



**AUSTRALIAN COUNCIL FOR HEALTH PHYSICAL EDUCATION & RECREATION (NSW)
INCORPORATED**

CONSTITUTION

Incorporated pursuant to the Associations Incorporation Act 2009 (NSW)

Incorporation Number Y0023422

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CONSTITUTION

Part A – The Association

1. Definitions

- 1.1. In this Constitution, except as so far as the context or subject matter otherwise indicates or requires:

AI Act means the *Associations Incorporation Act 2009* (NSW) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Association;

ACNC means the Australian Charities and Not-for-profits Commission;

ACNC Act means the Australian Charities and Not-for-profits Commission Act 2012 (Cth);

AGM means the *Annual General Meeting of the Association and conducted once in every financial year in accordance with the AI Act*;

Association means Australian Council for Health Physical Education & Recreation (NSW) Incorporated;

Board means some or all of the Directors acting as the Board of Directors of the Association and as required by section 28 of the AI Act;

By-laws mean the set of rules made by the Board in accordance with clause 51.

Constitution means this Constitution;

Corporations Act means the *Corporations Act 2001* (Cth);

Director means an individual elected or appointed to the position of director on the Board of the Association, including the Office Bearers, as elected or appointed pursuant to this Constitution;

Fellow means a Full Member who has been conferred Fellowship in accordance with clause 8.2;

General Meeting means a general meeting of the Members of the Association and includes

- a) an Annual General Meeting;
- b) a Special General Meeting including a Special General Meeting convened to consider a Notice of Appeal under clause 21;

Graduate Member means an individual who satisfies the criteria as set out in clause 10.2;

Kindred Organisation means an organisation or association with aims consistent with the purposes and objectives of the Association;

Life Member means an individual who has been conferred Life Membership in accordance with clause 9;

Objects means the Objects of the Association as set out in clause 4;

Office Bearer means a Director elected to the position of President, Vice-President and Treasurer (as the case may be) in accordance with clause 32 of this Constitution;

PDHPE/HPE means Personal Development, Health and Physical Education;

Public Officer means the person appointed by the Board as the Public Officer of the Association as required under relevant provisions of the AI Act;

Register of Members means the register of Members kept and maintained in accordance with Clause 17;

Regulation means the Associations Incorporation Regulation 2016 (NSW);

Retired Member means an individual who is remunerated for less than 2.5 days per week and satisfy any other criteria and conditions to be classified as a Retired Member as prescribed by the Board;

Special General Meeting means all General Meetings other than the AGM; and

Special Resolution means a resolution adopted in accordance with the relevant provisions of the AI Act.

1.2. In this Constitution, the following rules of interpretation apply unless the context requires otherwise:

- a) a reference to a function includes a reference to a power, authority and duty;
- b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty;
- c) a gender includes all genders;
- d) singular includes plural and vice versa;
- e) where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;

- f) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislation substituted for it and any regulations and statutory instruments issued under it;
- g) the word person means a natural person and any corporation, association, body or entity whether incorporated or not; and
- h) the words 'writing' and 'written' include any mode of representing or reproducing words, figures, drawings or symbols in a visible or communicable form.

2. Name

- 2.1. The name of the Association is the Australian Council for Health Physical Education & Recreation (NSW) Incorporated.

3. Type of Association

- 3.1. The Association is a not-for-profit association which is established to be, and to continue as, a charity.

4. Charitable Objects

- 4.1. The objects of the Association (Objects) are to pursue the following charitable purposes:
 - a) to promote active and healthy living for all Australians through physical education and professional practice;
 - b) to provide programs and services to Members that support the continuing development of knowledge, skills and professional practice, focussing primarily on health education, physical education and recreation;
 - c) to conduct further research and to disseminate knowledge about PDHPE/HPE;
 - d) to co-operate with Kindred Organisations; and
 - e) to undertake other such courses of action as may foster the achievement of the objects of the Association.

5. Not-for-profit

- 5.1. The Association shall not distribute any surplus, income or assets directly or indirectly to its Members and shall not conduct its affairs so as to provide a pecuniary gain for any of its Members.

Note. Section 5 of the AI Act defines pecuniary gain for the purpose of this clause.

- 5.2. Clause 5.1 does not prevent the Association from doing the following things provided they are done in good faith:
 - a) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Association;

- b) making a payment to a Member in carrying out the Association's charitable purposes;
- c) paying reasonable and proper remuneration to any employee(s) of the Association;
- d) making a payment to a Member for services provided to the Association in furtherance of the Objects; or
- e) making a payment for any other bona fide reason for the attainment of the Objects.

6. Powers of the Association

- 6.1. The Association may only exercise the powers given to it under the AI Act to carry out the Objects and to do all things incidental or convenient in relation to the exercise of power.
- 6.2. Subject to clause 6.1, the Association has the following powers, which may only be used to carry out its Objects set out in clause 4:
 - a) the powers of an individual; and
 - b) all the powers of an association under the AI Act.

