

CONSTITUTION

PENRITH / ST MARYS
LIQUOR ACCORD

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1. Nature and name of the accord

The name of the accord is 'Penrith / St Marys Liquor Accord' (the accord). The accord is a liquor accord constituted in accordance with section 135 of the *Liquor Act 2007*.

2. Objects of the accord

The objects of the accord are to prevent / reduce alcohol related harm / crime by:

- responsible service of alcohol
- minimise alcohol related harm/crime
- improve safety and security
- improve the local amenity, and
- co-operating with the police and the community to improve local outcomes.
- education and training

3. Definition of members

The members of the Penrith/St Marys Liquor Accord will be the persons who have been or are admitted to membership of the accord in accordance with this constitution. To be a member you must have financial membership status to vote at Accord Meetings.

4. Membership application and admission

The application for membership must be from a liquor license holder and be made via the application form. Membership is per licensed premises, only one member per license is permitted.

On acceptance as a member, the secretary will give the applicant for membership a:

- a. written notice of acceptance, and

5. Class of membership

The classes of membership of the accord are as follows:

- i. licence holders:
 - a. hotel licence
 - b. club licence
 - c. on-premises licence
 - d. packaged liquor licence
 - e. producer/wholesaler licence
 - f. limited licence
- ii. community groups/business organisations that have an interest in alcohol related harm or the local amenity (must provide evidence).
- iii. Government agencies:
 - a. Liquor and Gaming, NSW
 - b. Penrith City Council
 - c. NSW Police
 - d. Roads and Traffic Authority
 - e. Penrith/St Marys CDAT
 - f. NSW Department of Health

- g. Ministry of Transport
- h. Attorney General's Department
- i. SLED

Community & Government Agencies are classed as visitors & advisers; as such they carry no voting rights

6. Annual subscriptions and levies

There will be an annual general fee of **\$150.00** for all accord members. If a special project is required to be funded an additional fee will be sought from the membership to a maximum of \$250.00 per member.

The Membership Term will be 1 year The Membership Calendar will be between the 1st of January to the 31st of December each year. Membership Fees/Dues will be due by the 15th of December (depending on the membership term).

7. Penalties, expulsion and rights of appeal

The executive committee has power to inquire into any possible breach or non-observance of the constitution, and any other matter which may be prejudicial to or affect the well being of the accord and its members.

The accord may report any breaches of the constitution and principles document to Liquor and Gaming, NSW and/or police for investigation.

8. Register and addresses of members

The secretary must ensure that the accord maintains an appropriate form and register of members setting out the name, address, telephone number and email address of each member of the accord.

Every member must communicate in writing his or her change of address and other particulars required by the executive.

9. Members eligible for office and to vote

Only current financial members will be entitled to be elected as the chairperson of the accord.

Every licensee member (or nominated representative) will be entitled to be elected as Chairperson, Secretary and Treasurer of the Accord.

Voting will be conducted by the Executive Committee and will be bearing on the Liquor Accord Members. The Executive Committee will take advice & direction from the membership.

Members of the Executive Committee are entitled to one vote each; in the event of a locked vote the Chairperson will have the casting vote.

10. Members Liability

The liability of the member of the accord to contribute towards payments of debts and liabilities of the accord or the costs, charges and expenses of winding up of the accord is

limited to the amount, if any, unpaid by the member in respect of membership of the accord.

11. Resolution of Disputes

- a. A dispute between a member and another member (in their capacity of members) of the accord, or a dispute between a member or members and the accord, are to be referred to a community justice centre for mediation under the Community Justice Centre Act 1983;
- b. If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration;
- c. The Commercial Arbitration Act 1984 applies to any such dispute referred to Arbitration.

12. Disciplining of Members

1. A complaint may be made to the Executive Committee by any person that a member of the accord:
 - a. Has refused or neglected to comply with a provision or provisions of this Constitution, or
 - b. Has wilfully acted in a manner prejudicial to the interests of the accord.
2. The executive committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
3. If the executive committee decides to deal with the complaint, the executive committee:
 - a. must cause notice of the complaint to be served on the member concerned, and
 - b. must give the member at least 14 days from the time the notice is served within which to make submissions to the executive committee in connection with the complaint, and
 - c. must take into consideration any submissions made by the member in connection with the complaint.
4. The executive may, by resolution, expel the member from the accord or suspend the member from membership of the accord 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 and the expulsion or suspension is warranted in the circumstances.
5. If the executive committee expels or suspends a member, the secretary, must within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the executive committee for having taken that action and of the members' right of appeal under clause 13.
6. The expulsion or suspension does not take effect:
 - a. until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - b. if within that period the member exercises the right of appeal, unless and until the accord confirms the resolution under clause 13, whichever is the later.

