



**The Constitution of**

**BEENONG SCHOOL ASSOCIATION  
INCORPORATED**

**Trading as**

**TREETOPS MONTESSORI SCHOOL**

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## 1. Name of the Association

The name of the Association is the Beenong School Association Incorporated.

## 2. Terms Used

In this constitution, unless the contrary intention appears —

**Act** means the *Associations Incorporation Act 2015*;

**Associate Member** means a Member with the rights referred to in clause 11(7);

**Association** means the Beenong School Association Incorporated;

**Board** means the Board of the Association;

**Board Director** means a director of the Board;

**Board Manual** means a document that contains all standing (ongoing) policies/procedures relating to the Board.

**Board Meeting** means a meeting of the Board;

**Books**, of the Association, includes the following —

- a) a register;
- b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- c) a document;
- d) any other record of information;
- e) meeting minutes

**By Laws** means by-laws made by the Association under clause 65;

**Chairperson** means the Board Director holding office as the Chairperson of the Association;

**Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act;

**Constitution** means the constitution of the Association, as in force for the time being;

**Co-opted Director of the Board** shall mean those individuals appointed to the Board by the Board Directors;

**Ex-officio** means a person who is a Member of the Association or the Board by right of the position they hold;

**Family** shall mean parents, guardians or custodians of the child/ren enrolled in the School;

**Financial Records** includes —

- a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
- b) documents of prime entry; and
- c) working papers and other documents needed to explain —
  - i. the methods by which financial statements are prepared; and
  - ii. adjustments to be made in preparing financial statements;

**Financial Report**, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

**Financial Statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

**Financial Year**, of the Association, has the meaning given in clause 4;

**General Meeting**, of the Association, means a meeting of the Association that all Members are entitled to receive notice of and to attend and to vote at;

**Grievance Procedure** means the procedures set out in clauses 19 to 23;

**Member** means a person who is an Ordinary Member or an Associate Member of the Association;

**Non-delegable Duty** means a duty imposed on the Board by the Act or another written law;

**Ordinary Board Director** means a Board Director who is not an office holder of the Association under clause 25(2);

**Ordinary Member** means a Member with the rights referred to in clause 11(5);

**Party to a Dispute** includes a person –

- a) who is a party to the dispute; and
- b) who ceases to be a Member within 6 months before the dispute has come to the attention of each party to the dispute;

**Poll** means the process of voting in relation to a matter that is conducted in writing;

**Principal** shall mean the Principal of the School;

**Register of Members** means the register of Members referred to in section 53 of the Act;

**School** means Treetops Montessori School;

**Secretary** means the Board Director holding office as the Secretary of the Association. The Board may elect from their number, or appoint an employee of the School, to be the Board's Secretary. Unless the Board's Secretary is a Director, the Board Secretary may not vote at any Board meeting;

**Special General Meeting** means a general meeting of the Association other than the annual general meeting;

**Special Resolution** means a resolution passed by the Members at a general meeting in accordance with section 51 of the Act;

**Staff** shall mean anyone employed by the School;

**Sub-committee** means a sub-committee appointed by the Board under clause 49(1)(a);

**Surplus Property**, in relation to the Association, means property remaining after satisfaction of

- a) the debts and liabilities of the Association; and
- b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association, but does not include books relating to the management of the Association;

**Tier 1 Association** means an incorporated association to which section 64(1) of the Act applies;

**Tier 2 Association** means an incorporated association to which section 64(2) of the Act applies;

**Tier 3 Association** means an incorporated association to which section 64(3) of the Act applies.

### 3. Objects of the Association

- 1) The Objects of the Association are to:
  - a) Operate a school to be known as the "Treetops Montessori School" with a core business to educate children under the *Education Act WA*.
  - b) Foster an approach to education which enables the students of the School to develop skills and knowledge according to the principles and philosophy of the Montessori and International Baccalaureate pedagogies.
  - c) Provide for, as an integral part of the school syllabus:
    - i. The concept of individual development;
    - ii. The encouragement of the students of the School to take responsibility for their own actions;
    - iii. The encouragement of the students of the School to respect the rights of other people.
  - d) Maintain a high standard of education and compliance with all relevant legislation.
  - e) Acknowledge the importance of the role, and of communicating with, with parents and the community in student's education.
  - f) Foster and promote programmes in community education, as and when appropriate to the other objects and purposes of the Association.

#### **4. Financial Year**

- 1) The financial year of the Association will be the 12-month period from 1 January to 31 December.

#### **5. Not-for-Profit Body**

- 1) The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in the promotion of those objects or purposes.
- 2) A payment may be made to a Member out of the funds of the Association only if it is authorised under sub-clause 3.
- 3) A payment to a Member out of the funds of the Association is authorised if it is —
  - a) the payment in good faith to the Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - b) the payment of interest, on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - c) the payment of reasonable rent to the Member for premises leased by the Member to the Association; or
  - d) the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

#### **6. Powers of the Association**

- 1) The Association may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may —
  - a) acquire, hold, deal with, and dispose of any real or personal property; and
  - b) open and operate bank accounts; and
  - c) invest its money —
    - i. as trust funds may be invested under the Trustees Act 1962 Part III; or
    - ii. in any other manner authorised by the constitution of the Association; and
  - d) borrow money upon such terms and conditions as the Association thinks fit; and
  - e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit; and
  - f) appoint agents to transact any business of the Association on its behalf; and
  - g) enter into any other contract it considers necessary or desirable.
- 2) The Association may, unless this constitution otherwise provides, act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or the constitution of the Association.

#### **7. Eligibility for Membership**

- 1) All parents or legal guardians of enrolled students are automatically registered as Members of the Association.
- 2) All members of the School staff are automatically registered as Members of the Association.
- 3) Any person who supports the objects of the Association is eligible to apply to become a Member.

#### **8. Applying for Membership**

- 1) A person who wants to become a Member must apply in writing to the Association.
- 2) The application must include a Member's nomination of the applicant for membership.
- 3) The application must be signed by the applicant and the Member nominating the applicant.
- 4) The applicant must specify in the application the class of membership to which the application relates, (if the Association has more than one class of membership).

