



Constitution of The New South Wales Council for Intellectual Disability

(ACN 001 318 967)

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1. Recital

The name of the company is The New South Wales Council for Intellectual Disability (the “**Council**”).

2. Interpretation

2.1 Replaceable Rules Not to Apply

Each of the provisions of the sections or sub-sections of the Act which would but for this clause apply to the Council as a replaceable rule, are displaced and do not apply to the Council.

2.2 In this Constitution:

Act means the *Corporations Act 2001* as amended from time to time or as applied by the appropriate corresponding legislation of any Australian state or territory;

Auditor means a person appointed from time to time in accordance with clause 20.2;

Board means the Board of the Council constituted in accordance with the provisions of this Constitution;

Chair means a person appointed for the time being in accordance with clause 13.7;

Constitution means this Constitution as amended from time to time;

Constitutional Objects or **Objects** means the Objects of the Council set out in clause 3 of this Constitution;

Council means The New South Wales Council for Intellectual Disability or any other name the Council may have from time to time;

Director means a member of the Board elected or appointed in accordance with clause 13;

General Meeting has the meaning given in accordance with clause 10.1;

Individual Member means a Member appointed in accordance with clause 6.1(b);

Legal Capacity means the capacity to enter into legally binding obligations and perform duties and exercise responsibilities in accordance with the requirements of the law;

Meeting Chairperson means a person appointed for the time being in accordance with clause 11.6;

Member means a person for the time being entered in the Register of Members as a member of the Council;

Month means a calendar month;

Office means the registered office for the time being of the Council;

Officer means a person appointed for the time being to perform the duties of a Secretary, Treasurer or Auditor of the Council;

Organisational Member means a Member appointed in accordance with clause 6.1(a);

Register of Members or **Register** means the register of Members kept pursuant to the Act;

Returning Officer means a person appointed for the time being in accordance with clause 11.14 and as referred to in clause 13.6(c);

Secretary means a person appointed for the time being to perform the duties of a Secretary of the Council and includes an Honorary Secretary appointed in accordance with clause 18.2;

State means the State of New South Wales;

Treasurer means a person appointed for the time being in accordance with clause 17; and

Vice Chair means a person appointed for the time being with the duties in accordance with clause 13.3.

2.3 Unless the contrary intention appears in this Constitution:

- (a) Part 1.2 Division 8 of the Act applies, so far as it can with such changes as are necessary, to this Constitution as if this Constitution was a provision of the Act;
- (b) an expression in a clause that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act;
- (c) words (including defined expressions) importing the singular include the plural and vice versa;
- (d) words (including defined expressions) importing any gender include the other genders;
- (e) words (including defined expressions) importing persons shall include corporations and bodies politic;
- (f) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);

- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes telegram, electronic mail and facsimile transmission;
- (h) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month; and
- (i) references to this Constitution include its schedules and annexures.

2.4 Headings

Headings to not effect the interpretation of this Constitution.

3. Constitutional Principles and Objects

3.1 The Council is established to take action as the peak advisory, consultative and co-ordinating organisation which promotes and protects the rights, needs and interests of people with intellectual disabilities.

3.2 The Council will work to ensure that the following principles are complied with in:

- (a) its own activities as identified in the Objects that follow;
- (b) the activities of its Members; and
- (c) the activities of all other organisations or individuals who provide services and support to people with intellectual disabilities.

3.3 The principles which the Council is resolved to abide by in carrying out its Objects are:

- (a) persons with disabilities are individuals who have the inherent right to respect for their human worth and dignity;
- (b) persons with disabilities have the right to live in and be part of the community;
- (c) persons with disabilities have the right to realise their individual capacities for physical, social, emotional and intellectual development;
- (d) persons with disabilities have the same rights as other members of Australian society to services and community support which will support them attaining a reasonable quality of life;
- (e) persons with disabilities have the same right to choose their own lifestyle and have access to information, provided in a manner appropriate to their disability and cultural background, necessary to allow informed choice;
- (f) persons with disabilities have the same right as other members of Australian society to make the decisions which affect their lives and to have access to information and support to make those decisions;

- (g) persons with disabilities receiving services have the same rights as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities;
- (h) persons with disabilities have the same right to pursue any grievance in relation to services without fear of retribution;
- (i) persons with disabilities have the right to protection from neglect, abuse and exploitation;
- (j) persons with disabilities have the right to support which allows the maintenance of their family unit and their informal networks of support;
- (k) persons with disabilities have the right to access all forms of advocacy to assist them (if required) to make the decisions which affect their lives and that all advocacy is undertaken with a minimum of conflict of interest; and
- (l) children with a disability have the right to be supported in an appropriate family setting, the right to respect for their evolving capacity for independence and the right to any guidance they may need.