Part B - Membership

7. Membership

- 7.1. Members comprise the following classes:
 - a) Full Members (including Fellow Members);
 - b) Life Members;
 - c) Concession Members (including Graduates and Retired); and
 - d) Non-voting Members.
- 7.2. The Board may provide for categories within a class of membership on such terms and conditions as the Board determines.
- 7.3. The Board may from time to time determine additional requirements for admission as a Member and/or as a Member in a particular class or category of membership.

8. Full Members

- 8.1. Full Membership is open to individuals who:
 - a) possess qualifications for the teaching of PDHPE/HPE teaching or such other appropriate qualifications in the fields of physical education, health and recreation as deemed acceptable to the Board; and
 - b) satisfy any additional requirements for Full Membership as prescribed by the Board and set out in the By-laws.
- 8.2. The Board may confer Fellowship upon any Full Member who meets certain criteria as determined by the Board and set out in the By-laws which include but is not limited to substantial experience in matters

promoted by the Objects and/or significant service and contribution to the Association.

- 8.3. Fellow Membership are a category of Full Members and possess the rights of Full Members.
- 8.4. Notwithstanding clause 10.4, a Full Member who does not apply to become a Retired Member may continue to be a Full Member and possess the rights of a Full Member, subject to their membership otherwise ceasing or being suspended under this Constitution.

9. Life Members

- 9.1. The Board may confer Life Membership upon an individual who meets certain criteria as determined by the Board and set out in the By-laws which include but is not limited to substantial experience in matters promoted by the Objects and/or significant service and contribution to the Association.
- 9.2. Life Members possess the same rights as Full Members.
- 9.3. Life Members will be exempt from paying any membership fees.

10. Concession Members

- 10.1. Concession Membership is open to individuals who:
 - a) are Graduates;
 - b) are Retired; or
 - c) satisfy other criteria and conditions for Concession Membership as prescribed by the Board and set out in the By-laws.
- 10.2. Graduates are individuals who:
 - a) graduated no longer than two years prior from the date of application with a tertiary degree or other qualification in the field of PDHPE/HPE that is acceptable to the Board; and
 - b) who do not wish to apply for Full Membership.
- 10.3. After a period of two years from graduation, Graduate Members shall transfer to Full Membership to remain a Member.
- 10.4. A Full Member may apply to be transferred to become a Retired Member on their retirement from employment.
- 10.5. A Retired Member will be a category of Concession Member and possess the rights of Concession Member as set out in clauses 12.2, 12.3 and 12.5.

11. Non-voting Members

- 11.1. Non-voting Membership is open to an individual or an organisation:
 - a) who support the Objects but is not eligible to be Voting Member; and
 - b) who satisfies any additional requirements for Non-voting Membership as prescribed by the Board and set out in the By-laws.

12. Rights of Members

- 12.1. A Full Member and Life Member has the following rights:
 - a) to receive notice of and attend General Meetings;
 - b) to vote at a General Meeting;
 - c) to vote in Director elections;
 - d) to be nominated for election as an Elected Director in accordance with clause 27.
- 12.2. A Concession Member has the following rights:
 - a) to receive notice of and attend General Meetings;
 - b) to vote at a General Meeting.
- 12.3. A Concession Member does not have the right:
 - a) to vote in Director elections; or
 - b) to be nominated for election as an Elected Director
- 12.4. A Non-voting Member:
 - a) is entitled to receive notice of and to attend General Meetings;
 - b) does not have any voting rights and may not be nominated for election as an Elected Director.
- 12.5. In addition to the above, a Full Member, Life Member or a Concession Member has the right to:
 - a) submit items of business for consideration at a General Meeting;
 - b) have access to the minutes of General Meetings and other documents of the Association as provided under clause 56; and
 - c) inspect the Register of Members (see clause 17).
- 12.6. A Member is entitled to exercise their rights unless their membership rights have been suspended for any reason.
- 12.7. A Member who has not paid any fees payable by the due date shall not be entitled to exercise their rights while the fee remains unpaid.

13. Applying for Membership

- 13.1. An application for membership shall be in a form prescribed by the Board.
- 13.2. The Board may approve or reject an application for membership.
- 13.3. If the Board rejects an application for membership it is not compelled to provide reasons for such a rejection.
- 13.4. The Board may delegate the consideration and determination of any membership application.
- 13.5. Once the Board (or its delegate) has made a decision to approve or reject an application for membership, a written notice of that decision shall be forwarded to the applicant within a reasonable time.

- 13.6. If the application for membership is rejected, any monies paid by the applicant for membership (except joining fees) shall be refunded to the applicant in full within a reasonable time.
- 13.7. If the application for membership is approved, the applicant's membership is subject to the payment of any membership fees. If the payment of any membership fees is not made within the time prescribed by the Board, then the Board may, in its discretion, cancel its approval of the applicant as a Member.
- 13.8. Subject to clause 13.7, an applicant becomes a Member and is entitled to exercise the rights and privileges of such membership when their name is entered in the Register of Members.

