Technology at Board/Committee Meetings**

- a. A committee meeting may be held at two or more venues using any technology approved by the Committee that gives each of the Committee's members a reasonable opportunity to participate.
- b. A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

#### **25. Delegation by Committee to Sub-Committee**

- a. The Committee may, by an instrument in writing, delegate to one or more subcommittees (consisting of such member or members of the Association as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument other than:
  - i. this power of delegation; and
  - ii. a function which is a duty imposed on the Committee by the Act or by any other law.
- b. A function the exercise of which has been delegated to a sub-committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- c. A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function or as to time or circumstances as may be specified in the instrument of delegation.
- d. Despite any delegation under this rule, the Committee may continue to exercise any function delegated.
- e. Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Committee.
- f. The Committee may, by an instrument in writing, revoke wholly or in part any delegation under this rule.
- g. A sub-committee may meet and adjourn as it thinks proper.

#### **26. Voting and Decisions**

- a. Questions arising at a meeting of the Committee or of any sub-committee appointed by the Committee are to be determined by a majority of the votes of members of the Committee or subcommittee present at the meeting.
- b. Each member present at a meeting of the Committee or of any sub-committee appointed by the Committee (including the person presiding at the meeting) is



- c. Entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- d. Subject to rule 21 (5), the Committee may act despite any vacancy on the Committee.
- e. Any act or thing done or suffered, or purporting to have been done or suffered, by the Committee or by a subcommittee appointed by the Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Committee or subcommittee.

## **PART FOUR – GENERAL MEETINGS**

### **27. Annual General Meetings – Holding Of**

- a. With the exception of the first annual general meeting of the Association, the Association must, at least once in each calendar year and within the period of 6 months after the expiration of each financial year of the Association, convene an annual general meeting of its members.
- b. The Association must hold its first annual general meeting:
  - i. within the period of 18 months after its incorporation under the Act; and
  - ii. within the period of six months after the expiration of the first financial year of the Association.

### **28. Annual General Meeting – Calling Of and Business At**

- a. The annual general meeting of the Association is, subject to the Act and to rule 24, to be convened on such date and at such place and time as the Committee thinks fit.
- b. In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  - i. to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
  - ii. to receive from the committee reports on the activities of the Association during the last preceding financial year;
  - iii. to elect office-bearers of the Association and ordinary members of the Committee;
  - iv. to receive and consider a statement which is not misleading and which gives a true and fair view of the following:
    - 1. the income and expenditure of the Association during its last financial year,
    - 2. the assets and liabilities of the Association at the end of its last financial year,
    - 3. the mortgages, charges and other securities of any description affecting any of the property of the Association at the end of its last financial year.
- c. An annual general meeting must be specified as such in the notice convening it.

### **29. Special General Meetings – Calling Of**

- a. The Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- b. The Committee must, on the requisition in writing of at least five per cent of the total number of members, convene a special general meeting of the Association.
- c. A requisition of members for a special general meeting:
  - i. must state the purpose or purposes of the meeting; and
  - ii. must be signed by the members making the requisition; and
  - iii. must be lodged with the Secretary; and

- iv. may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- d. If the Committee fails to convene a special general meeting to be held within one month after that date on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than three months after that date.
- e. A special general meeting convened by a member or members as referred to in Clause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee, and any member who consequently incurs expense is entitled to be reimbursed by the Association for any expense so incurred.

### **30. Notice**

- a. Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause to be sent by pre-paid post to each member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- b. If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each member in the manner provided in Clause (1) specifying, in addition to the matter required under Clause (1), the intention to propose the resolution as a special resolution.
- c. No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 25 (2).
- d. A member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary, who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **31. Procedure**

- a. No item of business is to be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- b. Five members or five per cent of the members of the Association present in person (being members entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- c. If, within half an hour after the appointed time for the commencement of a general meeting, a quorum is not present, the meeting:
  - i. if convened on the requisition of members, is to be dissolved; and
  - ii. in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members -given before the day to which the meeting is adjourned) at the same place.
- d. If, at the adjourned meeting, a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least three) is to constitute a quorum.

### **32. Presiding Member**

- a. The President or, in the President's absence, the Treasurer is to preside as chairperson at each general meeting of the Association.
- b. If the President and the Treasurer are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

### **33. Adjournment**

- a. The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- b. If a general meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- c. Except as provided in clauses (1) and (2), a notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

### **34. Making of Decisions**

- a. A question arising at a general meeting of the Association is to be determined on a show of hands and, unless before or on the declaration of the show of hands, a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- b. At a general meeting of the Association, a poll may be demanded by the chairperson or by at least three members present in person or by proxy at the meeting.
- c. If a poll is demanded at a general meeting, the poll must be taken:
  - i. immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment;
  - ii. or in any other case, in such manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

### **35. Special Resolution**

A resolution of the Association is a special resolution if it is passed by a majority that comprises at least three-quarters of such members of the Association as being entitled under these rules so to do, vote in person or by proxy at a general meeting of which at least 21 days written notice specifying the intention to propose the resolution as a special resolution was given in accordance with these rules.

### **36. Voting**

- a. On any question arising at a general meeting of the Association, a member has one vote only.
- b. In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- c. A member or proxy is not entitled to vote at any general meeting of the Association unless all money due and payable by the member or proxy to the Association has been paid.