3.4 The Objects for which the Council is established are:

- (a) to provide information and promote community understanding of the needs and rights of people with intellectual disabilities;
- (b) to work for the improvement of resources, services, support and opportunities to enable people with intellectual disabilities to achieve their maximum potential;
- (c) to undertake social advocacy in accordance with the following principles:
 - (i) advocacy has a clear value base of full inclusion of people with disabilities as contributing/participating members of the community;
 - (ii) advocacy promotes and protects the human identity and rights, developmental growth potential and citizenship of people with a disability;
 - (iii) advocacy is on the side of the disadvantaged party;
 - (iv) advocacy remains loyal and accountable to the disadvantaged party over the long term where necessary;
 - (v) advocacy must minimise conflict of interest; and
 - (vi) advocacy is distinct and independent of all other parties with vested interests;
- (d) to speak out and work for the empowerment of people with intellectual disabilities to make decisions which affect their lives;
- (e) to establish and maintain mechanisms which enable people with intellectual disabilities to participate in the affairs of the Council and the issues it addresses;
- (f) to support advocates who seek to represent the interests and needs of people with intellectual disabilities where their advocacy is in accord with the principles and Objects of the Council's Constitution and policies;

- (g) to work to ensure that people with intellectual disabilities and their advocates, have the right to participate in the planning, development, implementation, monitoring and evaluation of services and support they receive;
- (h) to collect, interchange and distribute positive information that enhances choice, values, competence, respect and community membership for people with intellectual disabilities within the wider community;
- (i) to encourage and foster investigations into the factors which contribute to the incidence of intellectual disability and/or reduce the quality of life of persons with intellectual disabilities;
- (j) to encourage and foster the provision of innovative programs, support and services which will improve the quality of life of people with intellectual disabilities in accordance with the principles and Objects of the Council;
- (k) to work to ensure that organisations and individuals who provide services and support to people with intellectual disabilities, maintain a close and personal knowledge of people and their needs as individuals, and as constituents, to enable them to achieve the maximum degree of self-determination possible, and to recognise and actively support the principle that their families and informal networks are very important in their lives;
- (l) to work to ensure that services and support provided to people with intellectual disabilities:
 - (i) further the participation of persons with intellectual disabilities in the community and complement services available generally to persons in the community;
 - (ii) enable persons with intellectual disabilities to achieve positive outcomes such as increased independence, employment, and integration in the community; and
 - (iii) are provided in ways that promote in the community a positive image and enhance their self esteem;
- (m) to work to ensure that the inclusion and participation of a person with intellectual disabilities in the community occurs in every aspect of their lives;
- (n) to work to ensure that the outcomes achieved by persons with intellectual disabilities are taken into account;
- (o) to encourage innovation by governments and organisations in the provision of services and support they deliver;
- (p) to subscribe to, become a member of and co-operate with any other council, association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Council, provided that the Council shall not subscribe to or support with its funds any council, association or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Council under or by virtue of clause 4 of this Constitution;
- (q) in furtherance of the objects of the Council to buy, sell and deal in all kinds of apparatus and all kinds of provisions, liquid and solid, required by the members of the Council or persons frequenting the Council's office;