14. Cessation of Membership

14.1. A Member ceases to be a Member:

- a) if they resign;
- b) if they die;
- c) if they are expelled under clause 20;
- d) if they cease to satisfy the criteria to be a Member: in such case their membership ceases on the date that the Board resolves to terminate their membership;
- e) if they are convicted of an indictable offence: in such case their membership ceases on the date that the Board resolves to terminate their membership;
- f) in any other circumstances prescribed in the terms of membership applicable to the Member or on the failure to satisfy any undertaking given by the Member upon them being admitted as a Member: in such case their membership ceases on the date that the Board resolves to terminate the membership..

14.2. Any Member who ceases to be a Member:

- a) shall not be entitled to any refund, in full or part, of any membership fees paid; and
- b) shall not be readmitted as a Member until all unpaid monies outstanding to the Association at the time they ceased to be a Member are paid including any interest or other charges levied on any outstanding monies.

15. Membership entitlements not transferrable

15.1. A right, privilege or obligation which a person has by reason of being a Member:

- a) is not capable of being transferred or transmitted to another person; and
- b) terminates upon the cessation of the person's membership of the Association.

16. Resignation of Membership

- 16.1. A Member may resign from membership of the Association by giving notice in writing to the Association of the Member's intention to resign.
- 16.2. Where a Member resigns as a Member pursuant to clause 16.1, and in every other case where a Member ceases to be a Member, the Association shall make an appropriate entry in the Register of Members recording the date on which the Member ceased to be a Member.

17. Register of Members

- 17.1. The Public Officer or another person delegated by the Board shall establish and maintain a Register of Members of the Association specifying the name and address together with the date on which the Member became a Member.
- 17.2. The Register of Members shall be kept at the principal place of administration of the Association and may be in electronic form.
- 17.3. The Register of Members shall remain open for inspection by a Full Member or Concession Member, subject to that Member having made an appointment with the Public Officer for this purpose.
- 17.4. A Member may not obtain a copy of all or part of the Register of Members, except as permitted by the Board and if permitted, may be charged a fee to obtain such a copy.
- 17.5. If a Member requests that any information contained on the Register of Members about that Member (other than the Member's name) not be made available for inspection by other Members, that information shall not be made available for inspection by other Members.
- 17.6. A Member shall not use information obtained from the Register of Members to contact or send material to other Members, other than for:
 - a) the purposes of sending a notice in respect of a General Meeting;
 - b) any other purpose necessary to comply with a requirement of the AI Act; or
 - c) as permitted by the Board.

18. Membership fees

- 18.1. The Board may determine from time to time to charge fees to Members which may include joining fees, annual subscriptions or specific purpose levies and charges.
- 18.2. The Board may determine that different fees are payable by different classes or categories of Members and as between Members within a class or category of Members.
- 18.3. The Board may determine that no fee is payable by a Member.
- 18.4. Any fees payable by Members are payable in such manner and at such times as are determined by the Board.
- 18.5. If any fees payable by a Member remains unpaid for a period of two months after it becomes due:

- a) The Association will forward a written notice to the Member of that fact; and
 - b) If the fee remains unpaid more than one month after the date of the written notice, unless the Board resolves otherwise, the Member's membership shall be terminated.
- 18.6. Where a Member's membership that has been terminated under clause 18.5, such membership may be reinstated at the discretion of the Board upon payment of the outstanding fees.

19. Member liability

- 19.1. The liability of a Member 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 is limited to the fees, if any, which remain unpaid by the Member as set out in clause 18.

20. Disciplining of Member

- 20.1. Where the Board is of the opinion that a Member:
- a) has failed to comply with this Constitution;
 - b) refuses to support the Objects of the Association; or
 - c) has engaged in conduct prejudicial to the interests of the Association, the Board may, by resolution:
 - a) expel the Member from membership of the Association; or
 - b) suspend the Member from membership of the Association for a specified period as determined by the Board.
- 20.2. Written notice of the proposed expulsion or suspension resolution shall be provided to the Member at least 14 days prior to the date of the Board meeting at which the proposed expulsion or suspension resolution is to be considered by the Board.
- 20.3. The written notice provided to the Member under this clause shall state:
- a) The time, date and location of the Board meeting at which the proposed expulsion or suspension resolution is to be considered by the Board.
 - b) If the Board meeting in clause 20.3 a) is to be held using technology, details of such technology;
 - c) the grounds on which the proposed expulsion or suspension resolution is based;
 - d) that the Member may be accompanied by a person as an observer who need not necessarily be a Member; and
 - e) that the Member may do either or both of the following at the Board meeting at which the proposed expulsion or suspension resolution is to be considered by the Board:
 - i. attend and speak;

- ii. submit to the Board written representations to be considered by the Board.
- 20.4. At the Board meeting at which the proposed expulsion or suspension resolution is to be considered by the Board, the Board must —
 - a) provide the Member with an opportunity to make oral representations to the Board;
 - b) give due consideration to any oral representations and to any written representations submitted to the Board by the Member at or prior to the Board meeting; and
 - c) by resolution determine:
 - i. whether or not to suspend the membership of the Member and, if the Board resolves to suspend the membership of the Member, the period of such suspension; or
 - ii. whether or not to expel the Member as a Member of the Association.
- 20.5. The Board must provide the Member with the written notice of the Board's decision, and the reasons for that decision, within 14 days after the Board meeting at which the decision is made.
- 20.6. The suspension of membership rights or the expulsion of a Member by the Board under clause 20.4.c) takes effect immediately after the Board resolution is made.