## **9. Dealing with Membership Applications**

- 1) The Board will consider each application for membership of the Association and decide whether to accept or reject the application.
- 2) Subject to sub-clause 3, the Board will consider applications in the order in which they are received by the Association.
- 3) The Board may delay its consideration of an application if the Board considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- 4) The Board must not accept an application unless the applicant
  - a) is eligible under clause 7; and
  - b) has applied under clause 8.
- 5) The Board may reject an application even if the applicant
  - a) is eligible under clause 7; and
  - b) has applied under clause 8.
- 6) The Board must notify the applicant of the Board's decision to accept or reject the application as soon as practicable after making the decision.
- 7) If the Board rejects the application, the Board is not required to give the applicant its reasons for doing so.

## **10. Becoming a Member**

An applicant for membership of the Association becomes a Member when —

- a) for parents or legal guardians, from the date their student commences at the school;
- b) for staff, when they commence employment;
- c) for Members co-opted as per clause 32, from date of appointment as a Co-opted Director;
- d) for all other Members, when the Board accepts their application; and
- e) the applicant pays any membership fees payable to the Association under clause 15.

## **11. Classes of Membership**

- 1) The Association consists of Ordinary Members, Ex-officio Members and any Associate Members provided for under sub-clause 2.
- 2) The Association may approve by resolution at a general meeting, different classes of associate membership including junior membership, senior membership, honorary membership and life membership.
- 3) An individual who has not reached the age of 15 years is only eligible to be an Associate Member.
- 4) A person can only be an Ordinary Member or belong to one class of Associate Membership.
- 5) An Ordinary Member has full voting rights and any other rights conferred on Members by this constitution or approved by resolution at a general meeting or determined by the Board.
- 6) An Ex-officio Member has all rights conferred on Members by this constitution or approved by resolution at a general meeting or determined by the Board, except that an Ex-officio Member has no voting rights at any meetings of the Association or the Board.
- 7) An Associate Member has the rights referred to in sub-clause 5 other than full voting rights.
- 8) The number of Members of any class is not limited unless otherwise approved by resolution at a general meeting.

## **12. When Membership Ceases**

- 1) A person ceases to be a Member when any of the following takes place —
  - a) for a Member who is an individual, the individual dies;
  - b) the person resigns from the Association under clause 13;
  - c) the person is expelled from the Association under clause 17;
  - d) the person ceases to be a Member under clause 15(4).

- 2) The Secretary must keep a record, for at least one year after a person ceases to be a Member, of
  - a) the date on which the person ceased to be a Member; and
  - b) the reason why the person ceased to be a Member.

### **13. Resignation**

- 1) A Member may resign from membership of the Association by giving written notice of the resignation to the Secretary.
- 2) The resignation takes effect —
  - a) when the Secretary receives the notice; or
  - b) if a later time is stated in the notice, at that later time.

### **14. Rights Not Transferable**

The rights of a Member are not transferable and end when membership ceases.

### **15. Membership Fees**

- 1) The Board will determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.
- 2) The fees determined under sub-clause 1 may be different for different classes of membership.
- 3) A Member must pay the annual membership fee to the person authorised by the Board to accept payments, by the date (the due date) determined by the Board.
- 4) If a Member has not paid the annual membership fee within the period of 3 months after the due date, the Member ceases to be a Member on the expiry of that period.
- 5) If a person who has ceased to be a Member under sub-clause 4 offers to pay the annual membership fee after the period referred to in that sub-clause has expired
  - a) the Board may, at its discretion, accept that payment; and
  - b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.
- 6) A person who has ceased to be a Member of the Association, for whatever reason, remains liable for any tuition fees, membership fees or other amounts that are owed to the Association (the owed amount) at that time.
- 7) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

### **16. Register of Members**

- 1) The Secretary, or another person authorised by the Board, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of Members and record in that register any change in the membership of the Association within 28 days of the change.
  - a) The register of Members must include each Member's name and
  - b) residential address; or
  - c) postal address; or
  - d) email address; or
  - e) information by means of which contact can be made with the Member.
- 2) In addition to the matters referred to in section 53(2) of the Act, the register of Members must include the class of membership (if applicable) to which each Member belongs and the date on which each member becomes a Member.
- 3) The register of Members must be kept in a secure location at the School or at another place determined by the Board.
- 4) A Member who wishes to inspect the register of Members must contact the Secretary to make the necessary arrangements. The Member may inspect the register and make a copy or take an extract from the register, free of charge, but may not remove the register for that purpose.

- 5) If —
  - a) a Member inspecting the register of Members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - b) a Member makes a written request under section 56(1) of the Act to be provided with a copy of the register of Members,the Board may require the Member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association. The Board may charge a reasonable fee for providing a copy of the register.

## **17. Suspension or Expulsion**

- 1) The Board may decide to suspend a Member's membership or to expel a Member from the Association if —
  - a) the Member contravenes any part of this constitution; or
  - b) the Member, in the Board's view, acts detrimentally to the interests of the Association.
- 2) The Secretary must give the Member written notice of the proposed suspension or expulsion at least 28 days before the Board meeting at which the proposal is to be considered by the Board.
- 3) The notice given to the Member must state —
  - a) when and where the Board meeting is to be held; and
  - b) the grounds on which the proposed suspension or expulsion is based; and
  - c) that the Member, or the Member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion;
- 4) At the Board meeting, the Board must —
  - a) give the Member, or the Member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion; and
  - b) give due consideration to any submissions so made; and
  - c) decide
    - I. whether or not to suspend the Member's membership and, if the decision is to suspend the membership, the period of suspension; or
    - II. whether or not to expel the Member from the Association.
- 5) A decision of the Board to suspend the Member's membership or to expel the Member from the Association takes immediate effect.
- 6) The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within 7 days after the Board meeting at which the decision is made.
- 7) A Member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under sub-clause 6, give written notice to the Secretary requesting the appointment of a mediator under clause 21.
- 8) If notice is given under sub-clause 7, the Member who gives the notice and the Board are the parties to the mediation.