- (r) to purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with, any of the Objects of the Council. Provided that in the case that the Council shall take or hold any property which may be subject to any trusts the Council shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (s) to enter into any arrangement with any government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Council's Objects or any of them and to obtain from any such government or authority any rights, privileges and concessions which the Council may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (t) to appoint, employ, remove or suspend such executive officers, managers, clerks, secretaries, and other persons as may be necessary or convenient for the purposes of the Council;
- (u) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Council or the dependents or connections of any such persons and to grant pensions and allowances, and to make payment towards insurance, and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;
- (v) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Council's interests, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
- (w) to invest and deal with the money of the Council not immediately required in such manner as may be permitted by law for the investment of trust funds;
- (x) to borrow or raise or secure the payment of money in such manner as the Council may think fit and to secure the same or the repayment or performance of any debt liability, contract, guarantee or other engagement incurred or to be entered into by the Council in any way and in particular by the issue of debentures perpetual (both present and future), and to purchase, redeem or pay off any such securities;
- (y) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (z) in furtherance of the Objects of the Council to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Council;
- (aa) to take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Council's property of whatsoever kind sold by the Council, or money due to the Council from purchasers and others;
- (bb) to take any gift of property whether subject to any special trust or not, for any one or more of the Objects of the Council but subject always to the proviso in paragraph (r) of this clause 3.4;

- (cc) to take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Council, in the shape of donations, annual subscriptions or otherwise and that such appeals present positively and honestly the image of people with intellectual disabilities;
- (dd) to print, publish and/or market any newspapers, periodicals, books, leaflets or information in any other form that the Council may think desirable for the promotion of its Objects;
- (ee) in furtherance of the Objects of the Council, to amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Council and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as that imposed upon the Council under or by virtue of clause 4 of this Constitution;
- (ff) in furtherance of the Objects of the Council, to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Council is authorised to amalgamate; and
- (gg) to do all such other things as are incidental or conducive to the attainment of the Objects and the exercise of the powers of the Council.

4. Distribution and Use of Income for Objects Only

- (a) The income and property of the Council, however derived, shall be applied solely towards the promotion of the Objects of the Council as provided in this Constitution.
- (b) Board members are able to undertake paid work as individuals, not employees of the Council. A record of each instance is to be registered by the Executive Director.
- (c) No member of the Board or other governing body of the Council shall be appointed to any salaried office of the Council, or any office of the Council paid by fees.
- (d) Only out-of-pocket expenses directly relating to carrying out approved Board duties will be reimbursed to Directors.

- 4.1 Where the Council takes or holds any property under trust, the Council will deal with it in such manner as allowed by the law having regard to such trusts.

5. Liability of Members

The liability of Organisation Members is limited to \$50. The liability of Individual Members is \$1. Members

6. Membership

- 6.1 The Council shall consist of:

- (a) Organisation Members who shall be organisations and/or branches of such organisations whose objects and principles and practices are acceptable to and in accord with the principles and Objects of the Council; and
 - (b) Individual Members who shall be persons who formally subscribe to and who desire to assist in attaining the principles and Objects of the Council.
- 6.2 The number of Members with which the Council proposes to be registered is two thousand (2000) but the Board may from time to time register an increase of numbers.
- 6.3 Every applicant for membership of the Council shall be proposed by one and seconded by another Member of the Council. The application for membership shall be made in writing, signed by the applicant, the proposer and seconder and shall be in such form as the Board from time to time prescribes.
- 6.4 Every person applying for membership will pay the entrance fee and/or annual subscription and other fees and charges as prescribed by the Board from time to time and will agree if elected to membership to pay such annual subscriptions and other fees and charges when required.
- 6.5 The Board may reject any application for membership without assigning any reason for such rejection, in which event the applicant will be advised in writing and the entrance fee and/or annual subscription submitted with the application form will be immediately refunded. The Board will consider no new application by a rejected applicant within twelve months of the date of rejection.
- 6.6 The Secretary will give successful applicants written notice of his, her or its election.
- 6.7 The rights and privileges of membership are not transferable and will cease with the cessation of membership.
- 6.8 At the beginning of each year, each Organisation Member may appoint and name one delegate to represent it at General Meetings. The delegate shall have one vote on any matter brought forward in any General Meeting.
- 6.9 Each Individual Member shall have one vote on any matter brought forward in any General Meeting.
- 6.10 All annual subscriptions shall become due and payable on the first day of July in every year.
- 6.11 The Board may appoint any person as a Honorary Life Member of the Council with the status of Individual Member.