21. Suspended or expelled Member's right of appeal

- 21.1. A Member may serve Notice of Appeal to the Association against a resolution of the Board made under clause 20.4, within 14 days after notice of the resolution is served on the Member, by lodging a notice to that effect with the Public Officer.
- 21.2. The Notice of Appeal may, but need not, be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal against a resolution of the Board made under clause 20.4.
- 21.3. Upon receipt of a Notice of Appeal from a Member, the Board shall convene a General Meeting of the Association to be held within 45 days after the date on which the Public Officer received the Notice of Appeal.
- 21.4. At a General Meeting of the Association convened under clause 21.3:
 - a) no business other than the subject matter of the Notice of Appeal is to be discussed;
 - b) All members of the Board and the Member shall be given the opportunity to state their respective cases orally or in writing, or both;
 - c) A Member may not vote by proxy at the meeting;
 - d) the Members present are to vote by secret ballot on the question of whether the Board resolution to suspend or expel the Member under clause 20.4.c) should be revoked;

- e) the Board's resolution to suspend the Member's membership rights or to expel the Member under clause 20.4c) shall be overturned if at least three quarters of the Members present and voting at the General Meeting vote in favour of revoking the resolution; and
- f) the Board's resolution to suspend the Member's membership rights or to expel the Member under clause 20.4c) is revoked, any act performed by the Board or Members in General Meeting during the period that the Member was suspended or expelled from membership is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of membership, including voting rights, during that period.

22. Resolution of internal disputes

22.1. In the case of a dispute:

- a) between Member (in their capacity as Members); and
- b) disputes between Members and the Association,

all reasonable attempts shall be made by all parties concerned to resolve the dispute.

22.2. Should such attempt to resolve disputes fail, these disputes are to be referred to a Community Justice Centre or its equivalent for mediation in accordance with the Community Justice Centres Act 1983 (NSW).

22.3. A Member must not initiate a dispute resolution procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

Part C – Board of Directors

23. Powers of the Board

23.1. The business and affairs of the Association shall be administered by the Board which shall, subject to the AI Act and this Constitution:

- a) control and manage the affairs of the Association;
- b) exercise all the functions as may be exercised by the Association other than those functions that are required by this Constitution or the AI Act to be exercised by a General Meeting; and
- c) have power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association.

23.2. The Board may delegate any of its powers and/or functions to one or more sub-committees, any employee of the Association or any other person as the Board thinks fit.

23.3. In exercising any powers so delegated under clause 23.2, the sub-committee, employee or person shall comply with any terms and conditions that may be set by the Board.

24. Board composition

- 24.1. The Board shall comprise:
- a) **Elected Directors:** Between six to 10 Directors elected by and from amongst the Full Members; and
 - b) **Appointed Directors:** Up to two Directors appointed by the Board who may be but are not required to be Members.
- 24.2. Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to three Elected Directors or less, in which case the continuing Directors may act only:
- a) to appoint Directors for the purpose of increasing the number of Elected Directors to three or greater;
 - b) to convene a General Meeting; or
 - c) in an emergency.

25. Appointed Directors

- 25.1. The Board may appoint up to two individuals to hold office as Appointed Directors upon such terms and conditions as the Board determines.
- 25.2. An Appointed Director shall possess the specific skills, experience, perspectives or capabilities that the Board considers desirable.

26. Terms of office

- 26.1. Elected Directors shall hold office from the end of the relevant Annual General Meeting at which their election is declared or announced until the conclusion of the second following Annual General Meeting.
- 26.2. A retiring Elected Director shall be eligible for re-election.
- 26.3. An Appointed Director shall serve a term up to two years as determined by the Board, but may be re-appointed.
- 26.4. There is no maximum number of consecutive terms for which a Director may hold office.

27. Eligibility of Directors

- 27.1. A person is eligible for election or appointment as a Director if they:
- a) are over the age of 18 years;
 - b) are a financial Full Member or a Life Member;
 - c) provide their signed consent to act as a Director to the Association;
 - d) are not ineligible to be a Director under law, including the AI Act or the ACNC Act; and
 - e) are not an employee of the Association.
- 27.2. A person is ineligible for election or appointment as a Director if they are an employee of, contracted by, or on the board of:
- a) The Australian Council for Health, Physical Education and Recreation (ACHPER National); or

- b) any organisation or business that the Board considers to be a competitor to the Association.