## **18. Consequences of Suspension**

- 1) During the period a Member's membership is suspended, the Member
  - a) loses any rights (including voting rights) arising as a result of membership; and
  - b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- 2) When a Member's membership is suspended, the Secretary must record in the register of Members
  - a) that the Member's membership is suspended; and
  - b) the date on which the suspension takes effect; and
  - c) the period of the suspension.

- 3) When the period of the suspension ends, the Secretary must record in the register of Members that the Member's membership is no longer suspended.

#### **19. Disputes Between Members or Members and the Association**

- 1) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.
- 2) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by sub-clause 1, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of
  - a) the parties to the dispute; and
  - b) the matters that are the subject of the dispute.
- 3) Within 28 days after the Secretary is given the notice, a Board meeting must be convened to consider and determine the dispute.
- 4) The Secretary must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- 5) The notice given to each party to the dispute must state
  - a) when and where the Board meeting is to be held; and
  - b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.
- 6) If
  - a) the dispute is between one or more Members and the Association; and
  - b) any party to the dispute gives written notice to the Secretary stating that the party
    - i. does not agree to the dispute being determined by the Board; and
    - ii. requests the appointment of a mediator under clause 21,the Board must not determine the dispute.

#### **20. Determination of Dispute by the Board**

- 1) At the Board meeting at which a dispute is to be considered and determined, the Board must
  - a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
  - b) give due consideration to any submissions so made; and
  - c) determine the dispute.
- 2) The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board meeting at which the determination is made.
- 3) A party to the dispute may, within 14 days after receiving notice of the Board's determination under sub-clause 1(c), give written notice to the Secretary requesting the appointment of a mediator under clause 21.
- 4) If notice is given under sub-clause 3, each party to the dispute is a party to the mediation.

#### **21. Appointment of Mediator**

- 1) The mediator must be a person chosen
  - a) if the appointment of a mediator was requested by a Member under clause 17(7) — by agreement between the Member and the Board; or
  - b) if the appointment of a mediator was requested by a party to a dispute under clause 19(6)(b)(ii) or 20(3) — by agreement between the parties to the dispute.
- 2) If there is no agreement for the purposes of sub-clause 1(a) or (b), then, subject to sub-clauses 3 and 4, the Board must appoint the mediator.



- 3) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by
  - a) a Member under clause 17(7); or
  - b) a party to a dispute under clause 19(6)(b)(ii); or
  - c) a party to a dispute under clause 20(3) and the dispute is between one or more Members and the Association.
- 4) The person appointed as mediator by the Board may be a Member or former Member of the Association but must not
  - a) have a personal interest in the matter that is the subject of the mediation; or
  - b) be biased in favour of or against any party to the mediation.

## **22. Mediation Process**

- 1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- 2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- 3) In conducting the mediation, the mediator must —
  - a) give each party to the mediation every opportunity to be heard; and
  - b) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- 4) The mediator cannot determine the matter that is the subject of the mediation.
- 5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- 6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.
- 7) If the dispute has not been resolved by following the procedure set out in clauses 19 to 22 an application can be made to the State Administrative Tribunal to have a dispute determined.

## **23. If Mediation Results in Decision to Suspend or Expel Being Revoked**

If

- a) mediation takes place because a Member whose membership is suspended or who is expelled from the Association gives notice under clause 17(7); and
- b) as the result of the mediation, the decision to suspend the Member's membership or expel the Member is revoked,

that revocation does not affect the validity of any decision made at a Board meeting or general meeting during the period of suspension or expulsion.

## **24. The Board**

- 1) The Board Directors are the persons who, as the management Board of the Association, have the power to manage the affairs of the Association.
- 2) Subject to the Act, this constitution, the by-laws (if any) and any resolution passed at a general meeting, the Board has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- 3) The Board must take all reasonable steps to ensure that the Association complies with the Act, this constitution and the by-laws (if any).

## **25. Board Directors**

- 1) The Board shall be comprised of
  - a) no fewer than 4 elected Board Directors, and no more than 6 elected Board Directors.
  - b) a maximum of 4 Co-opted Board Directors for a term of not more than 1 year
  - c) the Principal as an ex-officio non-voting Board Director; and
  - d) any other persons appointed under clause 29(c).
- 2) The following are the office holders of the Association —
  - a) the Chairperson;
  - b) the Vice Chairperson;
  - c) the Secretary.
- 3) A person may be a Board Director if the person is —
  - a) an individual who has reached 18 years of age;
  - b) an Ordinary Member; and
  - c) not excluded from eligibility to be member of a Board as identified in section 39 of the Act and sub-clause 4.
- 4) Directors of the Board are to be fit and proper persons to operate a school in accordance with the fit and proper requirements outlined in the Board Manual or policy and having regard to the prior conduct, whether in Western Australia or elsewhere, of the Director, or any person who, as described in subsection 160(5) of the WA School Education Act 1999, is related to the Director.
- 5) Board Directors are to conduct themselves in a manner consistent with the requirements of the Act and in particular sections 44, 45, 46 and 47 of the Act.
- 6) Only one member of a Family is permitted to hold Directorship on the Board, at any given time.

## **26. Chairperson and Vice Chairperson**

- 1) It is the duty of the Chairperson to consult with the Secretary and Principal regarding the business to be conducted at each Board meeting and general meeting.
- 2) The Chairperson has the powers and duties relating to convening and presiding at Board meetings and presiding at general meetings provided for in this constitution.
- 3) In the absence of the Chairperson the Vice Chairperson will conduct the business of the Association as described in sub-clause 1.