7. Membership Fees and Annual Subscriptions

- 7.1 The amount, manner and time of paying the membership fees and/or annual subscriptions and other charges payable by Members will be such as the Board from time to time determines.
- 7.2 If any Member defaults in the payment of any fee or subscription or any instalment thereof,

the Member concerned will be notified of the default in writing by the Secretary and if the sum remains unpaid for a further 14 days after the date of issue of the notice, the Board may by resolution suspend the Member from all privileges of membership and/or remove his, her or its name from the Register. The provisions of clause 8.2 will not apply to any such resolution. A Member will be deemed to be in default for the payment of his, her or its annual subscription 2 months after the due date of payment of the subscription without notice being issued. Despite the foregoing, the Board may reinstate the Member and restore their name to the Register on payment of all subscription arrears if the Board thinks it fit to do so.

- 7.3 The Board has discretionary power to reduce or waive the entrance fee charged to any Member due to special circumstances, and may determine various types of fee structures for different Members or services as the Board from time to time considers fit.

8. Cessation of Membership

- 8.1 A Member may at any time by giving written notice to the Secretary, resign his, her or its membership of the Council, but will continue to be liable for all arrears due and unpaid at the date of receipt of his, her or its resignation and for any sum for which he, she or it is liable in accordance with clause 21.

- 8.2 The Board may pass a resolution to terminate a Member's membership if the Member:

- (a) refuses or neglects to comply with the provisions of this Constitution; or
- (b) is guilty of conduct unbecoming of a Member or prejudicial to the interests of the Council,

provided:

- (a) that at least 14 days before the meeting at which the resolution is to be submitted, the Member concerned is notified in writing and requested to be present at the meeting;
- (b) that before the resolution is passed the Member has an opportunity of giving orally or in writing any explanation or defence he, she or it thinks fit; and
- (c) that 14 days written notice of the meeting is given to the Directors and that the notice identifies which Member's membership is to be considered.

- 8.3 Any Member so expelled will forfeit the unexpired portion of his, her or its subscription.

9. Register of Members

The Secretary must establish and maintain a Register of Members which specifies the name, address and class of membership of each Member and records the date of the latest payment by each Member of his, her or its subscription.

10. Meetings

- 10.1 An Annual General Meeting of the Council will be held at least once a year and within 5 months after the end of the Council's financial year. All meetings other than the Annual

General Meetings will be called General Meetings.

- 10.2 General Meetings may be called by the Board, or on the request of at least 10% of the Members entitled to vote, provided the request is in writing, states any resolutions to be proposed at the meeting and is signed by the requisitionists and deposited at the Office of the Council. The Board must call a General Meeting within 21 days after the request is deposited at the Office of the Council.
- 10.3 A notice of General Meeting must:
- (a) give a minimum of 21 days notice, not including the day on which the notice is served, but including the day of the meeting;
 - (b) specify the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this) and
 - (c) state the general nature of the business to be transacted.
- 10.4 For the purposes of clause 10.3(b), a notice of General Meeting need not specify consideration of the accounts, balance sheets or the report of the Board and Auditors, the election of Directors or the appointment and remuneration of Auditors.
- 10.5 The accidental omission to give notice to any Member will not invalidate any resolutions passed at a meeting.
- 10.6 In addition to Annual General Meetings and General Meetings, the Council may hold such other informal meetings at regular intervals for the entertainment of Members and visitors. Such meetings will not be subject to the normal provisions relating to General Meetings, and no resolutions relating to the Council's operation will be allowed. The Board may establish rules for the conduct of these meetings as it sees fit.

11. Proceedings of General Meetings

- 11.1 No business will be transacted at any General Meeting unless a quorum of Members is present at the commencement of such business. 10 Members present will be a quorum for the purpose of choosing a meeting chairperson or adjourning the meeting. For all other purposes, the quorum will be one tenth of the number of Members recorded in the Register of Members.
- 11.2 The company may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 11.3 Anyone using this technology is taken to be present in person at the meeting.
- 11.4 For the purposes of this clause, "Member" includes a person attending as proxy or delegate of an Organisation Member.
- 11.5 If within 30 minutes from the time appointed for the meeting a quorum is not present:
- (a) the meeting, if convened upon the requisition of Members, will be dissolved;