28. Election of Elected Directors

- 28.1. Nominations for Elected Directors shall be called no less than 28 days prior to the date of the Annual General Meeting.
- 28.2. The Board shall determine the number of vacancies to be filled each year (with reference to clause 24.1.a)) prior to the call for nominations for Elected Directors.
- 28.3. When nominations for Elected Directors are called, the Board may also provide to Members a guide containing:
 - a) details of the Elected Directors' desired capabilities and perspectives needed to improve the effectiveness of the Board; and
 - b) details of the roles of particular Board positions as determined by the Board from time to time and issued as a guide to Members.
- 28.4. Nominations for Elected Directors shall:
 - a) be in writing on the form provided by the Board for that purpose;
 - b) be signed by a nominator and seconder, both of whom shall be Full Members;
 - c) be signed by the nominee (who must be a financial Full Member or a Life Member) expressing their consent to serve as a Director;
 - d) declare any position held by the nominee holds with an organisation identified in clause 27.2; and
 - e) be lodged with the Public Officer by the prescribed time.
- 28.5. An election of Elected Directors shall be held prior to the Annual General Meeting in accordance with the procedures determined by the Board and set out in the By-laws.
- 28.6. A Returning Officer shall be appointed by the Board to conduct the election of Elected Directors.
- 28.7. If the number of nominations received for the election of Elected Directors exceeds the number of vacancies to be filled, a ballot shall be held prior to the Annual General Meeting. Such a ballot which may be an electronic ballot as determined by the Board.
- 28.8. If the number of nominations received for the election of Elected Directors is equal to or less than the number of vacant positions to be filled then the candidates nominated shall be declared elected at the Annual General Meeting following the close of nominations. This is subject to endorsement of each candidate by the eligible voting Members by separate ordinary resolutions at that Annual General Meeting. If any of the candidates are not endorsed by the eligible voting Members at the Annual General Meeting, then they shall not become Elected Directors.

- 28.9. Any unfilled positions that result from an insufficient number of nominations being received for the election of Elected Directors or from a candidate not being endorsed by the Members shall be deemed to be casual vacancies.
- 28.10. The results of an election of Elected Directors shall be announced at the Annual General Meeting.

29. Casual vacancies

- 29.1. If a casual vacancy in the position of an Elected Director occurs, the Board may appoint an eligible individual to fill the casual vacancy and such appointee holds office for the remainder of term.

30. Vacation of office of Directors

- 30.1. The office of a Director becomes vacant if the Director:
- a) resigns by notice in writing sent to the President or the Public Officer;
 - b) is an Elected Director and ceases to be a Full Member of the Association;
 - c) dies;
 - d) is removed from office under clause 31;
 - e) is absent from five consecutive Board meetings without the consent of the Board;
 - f) becomes ineligible to be a Director under clause 27.2;
 - g) becomes an insolvent under administration within the meaning of the Corporations Act 2001 (Cth);
 - h) is prohibited from being a director under the Corporations Act 2001 (Cth) or the ACNC Act;
 - i) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least three months; or
 - j) becomes a mentally incapacitated person.

31. Removal of Director

- 31.1. The Association in a General Meeting may by resolution remove any Director from office before the expiration of the Director's term of office.
- 31.2. If a Director to whom a proposed resolution referred to in clause 31.1 relates makes representations in writing (not exceeding a reasonable length) and requests that the representations be notified to the Members, the Public Officer must make a copy of the representations available to each Member or, if they are not so sent, the Director is entitled to require that the representations be read out at the General Meeting at which the resolution to be considered by the Members.

32. Office Bearers

- 32.1. The Board shall elect from amongst the Directors the following Office Bearers:

- a) a President – who shall be a Full Member;
 - b) a Vice President – who shall be a Full Member;
- 32.2. The Board may determine the period for which a Director is an Office Bearer.
- 32.3. There is no maximum number of consecutive terms for which a Director may hold an Office Bearer position.
- 32.4. The Office Bearers shall have such powers and duties as specified in this Constitution and as determined by the Board.

33. Meetings of the Board

- 33.1. The Board may meet together for the dispatch of business, adjourn and otherwise regulate its Board meetings as it thinks fit.
- 33.2. No business shall be transacted by the Board at a Board meeting unless a quorum is present.
- 33.3. The quorum for a Board meeting is 50%+1 of the Directors in office at the time, rounded down if not a whole number.
- 33.4. At a Board meeting:
- a) the President or, in the President's absence, the Vice President is to preside as chair; or
 - b) if the President and the Vice President are absent or unwilling to act, one of the remaining Directors as may be chosen by the Directors present at the Board meeting is to preside as chair.
- 33.5. The President alone, or any two Directors, may convene a Board meeting.
- 33.6. Questions arising at any Board meeting of the Board shall be decided by a simple majority of votes of those present and entitled to vote.
- 33.7. Directors shall have one vote on any question arising at a Board meeting.
- 33.8. In the event of an equality of votes on any question arising at a Board meeting, the chair of the Board meeting does not have a casting vote and the motion is recorded as failed.
- 33.9. The Board shall ensure that minutes are made of all Board meetings and decisions made by electronic communication pursuant to clause 35.1.
- 33.10. An oral, written or electronic notice of a Board meeting shall be provided to each Director at least seven days or such other period as may be unanimously agreed upon by the Directors before the time appointed for the holding of the Board meeting.
- 33.11. In cases of urgency, a Board meeting can be held without notice being given in accordance with clause 33.10 provided that as much notice as practicable is given to each Director by the quickest means practicable.
- 33.12. A Board meeting may be held using technology that allows the Directors in attendance to clearly and simultaneously communicate with each other.