## **27. Secretary**

The Secretary has the following duties —

- a) dealing with the Association's correspondence;
- b) consulting with the Chairperson and Principal regarding the business to be conducted at each Board meeting and general meeting;
- c) preparing the notices required for meetings and for the business to be conducted at meetings;
- d) unless another Member is authorised by the Board to do so, maintaining on behalf of the Association the register of Members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- e) maintaining on behalf of the Association an up-to-date copy of this constitution, as required under section 35(1) of the Act;
- f) unless another Member is authorised by the Board to do so, maintaining on behalf of the Association a record of Board Directors and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
- g) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- h) maintaining full and accurate minutes of Board meetings and general meetings; and
- i) carrying out any other duty given to the Secretary under this constitution or by the Board.

## **28. Principal**

The Principal:

- a) is delegated the day to day management of the school;
- b) is answerable to the Board for providing educational leadership in the school, the day to day running of the school and for other general responsibilities associated with running a school;
- c) must:
  - i. implement the educational plans and school policies;
  - ii. provide accurate timely reports, information and advice relevant to the Board's accountabilities and functions as and when required;
  - iii. provide an up to date report of the school's financial position at each Board meeting;
  - iv. report on learning, care, training and participation outcomes;
  - v. oversee the preparation of the timetable and all rosters.
  - vi. assume responsibility for the financial, physical and human resource management of the school;
  - vii. chair the first meeting of the Board following the AGM; and
  - viii. contribute to the formulation of the agenda of Board meetings;
- d) is an Ex-officio Director of the Board with no voting rights;
- e) is responsible for the recruitment, engagement, performance management, discipline and dismissal of all school staff.
- f) must operate the school budget within the constraints set from time to time by the Board;
- g) may not engage contractors, for more than minor works or repairs, without first discussing the need with the finance sub-committee or Board;
- h) will ensure the school facilities are maintained in good order;
- i) will ensure staff receive appropriate and regular professional development;
- j) must promptly report all critical incidents to the Chairperson of the Board and to the Department of Education within the timeframe required by the Department of Education; and
- k) is responsible for the pastoral care of all staff.

## **29. How Members Become Board Directors**

A Member becomes a Board Director if the Member

- a) is elected to the Board at a general meeting; or
- b) is appointed to the Board by the Board as a Co-opted Director as per clause 32
- c) is appointed to the Board by the Board to fill a casual vacancy under clause 37.

## **30. Nomination of Board Directors**

- 1) At least 42 days before an annual general meeting, the Secretary must send written notice to all the Members
  - a) calling for nominations for election to the Board; and
  - b) stating the date by which nominations must be received by the Secretary to comply with sub-clause 2.
- 2) A Member who wishes to be considered for election to the Board at the annual general meeting must nominate for election by sending written notice of the nomination to the Secretary at least 28 days before the annual general meeting.
- 3) The written notice must include a statement by the nominee in support of their nomination.

## **31. Election of Board Directors**

- 1) If the number of Members nominating for the position of Ordinary Board Director is not greater than the number to be elected, the Chairperson of the meeting —
  - a) must declare each of those Members to be elected to the position; and
  - b) may call for further nominations from the Ordinary Members at the meeting to fill any positions remaining unfilled after the elections under sub-clause (a).
- 2) If
  - a) the number of Members nominating for the position of Ordinary Board Director is greater than the number to be elected; or

- b) the number of Members nominating under sub-clause (1)(b) is greater than the number of positions remaining unfilled, the Ordinary Members at the meeting must vote in accordance with procedures that have been determined by the Board to decide the Members who are to be elected to the position of Ordinary Board Director.
- 3) A Member who has nominated for the position of Ordinary Board Director may vote in accordance with that nomination.

### **32. Co-opted Directors of the Board**

- 1) The Board may appoint Co-opted Directors to the Board for terms of not more than one year.
- 2) A retiring Co-opted Director of the Board may be co-opted for a further term unless they have served for 5 consecutive terms. They may be reappointed after a break of at least 12 months.
- 3) A Co-opted Director shall have powers, rights and privileges relating to attending, speaking and voting at Board meetings, as the Board shall from time to time determine, unless otherwise stipulated in the Constitution.

### **33. Election of Office Holders**

- 1) At the first Board Meeting following the annual general meetings of Members of the Association, the Board Directors shall elect, from among their own Board Directors and Co-opted Directors, the office holders of the Board.
- 2) The Board may create such additional offices as it thinks fit and it may appoint any Board Director to fill any such additional office.
- 3) If only one Board Director has nominated for a position, the Chairperson of the meeting must declare the Board Director elected to the position.
- 4) If more than one Board Director has nominated for a position, the Board Directors at the meeting must vote in accordance with procedures that have been determined by the Board to decide who is to be elected to the position.
- 5) Each Board Director present at the meeting may vote for one Board Director who has nominated for the position.
- 6) A Board Director who has nominated for the position may vote for himself or herself.
- 7) On the Board Director's election, the new Chairperson of the Association may take over as the Chairperson of the meeting.

### **34. Term of Office**

- 1) The term of office of a Board Director begins when the Board Director —
  - a) is elected at an annual general meeting or under clause 35(3)(b); or
  - b) is appointed to fill a casual vacancy under clause 37.
- 2) Subject to clause 36 and 37, a Board Director holds office for a period of 2 years until the positions on the Board are declared vacant at the next annual general meeting.
- 3) A Board Director may be re-elected unless they have served for 5 consecutive terms. They may be elected after a break of at least 12 months.
- 4) The Chairperson shall only hold the office of Chairperson for 5 consecutive years. They may be reappointed after a break of at least 12 months.
- 5) 50% of the positions of elected Board Directors will be declared vacant biennially, with the remaining 50% of the positions of elected Board Directors to be declared vacant on alternate biennial years.

### **35. Resignation and Removal from Office**

- 1) A Board Director may resign from the Board by written notice given to the Secretary or, if the resigning Director is the Secretary, given to the Chairperson.
- 2) The resignation takes effect
  - a) when the notice is received by the Secretary or Chairperson; or
  - b) if a later time is stated in the notice, at the later time.
- 3) At a general meeting, the Association may by resolution
  - a) remove a Board Director from office; and
  - b) elect a Member who is eligible under clause 25(3), clause 25(4) and 25(5) to fill the vacant position.
- 4) A Board Director who is the subject of a proposed resolution under sub-clause 3(a) may make written representations (of a reasonable length) to the Secretary or Chairperson and may ask that the representations be provided to the Members.
- 5) The Secretary or Chairperson may give a copy of the representations to each Member or, if they are not so given, the Board Director may require them to be read out at the general meeting at which the resolution is to be considered.