13. Right of Appeal of Disciplined Member

A member may appeal to the accord in general meeting against a resolution of the executive committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.

The notice may, but need not, be accompanied by a statement of the grounds on which the members intends to rely for the purposes of the appeal.

On receipt of a notice from a member under subclause (1), the secretary must notify the executive committee which is to convene a general meetings of the accord to be held within 28 days after the date on which the secretary received the notice.

At a general meeting of the accord convened under sub clause (3):

- a. no business other than the question of the appeal is to be transacted, and
- b. the executive committee and the members must be given the opportunity to state their respective cases orally or in writing, or both, and
- c. the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

The appeal is to be determined by a simple majority of votes cast by members of the accord.

14. Executive Committee of the accord

Membership of the Executive Committee will be made up of the following representing membership groups:

A representation of 8 Members from the Penrith / St Marys LGA with a minimum of:

- 1 representing Club Licence Classification
- 1 representing Hotel Licence
- 1 representing Packaged Liquor Licence
- 1 representing On Premise Licence Classification

The officers of the accord will be elected from the Executive Committee, they will be:

- Chairperson
- Secretary
- Treasurer

15. Executive of Management

The executive committee (in this constitution referred to as the executive committee) will be constituted by the officers of the accord (as provided in clause 15) to carry out the duties and vote on resolutions required.

16. Election of Officers

1. Nominations of candidates for election as office-bearers of the accord or as ordinary executive committee members:
 - a. must be made in writing, signed by 2 members of the accord and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and

- b. must be delivered to the secretary of the accord before the date fixed for the holding of the annual general meeting at which the election is to take place.
2. If insufficient nominations are received to fill all vacancies on the executive committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
3. If insufficient further nominations are received, any vacant positions remaining on the executive committee are taken to be casual vacancies.
4. If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
5. If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
6. The ballot for the election of office-bearers of the executive committee is to be conducted at the annual general meeting in such usual and proper manner as the executive committee may direct.

Election of the Executive Committee is made from the members of the accord. Executive committee members representative of their sector can only be nominated by their sector members (ie. a club member can only nominate and vote for a club member from the Executive Committee).

17. Terms of Office

The Executive Committee of the accord will hold office for a period of two years commencing from the conclusion at the annual general meeting at which they are elected. Office holders can resign from their positions at any meeting but must submit their resignation in writing to the Secretary. A bi-election will be held during the meeting in which the resignation was tendered to elect the new office holder.

18. Chairperson accord meetings

The Chairperson or in his or her absence, any member of the Executive Committee will be the chairperson of meetings of the accord. If the Secretary is absent from the meeting a member will be appointed to take minutes.

19. Voting in accord meetings

All questions arising at any meeting of the accord will be decided by a majority of votes from the Executive Committee.

For a resolution to be carried it will be decided by a majority of votes from Committee Members.

20. Proxy Votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting or an executive committee meeting.

21. Postal ballots not permitted

Postal voting will not be undertaken at or in respect of a general meeting or an executive committee meeting.

22. Powers of the Executive Committee

Subject to the Act (Associations Incorporated Act 2009), the Regulation and this constitution and to any resolution passed by the accord in general meeting, the Executive Committee:

- a. is to control and manage the affairs of the accord, and
- b. may exercise all such functions as may be exercised by the accord, other than those functions that are required by this constitution to be exercised by a general meeting of members of the accord, and
- c. has power to perform all such acts and do all such things as appear to the executive committee to be necessary or desirable for the proper management of the affairs of the accord.

23. Duties of the Chairperson – Public Officer

1. The Chairperson of the accord must, as soon as practical after being appointed as Chairperson, lodge notice with the accord of his or her address.
2. It is the duty of the Chairperson to keep minutes of:
 - a. all appointments of office bearers and members of the executive committee;
 - b. the names of members of the executive committee present at a executive committee meeting or a general meeting, and
 - c. all proceedings at executive committee meetings and general meetings.
3. Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

24. Duties of the Treasurer

It is the duty of the treasurer of the accord to ensure:

- a. that all money due to the accord is collected and received and that all payments authorised by the accord are made, and
- b. that the correct books and accounts are kept showing the financial affairs of the accord, including full details of all receipts and expenditure connect with the activities of the accord.
- c. all relevant books and cheque books as well as financial statements will be kept and maintained by the Treasurer.