- d. No member may hold more than two to five proxies.

### **37. Appointment of Proxies**

- a. Each member is to be entitled to appoint another member as proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- b. The notice appointing the proxy is to be in the form set out in Appendix 2 to these rules.

## **PART FIVE – MISCELLANEOUS**

### **38. Insurance**

- a. The Association must effect and maintain insurance as required under the Act.
- b. In addition to the insurance required under clause (1), the Association may effect and maintain other insurance.

### **39. Funds – Source**

- a. The funds of the Association are to be derived from membership fees, donations and, subject to any resolution passed by the Association in general meeting, such other sources as the Committee determines.
- b. All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- c. The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **40. Funds Management**

- a. Subject to any resolution passed by the Association in a general meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Committee determines.
- b. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two members of the Committee or employees of the Association, being members or employees authorised to do so by the Committee.

### **41. Public Fund**

- a. Community Radio 104.1 CHY FM Inc has established and will maintain a Public Fund in Australia to receive tax-deductible gifts and contributions. A public fund is separate from the bank account for operations and administration.
- b. The Public Fund is to be promoted to receive public donations, and the public will be invited to contribute to this fund.
- c. Donations will be deposited into the Public Fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the organisation and will only be used to further the principal purpose of the Association. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the ATO.
- d. The fund will be administered by a management committee or a subcommittee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of Community Radio 104.1 CHY FM Inc.
- e. No monies/assets in this fund will be distributed to members or office bearers of the organisation except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.

- f. The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the Public Fund to assess the effect of any amendments on the Public Fund's continuing Deductible Gift recipient status.
- g. Receipts for gifts to the Public fund must state:
  - i. The name of the Public Fund and that the receipt is a gift made to the public fund
  - ii. The Australian Business Number of the organisation
  - iii. The fact that the receipt is for a gift, and
  - iv. Any other matter required to include on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.
- h. If the organisation is wound up or its endorsement as a Deductible Gift Recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which tax-deductible gifts can be made:
  - i. Gifts of money or property for the principal purpose of the organisations
  - ii. Contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation
  - iii. Money is received by the organisation because of such gifts and contributions.
- i. The assets and income of the organisation shall be applied solely to further its objectives, and no portion shall be distributed directly or indirectly to the member of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation.
- j. The organisation must comply with any rules that the treasury Minister and the Minister for the Arts make to ensure that gifts made to the Public Fund will only be used for the company's principal purpose.
- k. The organisation must provide to the department responsible for the administration of the Register of Cultural Organisations statistical information on the gifts made to the Public Fund every six months.

#### **42. Alteration of Objects and Rules**

The statement of objects and these rules may be altered, rescinded or added to only by a special resolution of the Association.

#### **43. Custody of Books**

Except as otherwise provided by these rules, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the Association.

#### **44. Inspection of Books**

The records, books and other documents of the Association must be open to inspection, free of charge, by a member of the Association at any reasonable hour.

#### **45. Service of Notices**

- a. For the purpose of these rules, a notice may be served by or on behalf of the Association on any member either personally or by sending it by post to the member at the member's address shown in the register of members.
- b. If a document is sent to a person by properly addressing, pre-paying and posting to the person a letter containing the document, the document is, unless the contrary is proved, taken for the purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post.

#### **46. Winding Up**

The Association shall be wound up if a resolution to that effect is carried by a vote of a three-quarter majority of the financial members present at a general meeting convened to consider the resolution.

#### **47. Distribution of Surplus Assets**

If the Association is to be wound up, and there remains surplus assets after satisfaction of all its debts and liabilities, the same shall not be paid to or distributed among the members of the Association but shall be transferred to an institution having objects similar to the objects of the Association. A suitable institution will be determined by the members of the Association

#### **NOTES – COMMON SEAL**

A company may have a common seal and use it to execute documents under its constitution. It's not compulsory for a company to have a common seal. If a company does have a common seal, it must include the company's name, the expression 'Australian Company Number' and the company's ACN, or if the company uses its ABN instead of the ACN -the company's name, the expression 'Australian Business Number' and the company's ABN. Note that ASIC does not issue common seals.

**APPENDIX 1**  
(Rule 3 (1))

**APPLICATION FOR MEMBERSHIP OF ASSOCIATION**

I, \_\_\_\_\_ (full name of applicant) of  
\_\_\_\_\_ (address), hereby apply to  
become a member of the above-named incorporated Association. In the event of my  
admission as a member, I agree to be bound by the rules of the Association for the time  
being in force.

Signature of applicant \_\_\_\_\_ Date \_\_\_\_\_

**FORM OF APPOINTMENT OF PROXY**

I, \_\_\_\_\_ (full name) of  
\_\_\_\_\_ (address), being a member  
of \_\_\_\_\_ (name of Association), hereby appoint  
\_\_\_\_\_ (full name of proxy) of  
\_\_\_\_\_ (address), being a member  
of that incorporated Association, as my proxy to vote for me on my behalf at the general  
meeting of the Association (annual general meeting or special general meeting, as the  
case may be) to be held on the \_\_\_\_\_ day of 20\_\_\_\_ and at any adjournment of that  
meeting.

Signature of member appointing proxy \_\_\_\_\_

Date \_\_\_\_\_

*NOTE: A proxy vote may not be given to a person who is not a member of the Association.*