### **36. When Membership of the Board Ceases**

A person ceases to be a Board Director if the person —

- a) dies or otherwise ceases to be a Member; or
- b) resigns from the Board or is removed from office under clause 35; or
- c) becomes ineligible to accept an appointment or act as a Board Director under section 39 of the Act;
- d) becomes incapacitated by mental or physical ill health for a period exceeding 6 consecutive months;
- e) is no longer a Member of the Association;
- f) fails to attend 3 consecutive Board meetings, of which the person has been given notice, without having notified the Board that the person will be unable to attend; or
- g) is removed from office under clause 25(4) and or clause 25(5).

### **37. Filling Casual Vacancies**

- 1) The Board may appoint a Director who is eligible under clause 25(3), clause 25(4) and clause 25(5) to fill a position on the Board that —
  - a) has become vacant under clause 36; or
  - b) was not filled by election at the most recent annual general meeting or under clause 35(3)(b).
- 2) A Director appointed to a casual vacancy will only hold office until the next annual general meeting. A Director appointed as a Board Director under this rule will have full voting rights and will hold the position until the next annual general meeting. The person may, in accordance with these rules, then nominate and stand for election to the Board at that annual general meeting.
- 3) If the position of Secretary becomes vacant, the Board must appoint a Director who is eligible under clause 25(3), clause 25(4) and 25 (5) to fill the position within 14 days after the vacancy arises OR the Board can appoint an employee of the School to be the Board's Secretary.
- 4) Subject to the requirement for a quorum under clause 44, the Board may continue to act despite any vacancy in its membership.
- 5) If there are fewer Board Directors than required for a quorum under clause 43, the Board may act only for the purpose of
  - a) appointing Board Directors under this clause; or
  - b) convening a general meeting.

### **38. Validity of Acts**

The acts of a Board or sub-committee body, or of a Board Director or Member of a sub-committee body, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Board Director or Member of a sub-committee body.

### **39. Payments to Board Directors**

A Board Director is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred in connection with the Association's business as determined by the Board.

### **40. Board Meetings**

- 1) The Board must meet at least 8 times in each year on the dates and at the times and places determined by the Board.
- 2) The date, time and place of the first Board meeting must be determined by the Board Directors as soon as practicable after the annual general meeting at which the Board Directors are elected.
- 3) Special Board meetings may be convened by the Chairperson or any 2 Board Directors.

### **41. Notice of Board Meetings**

- 1) Notice of each Board meeting must be given to each Board Director at least 48 hours before the time of the meeting.
- 2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- 3) Unless sub-clause 4 applies, the only business that may be conducted at the meeting is the business described in the notice.
- 4) Urgent business that has not been described in the notice may be conducted at the meeting if the Board Directors at the meeting unanimously agree to treat that business as urgent.

### **42. Procedure and Order of Business**

- 1) The Chairperson or, in the Chairperson's absence, the Vice-Chairperson must preside as Chairperson of each Board meeting.
- 2) If the Chairperson and Vice Chairperson are absent or are unwilling to act as Chairperson of a meeting, the Board Directors at the meeting must choose one of them to act as Chairperson of the meeting.
- 3) The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- 4) The order of business at a Board meeting may be determined by the Board Directors at the meeting.
- 5) A Member or other person who is not a Board Director may attend a Board meeting if invited to do so by the Board.
- 6) A person invited under sub-clause 5 to attend a Board meeting
  - a) has no right to any agenda, minutes or other document circulated at the meeting; and
  - b) must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
  - c) cannot vote on any matter that is to be decided at the meeting.

### **43. Use of Technology to be Present at Board Meetings**

- 1) The presence of a Board Director at a Board meeting need not be by attendance in person but may be by that Board Director and each other Board Director at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- 2) A Member who participates in a Board meeting as allowed under sub-clause 1 is taken to be present at the meeting and, if the Member votes at the meeting, the Member is taken to have voted in person.

#### **44. Quorum for Board Meetings**

- 1) Subject to clause 37(4), no business is to be conducted at a Board meeting unless a quorum is present.
- 2) At a Board meeting 50% of voting Board Directors constitute a quorum.
- 3) If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting
  - a) in the case of a special meeting — the meeting lapses; or
  - b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- 4) If
  - a) a quorum is not present within 30 minutes after the commencement time of a Board meeting held under sub-clause 3(b); and
  - b) at least 2 voting Board Directors are present at the meeting,
  - c) those Directors present are taken to constitute a quorum.

#### **45. Decision Making at Board Meetings**

- 1) The Board will make decisions by consensus
- 2) If consensus cannot be reached, or a decision is required to be made immediately, the Board will make a decision by voting as per sub clauses 3, 4, 5, 6, 7, 8.
- 3) Each Board Director present at a Board meeting has one vote on any question arising at the meeting.
- 4) A motion is carried if a majority of the Board Directors present at the Board meeting vote in favour of the motion.
- 5) If the votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 6) A vote may take place by the Board Directors present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- 7) If a secret ballot is needed, the Chairperson of the meeting must decide how the ballot is to be conducted.
- 8) A resolution in writing, for example via email, passed by all Board Directors entitled to receive notice of a Board meeting and vote on the resolution is as valid and effectual as if it had been passed at a meeting of Board duly convened and held.
  - a) The date of a resolution under rule sub-clause 8 will be when the Chairperson acknowledges in writing to all other Board Directors the resolution. The resolution must be entered into the decisions register and be referred to at the next Board meeting.
  - b) Any resolution passed under sub-clause 8 may consist of several documents.
  - c) For the purpose of sub-clause 8 a document produced by electronic means under the name of a Board Director, with the Board Director's authority, will be considered a document to be signed in writing by the Board Director.