- (b) in any other case, the meeting will stand adjourned to such other day, time and place as the Board may determine; and
 - (c) if at the adjourned meeting, a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present (being not less than a quorum of the Board plus two ordinary Members) will be a quorum and may transact the business for which the meeting was called.
- 11.6 The Chair of the Council will preside as Meeting Chairperson of every General Meeting. If at any meeting the Chair is not present within 15 minutes after the time appointed for holding the meeting, or he or she is unwilling to act, a Vice Chair will preside as Meeting Chairperson. If a Vice Chair is not present at the meeting, or he or she is unwilling to act, the Members may elect one of their number to be Meeting Chairperson.
- 11.7 The Meeting Chairperson may, when so directed by the meeting at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business will be transacted at the adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 11.8 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in accordance with 10.3.
- 11.9 The Council may amend, modify or repeal this Constitution by special resolution of the Members, being at least 75% of the votes cast at a General or Annual General Meeting.
- 11.10 On a show of hands, a declaration by the Meeting Chairperson is conclusive evidence of the result of a vote. Neither the Meeting Chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 11.11 At any General Meeting, a resolution put to the vote will be decided on a show of hands, unless a poll is demanded by:
- (a) the Meeting Chairperson; or
 - (b) at least five Members present in person or by proxy.
- 11.12 A poll will not prevent the continuation of a meeting for the transaction of business other than the question on which a poll has been demanded.
- 11.13 If a poll is demanded, it will be taken by ballot or otherwise as the Meeting Chairperson directs, but a poll demanded on the election of the Meeting Chairperson or on a question of adjournment shall be taken forthwith.
- 11.14 The Board may appoint a Member to act as Returning Officer if a ballot is necessary. Such Member may be a Director, but must not be one of the candidates involved in the ballot.
- 11.15 In the case of an equality of votes, the question will be resolved in the negative.
- 11.16 Members will not be entitled to vote at meetings unless all their membership fees and subscriptions have been paid.

11.17 A delegate of an Organisation Member or an Individual Member who lacks Legal Capacity may vote, whether on a show of hands or on a poll by his/her Committee or by his/her trustees or by such other person as properly has the management of his/her estate, and any such committee, trustee or other person may vote by proxy or attorney.

12. Proxies

12.1 The instrument appointing a proxy will be in the prescribed form and signed by the Member making the appointment, or his, her or its duly appointed attorney. A proxy need not be a Member of the Council.

12.2 The instrument appointing a proxy may be in the following form, or any other form the Board approves:

The New South Wales Council of Intellectual Disability

I _____, of _____
 being an Individual Member or an appointed delegate of an Organisational Member of the above-named Council, appoint _____
 of _____ or failing him or her, _____
 _____ of _____
 as my proxy to vote for me on my behalf at the *Annual General Meeting/General Meeting of the Council to be held on the _____ day of _____ 20_____
 Signed _____ day of _____ 20_____

This form is to be used in *favour of/against the resolution.

*Strike out whichever is not required or desired.

12.3 The instrument appointing a proxy must be deposited at the Office of the Council, or at such other place as is specified in the notice convening the meeting, not less than 48 hours before the time for holding the meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for taking the poll.

12.4 A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the previous death or lack of Legal Capacity of the appointer or revocation of the instrument or of the authority under which the instrument was executed, provided that no intimation in writing of the death, lack of Legal Capacity or revocation has been received by the Council before the meeting or adjourned meeting at which the instrument is used. A proxy is not revoked by the appointer attending and taking part in any meeting, but if the appointer votes on a resolution either on a show of hands or on a poll the person acting as proxy for that appointer has no vote as proxy on that resolution.

13. Board

13.1 The Board will be elected from the Individual Members of the Council and will consist of such Directors being not less than 6 as is determined at a General Meeting provided the number of Directors shall not exceed 15. Half the number of Directors taken to the lesser

whole number plus 1 will be persons with an intellectual disability.