33.13. A Director who participates in a Board meeting using technology is taken to be present at the Board meeting and, if the Director votes at the Board meeting, is taken to have voted in person.

33.14. The Board may, from time to time and at their discretion, invite individuals to attend Board meetings as observers.

34. Disclosure of interests

34.1. A Director who has a material conflict of interest (whether perceived or actual, direct or indirect) in a matter being considered by the Board shall, as soon as they become aware of their interest, disclose to the Board the nature and extent of their interest.

34.2. The Board may make By-laws or adopt a policy consistent with the AI Act and the ACNC Act dealing with the disclosure and management of conflicts of interest.

35. Resolutions made outside of Board meetings

35.1. When necessary, the Board may consider and pass a resolution without a Board meeting being held. The resolution may be passed by written or electronic communication, provided the number of Directors who vote in favour of the matter equals or exceeds the number for a quorum.

35.2. Any such resolution may consist of multiple copies of the same document, each signed or authorised by one or more of Directors. The document may be in the form of electronic communication.

36. Validity of acts

36.1. Any act or thing done or suffered, or purporting to have been done or suffered, by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any Director.

Part D - General Meetings

37. Calling of General Meetings

37.1. An Annual General Meeting shall be held within six months after the end of each financial year. The time and place or technology used for this Annual General Meeting shall be determined by the Board.

37.2. The Board may whenever it thinks fit convene a Special General Meeting.

37.3. A Special General Meeting shall be convened by the Board upon the request of not less than 12 Members who are entitled to vote at a General Meeting.

37.4. A request for a Special General Meeting:

- a) shall state the purpose or purposes of the Special General Meeting;
- b) shall be signed by the Members making the request;
- c) shall be lodged with the Public Officer; and

- d) may consist of several documents in a similar form, each signed by one or more of the Members making the request.
- 37.5. For the purposes of clause 37.4:
- a) a requisition may be in electronic form; and
 - b) a signature may be transmitted; and
 - c) a requisition may be lodged, by electronic means.
- 37.6. If the Board fails to give notice of a Special General Meeting within one month after the date on which a request for the Special General Meeting under clause 37.4 is lodged, any one or more of the Members who made the request may convene a Special General Meeting to be held not later than three months after that date.
- 37.7. A Special General Meeting convened by Members under clause 37.6 shall be convened as nearly as is practicable in the same manner as General Meetings are convened by the Board.

38. Notice of General Meetings

- 38.1. Except if the nature of the business proposed to be dealt with at a General Meeting requires a special resolution, notice of a General Meeting shall be given to each Member at least 14 days before the date fixed for the holding of the General Meeting.
- 38.2. If the nature of the business proposed to be dealt with at a General Meeting requires a special resolution, at least 21 days' notice shall be given.
- 38.3. The notice of a General Meeting shall specify:
- a) the place, date and time of the General Meeting, and if the General Meeting is to be held using technology, the technology that shall be used;
 - b) the nature of the business proposed to be transacted at the General Meeting;
 - c) if a special resolution is to be proposed:
 - i. state in full the proposed special resolution; and
 - ii. state the intention to propose the resolution as a special resolution.
- 38.4. An Annual General Meeting shall be specified as such in the notice convening it.

39. Business at General Meetings

- 39.1. No business other than that specified in the notice convening a General Meeting shall be transacted at the General Meeting except, in the case of an Annual General Meeting, business that may be transacted pursuant to clause 39.2.
- 39.2. The business of an Annual General Meeting may include any of the following, even if not referred to in the notice of meeting:

- a) the consideration of the annual financial report, Board report and Auditor's report (if any);
- b) the election or announcement of Directors; and
- c) the appointment of the auditor, if required.

40. Chair at General Meetings

- 40.1. The President shall chair each General Meeting.
- 40.2. If the President is not present within 15 minutes after the time appointed for the commencement of the General Meeting, or is unable or unwilling to act, the following may preside as chair of the General Meeting in order of precedence:
 - a) the Vice President;
 - b) any other Director present who has been appointed as chair by those other Directors present; or
 - c) a Member present chosen by a majority of the Full Members and Concession Members present.

41. Quorum at General Meetings

- 41.1. No business shall be transacted at any General Meeting unless a quorum is present at the time when the matter is dealt with.
- 41.2. The quorum for the transaction of the business of a General Meeting shall be eight Members entitled to vote and present in person at the General Meeting.
- 41.3. If a quorum is not present within 30 minutes after the notified commencement time of a General Meeting:
 - a) in the case of a General Meeting convened at the request of Members, the General Meeting shall be dissolved;
 - b) in any other case the General Meeting stands adjourned to such other day, time and place as the Board appoints by notice to the Members.
- 41.4. If at the adjourned General Meeting a quorum is not present within 30 minutes from the time appointed for the General Meeting, the General Meeting shall lapse.