#### **46. Minutes of Board Meetings**

- 1) The Board must ensure that minutes are taken and kept of each Board meeting.
- 2) The minutes must record the following —
  - a) the names of the Board Directors present at the meeting;
  - b) the name of any person attending the meeting under clause 42(5);
  - c) the business considered at the meeting;
  - d) any motion on which a vote is taken at the meeting and the result of the vote.
  - e) details of any declaration of a conflict of interest
- 3) The minutes of a Board meeting must be entered in the Association's minute book within 30 days after the meeting is held.

- 4) The Chairperson must ensure that the minutes of a Board meeting are reviewed and signed as correct by
  - a) the Chairperson of the meeting; or
  - b) the Chairperson of the next Board meeting.
- 5) When the minutes of a Board meeting have been signed as correct they are, until the contrary is proved, evidence that
  - a) the meeting to which the minutes relate was duly convened and held; and
  - b) the matters recorded as having taken place at the meeting took place as recorded; and
  - c) any appointment purportedly made at the meeting was validly made.

#### **47. Function of the Board**

- a) The Board may perform such functions as necessary to establish and conduct, or arrange for the conduct of facilities and services to enhance the education, development, care, safety, health and welfare of staff and students
- b) The Board may raise money for school related purposes.
- c) The Board may do all those acts and things incidental to the exercise of these functions.
- d) The Board's functions must be exercised in accordance with legislation, administrative instructions and this constitution.

#### **48. Duties of the Board**

- 1) The Board is accountable for:
  - a) the development and implementation of a strategic plan for the school;
  - b) the development and implementation of effective processes for planning, monitoring and achieving improvements in student learning;
  - c) the regular and ongoing risk assessment of the level of care provided in the school in terms of student safety, welfare and wellbeing;
  - d) maintaining a satisfactory standard of education and level of care for students;
  - e) the quality of the educational programs of the school;
  - f) determining the application of the total financial resources available to the school including the regular review of the budget, and provision of financial report to the Annual General Meeting;
  - g) ensuring all financial targets are met, and financial and statutory regulations are complied with;
  - h) ensuring a minimum of one (1) Director is a member of any finance related sub-committee.
  - i) risk management of the school; (e.g. financial, operational, reputational, student welfare and wellbeing);
  - j) legal compliance by the school;
  - k) determining and implementing all expenditure on capital projects;
  - l) overseeing the proper care and maintenance of any property owned by the Association;
  - m) ensuring that the policies of the school including policies for the safety, welfare and discipline of students are developed and enforced; and
  - n) fostering positive relationships and encouraging involvement with key stakeholders including parents and students.
- 2) The Board is responsible for the employment, performance management and dismissal of the Principal.
- 3) The Board is required to:
  - a) engage in professional learning
  - b) conduct an annual review of its own performance
- 4) The Board will ensure that the accounts of the School are audited by a company auditor registered with the Australian Securities and Investments Commission (ASIC), and the auditor's report is made available to the Association at the annual general meeting.



#### **49. Sub-committee and Subsidiary Offices**

- 1) To help the Board in the conduct of the Association's business, the Board may, in writing, do either or both of the following
  - a) appoint one or more sub-committees;
  - b) create one or more subsidiary offices and appoint people to those offices.
- 2) A sub-committee may consist of the number of people, whether or not Directors, that the Board considers appropriate.
- 3) A person may be appointed to a subsidiary office whether or not the person is a Director.
- 4) Subject to any directions given by the Board
  - a) a sub-committee may meet and conduct business as it considers appropriate; and
  - b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

#### **50. Delegation to Sub-committee and Holders of Subsidiary Offices**

- 1) The Board may, in writing, delegate to a sub-committee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Board other than
  - a) the power to delegate; and
  - b) a non-delegable duty.
- 2) A power or duty, the exercise or performance of which has been delegated to a sub-committee body or the holder of a subsidiary office under this clause, may be exercised or performed by the sub-committee body or holder in accordance with the terms of the delegation.
- 3) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Board specifies in the document by which the delegation is made.
- 4) The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.
- 5) Any act or thing done by a sub-committee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Board.
- 6) The Board may, in writing, amend or revoke the delegation.

#### **51. Notice of General Meetings**

- 1) The Secretary or, in the case of a special general meeting convened under clause 61(5), the Members convening the meeting, must give to each Member
  - a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - b) at least 14 days' notice of a general meeting in any other case.
- 2) The notice must
  - a) specify the date, time and place of the meeting; and
  - b) indicate the general nature of each item of business to be considered at the meeting; and
  - c) provide the text of any resolution that is to be put to the Members at the meeting; and
  - d) if the meeting is the annual general meeting, include the names of the Members who have nominated for election to the Board under clause 31(2); and
  - e) if a special resolution is proposed
    - i. set out the wording of the proposed resolution as required by section 51(4) of the Act; and
    - ii. state that the resolution is intended to be proposed as a special resolution; and
    - iii. comply with clause 52(7).
- 3) The Association auditor will be sent all notices and communication regarding general meetings that a Member is entitled to receive.

## **52. Proxies**

- 1) Subject to sub-clause 2, an Ordinary Member may appoint an individual who is an Ordinary Member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- 2) An Ordinary Member may be appointed the proxy for not more than 1 other Member.
- 3) The appointment of a proxy must be in writing and signed by the Member making the appointment.
- 4) The Member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- 5) If no instructions are given to the proxy, the proxy may vote on behalf of the Member in any matter as the proxy sees fit.
- 6) If the Board has approved a form for the appointment of a proxy, the Member may use that form or any other form
  - a) that clearly identifies the person appointed as the Member's proxy; and
  - b) that has been signed by the Member.
- 7) Notice of a general meeting given to an Ordinary Member under clause 51 must —
  - a) state that the Member may appoint an individual who is an Ordinary Member as a proxy for the meeting; and
  - b) include a copy of any form that the Board has approved for the appointment of a proxy.
- 8) A form appointing a proxy must be given to the Secretary before the commencement of the general meeting for which the proxy is appointed.
- 9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

## **53. Use of Technology to be Present at General Meetings**

- 1) The presence of a Member at a general meeting need not be by attendance in person but may be by that Member and each other Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- 2) A Member who participates in a general meeting as allowed under sub-clause 1 is taken to be present at the meeting and, if the Member votes at the meeting, the Member is taken to have voted in person.