- 13.2 The quorum of a Board will be half the number of Directors taken to the greater whole number plus 1, but shall not be less than 4.
- 13.3 If the Board elects Vice Chairs in accordance with the procedure in clause 13.7, one of those persons will act as chairman of meetings in the absence of the Chair, and will perform such other duties as requested by the Chair. The Vice Chairs will cease to hold office if they cease to be members of the Board or otherwise at the direction of the Board.
- 13.4 Each Director will be deemed to be a Director of the Council.
- 13.5 One-third of the Directors will retire at each Annual General Meeting such that no Director will remain in office beyond three successive Annual General Meetings. Retiring Directors are eligible for re-election.
- 13.6 The election of the Directors will take place in the following manner:
- (a) any Member of the Council can nominate an Individual Member to serve on the Board;
 - (b) the nomination will be sent in writing to the Secretary at least 28 days before the Annual General Meeting and will be signed by the nominating Member and consented to in writing by the nominee;
 - (c) an alphabetical list of the nominees' names together with the nominators' names will be posted in a conspicuous place in the Office of the Council at least 14 days preceding the Annual General Meeting. If necessary, ballot papers will be forwarded to each Member of the Council entitled to vote at least 21 days before the date of the Annual General Meeting. Completed ballot papers may be posted to the Returning Officer at least 7 days before the date of the Annual General Meeting or may be lodged in the ballot box at the Annual General Meeting; and
 - (d) if there is an insufficient number of candidates nominated, the Board will make up the remaining vacancy or vacancies, in accordance with the Board composition requirements contained in clause 13.1.
- 13.7 At the next Board meeting following the Annual General Meeting, the Board shall decide the office bearers of the Board, namely the Chair, 2 Vice Chairs, Treasurer and Secretary. Each office bearer may hold that specific office for no more than three consecutive years, but may be reappointed to the position they held previously after the passage of one year.
- 13.8 The Council may from time to time, by ordinary resolution passed at General Meeting, increase or reduce the number of Directors.
- 13.9 The Board may appoint a Member to the Board to fill a casual vacancy (Casual Director) but must comply with the Board composition requirements contained in clause 13.1. Any Director so appointed will hold office only until the date of the Annual General Meeting at which the director who they have replaced would have retired. At that Annual General Meeting the Casual Director will be eligible for re-election in accordance with clause 13.5. from each school
- 13.10 By ordinary resolution passed at a General Meeting, the Council may remove a Director

before the expiration of his or her term of office and appoint another person in his or her stead. The person so appointed will hold office only during such time as the Director in whose place he or she is appointed would have held the same if he or she had not been removed.

13.11 The office of a Director will become vacant if the Director:

- (a) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (b) becomes prohibited from being a Director of a company by reason of any order made under the Act;
- (c) lacks Legal Capacity;
- (d) resigns his or her office by notice in writing to the Council;
- (e) is absent from 3 consecutive meetings of the Board without the consent of the Board;
- (f) holds any office of profit under the Council;
- (g) ceases to be a Member of the Council; or
- (h) is directly or indirectly interested in any contract with the Council.

13.12 Clause 13.11(h) will not disqualify a Director by reason of his or her being a member of any organisation which has contracted with, or worked for the Council, if such organisation is similar in type to those referred to in clause 21 or if the Director receives a payment in accordance with clause 4, or the Director has declared the nature of his or her interest in the manner required by section 191 of the Act.

13.13 A Director will not vote in respect of any contract in which he or she has an interest of the kind referred to in clause 13.12 and if he or she does so vote, his or her vote will not be valid.

14. Powers and Duties of the Board

14.1 The management and control of the Council will be vested in the Board who may exercise all such powers and do all such acts and things subject to any provision of this Constitution and the Act.

14.2 Without limiting the generality of the preceding clause, the Board will have the following powers:

- (a) to determine who signs or otherwise executes bills, notes, receipts, cheques and other negotiable instruments, contracts and other documents on behalf of the Council, provided that not less than four persons will be authorised to sign cheques drawn on the Council's bank. Such cheques will bear the signatures of any two authorised persons;
- (b) to make regulations consistent with this Constitution and which the Board considers to be necessary or desirable for the proper control, administration and

management of the Council's finances, affairs, interests and property and to amend or rescind any such regulations;

- (c) to appoint any delegate or delegates to represent the Council for any purpose and vest such powers in them as is thought fit;
- (d) to institute or defend any legal proceedings by or against the Council or its Officers, or otherwise concerning the affairs of the Council, and also to determine the means of recovering any debts due to the Council;
- (e) to invest and deal with the money of the Council not immediately required in such manner as may be thought fit;
- (f) to purchase or otherwise acquire, mortgage or charge all or any of the property of the Council as may be thought fit; and
- (g) to do all such other things as are incidental and expedient for the proper management and control of the Council.