42. Conduct of a General Meeting

- 42.1. The chair of a General Meeting is responsible for the conduct of the meeting.
- 42.2. Any question arising at a General Meeting relating to the order of business, procedure or conduct of the General Meeting shall be referred to the chair whose decision is final.
- 42.3. The chair of a General Meeting may at any time consider it necessary or desirable for the proper and orderly conduct of the General Meeting:

- a) impose a limit on the time that a person may speak on a motion or other item of business, question, motion or resolution being considered by the General Meeting;
 - b) terminate debate or discussion; and
 - c) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or a poll.
- 42.4. The chair of a General Meeting may at any time during the course of a General Meeting, and shall if so directed by the General Meeting, adjourn the General Meeting from time to time and from place to place, but no business may be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.
- 42.5. When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting shall be given as in the case of an original General Meeting.
- 42.6. Except as provided by clause 42.5, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned General Meeting.
- 43. Cancellation of General Meetings**
- 43.1. Except in the case of a General Meeting called at the request of Members, the Board may by resolution, cancel, postpone or change the venue of a General Meeting at any time prior to the meeting.
- 43.2. The Board shall give notice of the postponement, cancellation or change of venue of a General Meeting to all persons entitled to receive notices of a General Meeting.
- 44. Voting**
- 44.1. Upon any question arising at a General Meeting a Member entitled to vote has one vote.
- 44.2. Votes shall be given in person or by proxy.
- 44.3. No Member may vote at any General Meeting unless all fees due and payable to the Association have been paid.
- 45. Making of decisions**
- 45.1. Unless otherwise required by this Constitution or the AI Act, questions arising at a General Meeting are to be decided by a simple majority of the votes cast (ordinary resolution).
- 45.2. In the case of an equality of votes upon any proposed resolution, the chair of the General Meeting, in addition to any deliberative vote, does not have a casting vote and the proposed resolution is not passed.
- 45.3. A resolution put to the vote of a General Meeting shall be decided on a show of hands unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands.

- 45.4. On a show of hands, a declaration by the chair of the General Meeting is conclusive evidence of the result.
- 45.5. Neither the chair nor the minutes of the General Meeting need to state the number or proportion of the votes recorded in favour or against a resolution at a General Meeting.
- 45.6. A poll may be demanded:
 - a) by the chair of the General Meeting; or
 - b) by any five or more Members entitled to vote on the resolution present in person or by proxy.
- 45.7. The demand for a poll may be withdrawn.
- 45.8. A demand for a poll does not prevent the continuation of a General Meeting for the transaction of any business other than the question on which the poll has been demanded.
- 45.9. A poll demanded shall be taken when and in the manner the chair of the General Meeting directs including in relation to how votes of Members attending by technology are to be collected.
- 45.10. A poll on the election of a chair of a General Meeting or on the question of an adjournment of General Meeting shall be taken immediately.
- 45.11. The result of the poll shall be the resolution of the General Meeting at which the poll was demanded, and an entry to that effect in the minutes of the General Meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

46. Special resolutions

- 46.1. A resolution of the Association is a special resolution if it meets the requirements of the AI Act.
- 46.2. In situations where it is not possible or practicable for a special resolution to be passed as prescribed by the AI Act, a request may be made to the Department of Fair Trading for permission to pass the special resolution in some other way.

47. Appointment of proxies

- 47.1. A Member is entitled to appoint another Member as proxy by notice given to the Association no later than 48 hours before the time of the General Meeting in respect of which the proxy is appointed.
- 47.2. The Board may prescribe a form of proxy but a proxy shall be valid provided an instrument appointing a proxy:
 - a) is in writing;
 - b) contains the Member's name and address, the Association's name, the proxy's name or the office held by the proxy;
 - c) details of the General Meeting at which the proxy appointment may be used; and

- d) the details of how the proxy is to vote on the matter(s) to be considered by the General Meeting.
- 47.3. In the event of a Member not nominating a particular person as their proxy on the proxy form, the proxy shall be exercised by the chair of the General Meeting.
- 47.4. Unless the Association receives written notice before the start or resumption of a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Member:
- a) revokes the proxy's appointment; or
 - b) revokes the authority of a representative or agent who appointed the proxy.
- 48. Postal or electronic ballots**
- 48.1. No resolution shall be determined by a postal or electronic ballot unless approved by the Board.
- 48.2. If the Board so approves under clause 48.1, the postal or electronic ballot shall be conducted under the procedures set by the Board from time to time and in accordance with the AI Act.
- 49. Use of technology at General Meetings**
- 49.1. A General Meeting may be held using any technology approved by the Board that provides the Members with a reasonable opportunity to participate in the General Meeting.
- 49.2. A Member who participates in a General Meeting using technology approved under clause 49.1 is taken to be present at the General Meeting and, if the Member votes at the General Meeting, is taken to have voted in person.
- 50. Minutes of General Meetings**
- 50.1. The Board shall ensure that minutes are taken and kept of each General Meeting.