## **54. Presiding Member and Quorum for General Meetings**

- 1) The Chairperson or, in the Chairperson's absence, the Vice-Chairperson must preside as Chairperson of each general meeting.
- 2) If the Chairperson and Vice-Chairperson are absent or are unwilling to act as Chairperson of a general meeting, the Board Directors at the meeting must choose one of them to act as Chairperson of the meeting.
- 3) No business is to be conducted at a general meeting unless a quorum is present.
- 4) A quorum shall be 10% of Members of the Association.
- 5) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting
  - a) in the case of a special general meeting — the meeting lapses; or
  - b) in the case of the annual general meeting — the meeting is adjourned to —
    - I. the same time and day in the following week; and
    - II. the same place, unless the Chairperson specifies another place at the time of the adjournment or written notice of another place is given to the Members before the day to which the meeting is adjourned.

- 6) If
  - a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under sub-clause 5(b); and
  - b) at least 5 Ordinary Members are present at the meeting,
  - c) those Members present are taken to constitute a quorum.
- 7) All Members of the Association may attend general meetings.

#### **55. Adjournment of General Meeting**

- 1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the Ordinary Members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- 2) Without limiting sub-clause 1, a meeting may be adjourned —
  - a) if there is insufficient time to deal with the business at hand; or
  - b) to give the Members more time to consider an item of business.
- 3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 4) Notice of the adjournment of a meeting under this clause is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with clause 51.

#### **56. Voting at General Meeting**

- 1) On any question arising at a general meeting
  - a) subject to sub-clause 3, each Ordinary Member of the Association, eligible to vote in any matter, shall have only one vote and there shall be only one vote per family; and
  - b) Ordinary Members may vote personally or by proxy, and there shall be only one vote per family.
- 2) Except in the case of a special resolution, a motion is carried if a majority of the Ordinary Members present at a general meeting vote in favour of the motion.
- 3) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 4) If the question is whether or not to confirm the minutes of a previous general meeting, only Members who were present at that meeting may vote.
- 5) For a person to be eligible to vote at a general meeting as an Ordinary Member, the Ordinary Member
  - a) must have been an Ordinary Member at the time notice of the meeting was given under clause 51; and
  - b) must be financial and have paid at the time of the meeting any membership fee, tuition fee or other money payable to the Association by the Member.

#### **57. When Special Resolutions Are Required**

- 1) A special resolution is required if it is proposed at a general meeting
  - a) to affiliate the Association with another body; or
  - b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
  - c) to adopt these model clause (section 29(1) of the Act);
  - d) to alter this constitution, including changing the name of the Association (section 30(1) of the Act);
  - e) to decide to apply for registration or incorporation as a prescribed body corporate (section 93(1) of the Act);
  - f) to approve the terms of an amalgamation with one or more other incorporated associations (section 102(4) of the Act);
  - g) to be wound up voluntarily (section 121(2) of the Act) or by the Supreme Court (section 124(a) and Schedule 4 item 9 of the Act);

- h) to cancel its incorporation (section 129 of the Act); and
  - i) any other such instance as required by the Act.
- 2) Sub-clause 1 does not limit the matters in relation to which a special resolution may be proposed.

#### **58. Determining Whether Resolution Carried**

- 1) Subject to sub-clause 4, the Chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been
  - a) carried; or
  - b) carried unanimously; or
  - c) carried by a particular majority; or
  - d) lost.
- 2) If the resolution is a special resolution, the declaration under sub-clause 1 must identify the resolution as a special resolution.
- 3) If a poll is demanded on any question by the Chairperson of the meeting or by at least 3 other Ordinary Members present in person or by proxy
  - a) the poll must be taken at the meeting in the manner determined by the Chairperson;
  - b) the Chairperson must declare the determination of the resolution on the basis of the poll.
- 4) If a poll is demanded on the election of the Chairperson or on a question of an adjournment, the poll must be taken immediately.
- 5) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the Chairperson.
- 6) A declaration under sub-clause 1 or 3 must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.
- 7) A special resolution is passed if not less than 75% of the Members present, in person or by proxy, cast an eligible vote in favour of the resolution.

#### **59. Minutes of General Meeting**

- 1) The Secretary, or a person authorised by the Board from time to time, must take and keep minutes of each general meeting.
- 2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 3) In addition, the minutes of each annual general meeting must record —
  - a) the names of the Ordinary Members attending the meeting; and
  - b) any proxy forms given to the Chairperson of the meeting under clause 52(8); and
  - c) the financial statements or financial report presented at the meeting, as referred to in clause 60(3)(b)(ii) or (iii); and
  - d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in clause 60(3)(b)(iv).
- 4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- 5) The Chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by
  - a) the Chairperson of the meeting; or
  - b) the Chairperson of the next general meeting.
- 6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that —
  - a) the meeting to which the minutes relate was duly convened and held; and
  - b) the matters recorded as having taken place at the meeting took place as recorded; and
  - c) any election or appointment purportedly made at the meeting was validly made.

## **60. Annual General Meeting**

- 1) The Board must determine the date, time and place of the annual general meeting.
- 2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the Secretary must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- 3) The ordinary business of the annual general meeting is as follows —
  - a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed;
  - b) to receive and consider —
    - i. the Board's annual report on the Association's activities during the preceding financial year; and
    - ii. if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
    - iii. if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
    - iv. if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
  - c) to elect the Board Directors of the Association;
  - d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
  - e) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by Members.
- 4) Any other business of which notice has been given in accordance with this constitution may be conducted at the annual general meeting.
- 5) All Members of the Association can attend the Annual General Meeting.