14.3 The Board will cause minutes to be made:

- (a) of all appointments of Officers and employees;
- (b) of names of Directors present at all General Meetings of the Council and of the Board; and
- (c) of all proceedings at all General Meetings of the Council and of the Board.

Such minutes will be signed by the Meeting Chairperson of the General Meeting at which the proceedings were held or by the Meeting Chairperson of the next General Meeting and may be approved by Members at the following Annual General Meeting.

15. Using technology to hold directors' meetings

15.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.

15.2 The directors' agreement may be a standing (ongoing) one.

15.3 A director may only withdraw their consent within a reasonable period before the meeting

16. Proceedings of the Board

16.1 The Board may meet and regulate its meetings as it thinks fit. A quorum of the Board may meet at any time, and the Secretary will on the requisition of a Director, summon a meeting of the Board.

16.2 Questions arising at any meeting of the Board will be decided by a majority of votes. In the case of an equality of votes the question will be resolved in the negative.

16.3 Directors may act notwithstanding any vacancy in the Board, but if their number is reduced below the number necessary for a quorum of the Board, the continuing Directors may act

for the purpose of increasing the number of Directors to that number, but for no other purpose.

- 16.4 The Chair will preside as Meeting Chairperson at every meeting of the Board, or if there is no Chair, or if at any meeting he or she is not present within 15 minutes after the time appointed for holding the meeting, one of the Vice Chairs will be Meeting Chairperson of the meeting.
- 16.5 The Board may delegate any of its functions to a subcommittee consisting of 1 or more Directors and such other Members as the Board may nominate. Members so nominated will conform to any directions that may be imposed upon it by the Board.
- 16.6 A subcommittee may elect a meeting chairperson of its meetings. If no such meeting chairperson is elected or if at any meeting the meeting chairperson is not present within 15 minutes after the time appointed for holding the meeting, the Members may choose one of their number to be meeting chairperson of the meeting.
- 16.7 A subcommittee may meet and adjourn as it thinks proper. Questions arising at any of its meetings will be determined by a majority of votes of the members of the sub-committee present and in the case of an equality of votes the question will be resolved in the negative.
- 16.8 All acts done by any meeting of the Board or of a subcommittee or by any person acting as a Director will, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such person, be as valid as if that person had been duly appointed.
- 16.9 A resolution in writing signed by all Directors will be as valid as if it had been passed at a meeting of the Board.

17. Treasurer

The Treasurer will be appointed by the Board for such term and upon such conditions as it thinks fit and may be removed by the Board at any time.

18. Secretary

- 18.1 The Secretary will be appointed by the Board for such term and upon such conditions as it thinks fit and may be removed by the Board at any time for any reason.
- 18.2 The Board may appoint a Member of the Council as Honorary Secretary and any Member so appointed will become a Director if not already one.

19. Accounts

- 19.1 The Board will cause proper accounts to be kept at all times in respect of all moneys received and expended by the Council and the matter in respect of which receipt and expenditure takes place.
- 19.2 The Board will distribute to Members a copy of each profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by

the auditor's report as required by the Act.

- 19.3 The balance sheet referred to in clause 19.2 will, not less than 7 days before the date of the meeting, be sent to all persons entitled to receive notice of Annual General Meetings of the Council.
- 19.4 The financial year of the Council shall be the period of twelve months commencing 1 July and expiring on 30 June in each year.
- 19.5 The Board will determine under what conditions the accounting and other financial records of the Council will be open to the inspection of Members other than Directors. No such Member will have any right of inspecting any account, book or paper of the Council except as authorised by the Board or by the Council in General Meeting as required under the Act.