Part E - Administration

51. By-laws

- 51.1. The Board may by resolution make, amend or revoke By-laws for the proper advancement, management and administration of the Association or for the purposes of giving effect to any provision of this Constitution.
- 51.2. Such By-laws shall be consistent with the Constitution and are binding on the Board and the Members.

52. Service of notices

- 52.1. A notice may be served on or given to the Association by:
- a) delivering it to the street address or posting it to the postal address of the registered office of the Association; or

- b) or by electronic means of transmission to the email address of the Association.
- 52.2. A notice may be served on or given to a Member either personally or by sending it by post or by electronic means of transmission to the Member's address or details shown in the Register of Members.
- 52.3. For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- a) in the case of a notice given or served personally, on the date on which it is received by the Member;
 - b) in the case of a notice sent by post, on the third day after it is posted; and
 - c) in the case of a notice sent by electronic transmission, on the date it was sent.
- 53. Financial year**
- 53.1. The financial year of the Association commences on the 1st day of January and ends on the 31st day of December or such other period as may be prescribed by the Board from time to time.
- 54. Funds – Source**
- 54.1. The funds of the Association shall be derived from membership fees in accordance with clause 18, and include donations, course/workshop fees, government grants, interest on money and such other sources as the Board determines from time to time.
- 54.2. All monies received by the Association shall be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- 55. Funds – Management**
- 55.1. The funds of the Association shall be managed and used in pursuance of the Objects in such manner as the Board determines.
- 55.2. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed or authorised as determined by the Board.
- 56. Custody and inspection of books etc.**
- 56.1. The Board shall keep in their custody or under their control all records, books and other documents relating to the Association.
- 56.2. A Full Member, Life Member or Concession Member may, by prior appointment with the Public Officer, inspect free of charge:
- a) the Register of Members in accordance with clause 17.2;
 - b) minutes of General Meetings;
 - c) subject to clauses 56.3 and 56.4, the financial records, books and other financial documents of the Association.

- 56.3. A Member may not inspect the records of the Association that relate to confidential, personal, employment, commercial or legal matters, except as permitted by the Board.
- 56.4. A Member shall not be entitled to inspect minutes of Board meetings except as permitted by the Board.
- 56.5. A Member is entitled to request a copy of the following documents free of charge:
- a) the Constitution and By-laws;
 - b) the minutes of a General Meeting.

57. Auditor

- 57.1. Where required by the AI Act, an auditor shall be appointed in accordance with the AI Act.
- 57.2. The auditor's duties shall be regulated in accordance with the AI Act.
- 57.3. The auditor may be removed in accordance with the law.
- 57.4. The accounts of the Association shall be audited as required by the AI Act at the conclusion of each financial year.

58. Insurance

- 50.1 The Board shall effect and maintain insurance as required under the AI Act together with any other insurance which may be required by law or regarded as necessary by the Board.

59. Indemnity

- 51.1 Every Director shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Directors in defending any civil or criminal proceedings, civil or criminal, in which a judgment is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.
- 51.2 The Association shall indemnify its Directors against all damages and losses (including legal costs) for which any such Director may be or become liable to any third party in consequence of any act or omission, except wilful misconduct by a Director performed or made while acting on behalf of and with the authority, express or implied of the Association.

60. Dissolution of the Association

- 60.1. If upon the dissolution of the Association, there remains after satisfaction of all its debts and liabilities, any property whatsoever, the same shall be transferred to a charity or charities:
- a) having objects similar or in-part similar to the Objects;
 - b) required by its Constitution to apply its profits or other income in promoting its objects; and

- c) whose Constitution shall prohibit the distribution of its income and property among its Members.
- 60.2. Such charity or charities is to be determined by a special resolution of the Association at or before the time of dissolution.
- 60.3. The voluntary dissolution of the Association may only be achieved by special resolution and following the requirements of the AI Act.

61. Alteration of Constitution

- 61.1. This Constitution may be altered, rescinded or added to only by a special resolution and following the requirements of the AI Act.
- 61.2. The Members must not pass a special resolution that amends this Constitution if passing it causes the Association to no longer be a charity.

62. Transitional arrangements

- 62.1. Upon this Constitution becoming effective:
- a) Full Members shall continue as Full Members;
 - b) Fellow Members shall be classified as Full Members;
 - c) Retired Members shall be classified as Full or Concessional members in accordance with clauses 8.4, 10.4 and 10.5;
 - d) Graduate Members shall be classified as Concession Members; and
 - e) Student Members and Corporate Members shall be classified as Non-voting Members.
- 62.2. Upon this Constitution becoming effective, the Directors in office at the time shall continue as Directors and be designated as Elected Directors even if this results in there being more than 10 Elected Directors. These Directors shall serve out the remainder of their terms, and if eligible, may be nominated to stand for re-election at the election immediately prior to expiry of their term of appointment.
- 62.3. Prior to the 2023 AGM, elections shall be held in accordance with clause 28. Note: this means if 6 Elected Directors are due to retire, then elections may be held to be fill up to 4 positions.
- 62.4. The Board may appoint up to two Appointed Directors at any time upon this Constitution becoming effective.

END OF CONSTITUTION