## **61. Special General Meetings**

- 1) The Board may convene a special general meeting.
- 2) The Board must convene a special general meeting if at least 20% of the Members require a special general meeting to be convened.
- 3) The Members requiring a special general meeting to be convened must
  - a) make the requirement by written notice given to the Secretary; and
  - b) state in the notice the business to be considered at the meeting;
  - c) provide the text of any proposed resolution that is to be put to the Members at the meeting; and
  - d) each sign the notice.
- 4) The special general meeting must be convened within 28 days after notice is given under sub-clause 3(a).
- 5) If the Board does not convene a special general meeting within that 28-day period, the Members making the requirement (or any of them) may convene the special general meeting.
- 6) A special general meeting convened by Members under sub-clause 5
  - a) must be held within 3 months after the date the original requirement was made; and
  - b) may only consider the business stated in the notice by which the requirement was made.
- 7) The Association must reimburse any reasonable expenses incurred by the Members convening a special general meeting under sub-clause 5.

## **62. Source of Funds**

The funds of the Association may be derived from entrance fees, membership fees, enrolment fees, tuition fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Board.

### **63. Control of Funds**

- 1) The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- 2) Subject to any restrictions imposed at a general meeting, the Board may approve expenditure on behalf of the Association.
- 3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by two persons authorised by the Board

### **64. Financial Statements and Financial Reports**

- 1) For each financial year, the Board must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met. That is the Board must keep financial records that;
  - a) correctly record and explain its transactions and financial position and performance; and
  - b) enable true and fair financial statements to be prepared in accordance with Part 5 Division 3 of the Act.
- 2) Without limiting sub-clause 1, those requirements include
  - a) if the Association is a tier 1 association, the preparation of the financial statements; and
  - b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
  - c) if required, the review or auditing of the financial statements or financial report, as applicable; and
  - d) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
  - e) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report.
- 3) All financial records must be kept for at least 7 years after the transactions covered by the records are completed.

### **65. By-laws**

- 1) The Association may, by resolution at a general meeting, make, amend or revoke by-laws.
- 2) By-laws may
  - a) provide for the rights and obligations that apply to any classes of associate membership approved under clause 11(2); and
  - b) impose restrictions on the Board's powers, including the power to dispose of the Association's assets; and
  - c) impose requirements relating to the financial reporting and financial accountability of the Association and the auditing of the Association's accounts; and
  - d) provide for any other matter the Association considers necessary or convenient to be dealt with in the by-laws.
- 3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or this constitution.
- 4) Without limiting sub-clause 3, a by-law made for the purposes of sub-clause 2(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- 5) At the request of a Member, the Association must make a copy of the by-laws available for inspection by the Member.

## **66. Executing Documents and Common Seal**

- 1) The Association may execute a document without using a common seal if the document is signed by
  - a) 2 Board Directors; or
  - b) one Board Director and a person authorised by the Board.
- 2) If the Association has a common seal
  - a) the name of the Association must appear in legible characters on the common seal; and
  - b) a document may only be sealed with the common seal by the authority of the Board and in the presence of
  - c) 2 Board Directors; or
  - d) one Board Director and a person authorised by the Board,
  - e) and each of them is to sign the document to attest that the document was sealed in their presence.
- 3) The Secretary must make a written record of each use of the common seal.
- 4) The common seal must be kept in the custody of the Secretary or another Board Director authorised by the Board.

## **67. Giving Notices to Members**

A notice or other document that is to be given to a Member under this constitution is taken not to have been given to the Member unless it is in writing and —

- a) delivered by hand to the recorded address of the Member; or
- b) sent by prepaid post to the recorded postal address of the Member; or
- c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the Member.

## **68. Custody of Books and Securities**

- 1) The books and any securities of the Association, and the financial records and, as applicable, the financial statements or financial reports of the Association, must be kept in the Secretary's custody or under the Secretary's control.
- 2) Sub-clause 1 has effect except as otherwise decided by the Board.
- 3) The books of the Association must be retained for at least 7 years.

## **69. Record of Office Holders**

- 1) The Association shall keep a register of the names and addresses of all office holders in the Association.
- 2) The Association shall keep a record of the name and address of all those authorised to use the common seal of the Association.
- 3) The Association shall keep a record of the name and address of any person who is appointed or acts as a trustee on behalf of the Association.

## **70. Inspection of Records and Documents**

- 1) Sub-clause 2 applies to a Member who wants to inspect
  - a) the register of Members under section 54(1) of the Act; or
  - b) the record of the names and addresses of Board Directors, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - c) any other record or document of the Association.
- 2) The Member must contact the Secretary to make the necessary arrangements for the inspection.
- 3) The inspection must be free of charge.
- 4) If the Member wants to inspect a document that records the minutes of a Board meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board meetings generally, or the minutes of a specific Board meeting, being available for inspection by Members.

- 5) The Member may make a copy of or take an extract from a record or document referred to in sub-clause 1(c) but does not have a right to remove the record or document for that purpose.
- 6) The Member must not use or disclose information in a record or document referred to in sub-clause 1(c) except for a purpose
  - a) that is directly connected with the affairs of the Association; or
  - b) that is related to complying with a requirement of the Act.

**71. Publication by Board Directors of Statements About Association Business Prohibited**

A Board Director must not publish, or cause to be published, any statement about the business conducted by the Association at a general meeting or Board meeting unless

- a) the Board Director has been authorised to do so at a Board meeting; and
- b) the authority given to the Board Director has been recorded in the minutes of the Board meeting at which it was given.

**72. Distribution of Surplus Property on Cancellation of Incorporation or Winding Up**

On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

**73. Alteration of This Constitution**

- 1) If the Association wants to alter or rescind any of this constitution, or to make additional clauses, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.
- 2) Changes made by special resolution to this constitution must be notified to the Commissioner within one month of the special resolution being passed.

**74. Matter not provided for**

Matters that are not provided for, or not adequately provided for, in this Constitution, may be provided for by resolution of the Board at a properly convened Board Meeting or by the Association at a properly convened General Meeting which matters must not be inconsistent with this Constitution.