20. Audit

- 20.1 At least once every year the accounts of the Council will be examined and certified by a properly qualified Auditor or Auditors.
- 20.2 The Auditor or Auditors will be appointed for such term and upon such conditions and have his or her or their remuneration fixed in accordance with what the Board thinks fit, and may be removed by the Board at any time.

21. Notices

21.1 A notice may be given by the Council to any Member:

- (a) by serving it personally;
- (b) by sending it by post in a pre-paid envelope to the address recorded in the Register of Members;
- (c) by facsimile transmission to such facsimile number as the member has supplied to the Council for the giving of notices; or
- (d) by electronic transmission to such electronic address as the member has supplied to the Council for the giving of notices.

In the event of any Member not having his, her or its place of residence registered, then a notice will be affixed in the Office of the Council.

21.2 Where a notice is sent by post, service of the notice is taken to have been effected:

- (a) in the case of a notice of a General Meeting, on the day after the date of its posting; and
- (b) in any other case, at the time at which the letter would be delivered in the ordinary course of post.

21.3 Where a notice is sent by facsimile transmission, service of the notice is to be taken to be effected if the correct facsimile number appears on the facsimile transmission report generated by the sender's facsimile machine and to have been effected at the time the

facsimile transmission is sent.

21.4 Where a notice is sent by electronic transmission, service of the notice is taken to be effected at the time the electronic transmission is sent.

21.5 Notice of every General Meeting will be given to every Officer, Member and Auditor of the Council.

22. Winding Up

22.1 S 21 Surplus assets not to be distributed to members

If the company is wound up, any surplus assets must not be distributed to a member or a former member of the company, unless that member or former member is a charity described in clause 21.2.

22.2 Distribution of surplus assets

Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the company is wound up must be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 3, and
- (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the company.

The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.

23. Indemnity

23.1 Subject to section 199A of the Act, every person who is or has been a Director, Auditor or other Officer of the Council will be indemnified out of the assets of the Council against any liability arising out of the execution of the duties of that person's office:

23.2 in defending any proceedings or in anticipation of defending any proceedings whether civil or criminal, in which judgment is given in his or her favour, or in which he or she is acquitted or which are settled or discontinued;

- (a) in connection with any administrative proceedings relating to that person's position with the Council, except proceedings which give rise to civil or criminal proceedings against that person in which judgment is not given in that person's favour or in which that person is not acquitted or which arise out of conduct involving a lack of good faith or where the officer is subject to a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Act;

- (b) in connection with any application in relation to any proceedings relating to that person's position with the Council whether civil or criminal, in which relief is granted to that person under the Act by the court;
- (c) in connection with any application under the Act in which relief is granted to him by the court in respect of any negligence, default, breach of duty or breach of trust; and
- (d) with regard to GST:
 - (i) the amount of any indemnity payable under this clause 23 will include an amount ("GST Amount") equal to any GST payable by the officer or auditor being indemnified ("Indemnified Officer") in connection with the indemnity;
 - (ii) payment of the GST Amount of any indemnity is conditional upon the Indemnified Officer providing to the Council a copy of the tax invoice for the GST Amount issued to the Indemnified Officer;
 - (iii) in this clause 23, "GST" refers to the *Goods and Services Tax under A New Tax System (Goods and Services Tax) Act 1999* and the terms used have the same meaning as in that Act.

24. Insurance

To the extent permitted by law the Council may pay, or agree to pay a premium in respect of the contract insuring a person who is or has been an Officer or Auditor of the Council against the liability:

- (a) incurred by the person in his or her capacity as an Officer or Auditor of the Council PROVIDED THAT the liability does not arise out of conduct involving a wilful breach in relation to the Council or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that person in defending proceedings, or engaging in settlement negotiations, whatever their outcome.

25. Omission of 'Limited' in the Council's name

- 25.1 No addition, alteration or amendment shall be made to this Constitution unless it has been previously submitted to and approved by the Minister of the Crown who at that time administers the Act (**Minister**). At the time this Constitution was adopted, the relevant Minister was The Commonwealth Treasurer.
- 25.2 Clauses 4 and 24.1 of this Constitution are conditions of the licence granted to the Council allowing the Council to omit "Limited" from its name.