25. Minutes

Minutes of all resolutions and proceedings of all meetings of the accord must be sent to all members.

26. General Meetings

An annual general meeting of the accord will be held in November

27. Accord meetings

Accord meetings will be held on the third Tuesday of every March, July, November otherwise unless urgent business is decided by the Chairperson.

28. Casual Vacancies

1. In the event of a casual vacancy occurring in the membership of the executive committee, the executive committee may appoint a member of the accord to fill the vacancy and the members so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
2. A casual vacancy in the office of a member of the executive committee occur if the member;
 - a. dies, or
 - b. ceases to be a member of the accord, or
 - c. becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
 - d. resigns office by notice in writing given to the secretary, or
 - e. is removed from office, or
 - f. becomes a mentally incapacitated person, or
 - g. is absent without the consent of the executive committee from 3 consecutive meetings of the executive committee, or
 - h. is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
 - i. is prohibited from being a director of a company under Part 2D.6 of the Corporations Act 2001 of the Commonwealth.

29. Removal of executive committee members

1. The accord in a general meeting may by resolution remove any member of the executive 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.
2. If a member of the executive committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or Chairman (not exceeding a reasonable length), and requests that the representations be notified to the members of the accord, the secretary or chairperson may send a copy of the representations to each member of the accord 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.

30. Executive Committee meetings and quorum

1. The executive committee must meet at least 3 times in each period of 12 months.
2. Additional meetings of the executive committee may be convened by the chairperson or by any member of the executive committee.
3. Oral or written notice of a meeting of the executive committee must be given by the secretary to each member of the executive committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the executive committee) before the time appointed for the holding of the meeting.
4. Notice of a meeting is given under subclause (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 executive committee members present at the meeting unanimously agree to treat as urgent business.
5. Any 3 members of the executive committee constitute a quorum for the transaction of the business of a meeting of the executive committee.

6. No business is to be transacted by the executive 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.
7. 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.
8. At a meeting of the executive committee:
 - a. the Chairperson or, in the Chairperson's absence a appointed committee member is to preside, or
 - b. if the Chairperson and the Secretary are absent or unwilling to act, such one of the remaining members of the executive committee as may be chosen by the members present the meeting is to preside.

31. Notice of meetings

A notice of the annual and normal accord meetings must:

1. Set out the place, date and time for the meeting
2. State the general nature of the business to be transacted at the meeting
3. if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolutions and state the resolution.
4. the secretary will write to all members before the meeting asking for agenda items, and
5. a week's notice must be given for the annual general meeting.

32. Proceedings at general meetings and accord meetings

No business may be transacted at any general meeting/accord meeting unless a quorum of members is present at the time when the meeting proceeds to business.

No resolutions may be passed at any general meeting unless a quorum of members is present at them time when the resolution is put to the vote of the meeting.

Save as otherwise provided in this constitution, five members constitute a quorum.

If within half an hour from the time appointed by the general meeting a quorum is not present, the general meeting, an accord meeting if convened upon the requisition of members is dissolved. In any other case it stands adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the board may determine. If at the adjourned meeting a quorum is not present within half an hour form the time appointed for the meeting, the members present constitute a quorum.

33. Funds Management

1. Subject to any resolution passed by the accord in general meeting, the funds of the accord are to be used in pursuance of the objects of the accord in such manner as the executive determines.
2. All cheques, drafts, bills of exchange and other negotiable instruments must be signed by any 2 members of the executive committee or employees of the accord, being members or employees authorised to do so by the executive committee.

34. Change of name, objects and constitution

An application to the Director-General for registration for a change in the accord's name, objects or constitution in accordance with Section 10 of the Act is to be made by the public officer or an executive committee member.

35. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her customer or under his or her control all records, books and other documents relating to the accord.

36. Inspection of books

1. The following documents must be open for inspection, free of charge by a member of the accord at any reasonable hour:
 - a. records, books and other financial documents of the accord,
 - b. this constitution,
 - c. minutes of all executive committee meetings and general meetings of the accord.
2. A member of the accord may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of no more than \$1 for each page copied.

37. Voting for Executive Committee Positions

These positions are to be voted for by the membership. Members are able to nominate and vote for representatives within their category. A show of hands will be sufficient to satisfy voting, if the numbers are too close then a representative will be chosen to count to finalise the voting.

Members must have attended 3 out of the last 4 meetings to be eligible to nominate, be nominated and vote.

38. Changes to constitution

Changes to the constitution can be recommended by any member to be taken to the executive committee meeting.

39. Attending meetings

You must be a member of the accord to attend meetings. Invited guests can attend meetings.