

# Constitution

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**Cape Byron Rudolf Steiner School Inc**

An association registered under the NSW Associations  
Incorporation Act 1984

# Constitution of Cape Byron Rudolf Steiner School

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# 1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

**Association** means Cape Byron Rudolf Steiner School Incorporated.

**Auditor** means the Association's auditor.

**Constitution** means the constitution of the Association as amended from time to time.

**Consultant Teacher** means a teacher, selected by the College of Teachers, to provide advice and information to the Board in relation to educational matters per clause 4.4.

**Associations Act** means the Associations Incorporation Act 1984 (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.

**Director** includes any person occupying the position of director of the Association.

**Directors** means all or some of the Directors acting as a board.

**Enrolment Contract** – means the contract with the School signed by parents to enrol their child (or children) in the school.

**Existing Members** means the members of the Association as at the date of the adoption of this Constitution.

**Member** means a Member of the Association admitted to membership as a Member in accordance with clause 6.

**Public officer** means any person appointed by the Directors to perform any of the duties of a Public officer of the Association in accordance with clause 43 and the Associations Act.

**Register** means the register of Members of the Association.

**Seal** means the Association's common seal (if any).

**School** means Cape Byron Rudolf Steiner School.

**Special Resolution** – means a special resolution in accordance with the Associations Act. In most circumstances requiring 21 days notice of the Resolution and  $\frac{3}{4}$  of the vote in favour to be passed.

1.2 In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Associations Act. Where the expression has more than one meaning in the Associations Act and a provision of the Associations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

# 2. Interpretation

In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;

- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
  - (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
  - (f) a reference to time is a reference to Byron Bay, NSW Australia time; and
  - (g) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions.
- 2.2 Headings are for ease of reference only and do not affect interpretation.
- 2.3 For the purposes of this Constitution, if the provisions of the Associations Act and this Constitution conflict on the same matter, the provisions of the Associations Act prevail.

### 3. Replaceable rules

The provisions of the Associations Act that apply to certain companies as replaceable rules are displaced by this Constitution in their entirety and do not apply to the Association.

## Objects

### 4. Objects

- 4.1 The Association is established for the object of operating a [*co-educational*] school for children, irrespective of their social, religious or cultural background (**the School**), and uses its best endeavours to:
- (a) at all times adhere to and foster the intentions and advice of Rudolf Steiner in their application to education of children;
  - (b) develop fully the talents and capacities of all students through a curriculum consistent with the preceding object;
  - (c) strive for, establish and maintain activities based on the principles indicated by Rudolf Steiner; and
  - (d) provide a safe and supportive environment for all who learn and work in our school.
- 4.2 The Association may only exercise the powers granted by the Associations Act to:
- (a) carry out the Objects set out in this clause; and
  - (b) do all things incidental or convenient in relation to the exercise of power under clause 4.2(a).

### College

- 4.3 The College of Teachers, comprised of teachers employed by the school, forms the spiritual and pedagogical 'heart' of the school. The College of Teachers shall provide advice to the Principal in relation to the educational functions of the school.
- 4.4 The Principal shall consult with the College of Teachers in relation to the educational functions and pedagogical direction of the school and two teachers selected by the College of Teachers, will provide advice and information to the Board in relation to educational matters. One of these consultant teachers will cover years K through 6 and the other years 7 through 12.

### Principals Role on Council

- 4.5 The Principal and consultant teachers shall be present at meetings of the Board ex officio and may contribute to discussions, debates and move motions. Neither has voting rights on council.

## Income and property of Association

### 5. Income and property of Association

- 5.1 The income and property of the Association will only be applied towards the promotion of the Objects of the Association set out in clause 4.
- 5.2 No income or property will be paid or transferred directly or indirectly to any Member of the Association except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Association; or
  - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

## Membership

### 6. Admission

- 6.1 The Members of the Association are:
- (a) the Existing Members of the Association who are deemed to have given their agreement to become members of the Association and whose membership remains current until 31<sup>st</sup> January 2016; and
  - (b) any other eligible persons whom are willing to abide by the Objects of the Association and whom the Directors admit to membership in accordance with this Constitution.
- 6.2 A person is eligible to apply for membership if the person:
- (a) is a natural person who;
    - (i) is a Parent or guardian of any child at the School who has signed a current enrolment contract; or
    - (ii) is an employee of the School;
    - (iii) or, has been approached by the Board to be appointed as a Board Member in accordance with clause 26.3(b).
  - (b) has never been a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) nor ever been convicted of an indictable offence; and
  - (c) is not an undischarged bankrupt.
- 6.3 Applications for membership of the Association must be in writing, signed by the applicant, and be in a form approved by the Directors in their absolute discretion.
- 6.4 The Directors will consider each application for membership at the next meeting of Directors after the application is received. In considering an application for Membership, the Directors may:
- (a) accept the application;
  - (b) reject the application; or
  - (c) ask the applicant for more information.

- 6.5 If the Directors ask for more information under clause 6.4, their determination of the application for membership is to be deferred until the information is given.
- 6.6 A majority vote of at least three-quarters of the Directors present and entitled to vote on the matter is required for the Directors to reject an application. The Directors do not have to give any reason for rejecting an application for Membership.
- 6.7 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or, to the extent permitted by law, by operation of law.
- 6.8 The Directors may define the duration of the appointment of Members, which cannot exceed three years, and may determine that an entrance fee is payable by each Member, which shall not exceed \$30. Membership renewals are subject to the requirements set out in clause 6.

## 7. Ceasing to be a Member

- 7.1 A Member's membership of the Association will immediately cease:
- (a) if the Member gives the Public officer written notice of resignation, from the date of receipt of that notice by the Public officer;
  - (b) if at least three-quarters of the Directors present and entitled to vote at a meeting of Directors by resolution terminate the membership of a Member:
    - (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Association; and
    - (ii) who has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed; or
  - (c) if the Member:
    - (i) dies;
    - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
    - (iii) is a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) or is convicted of an indictable offence;
    - (iv) files or is the subject of a petition for bankruptcy;
    - (v) ceases to meet the requirements for eligibility for membership set out in clause 6;
    - (vi) no longer has a current membership in accordance with clause 6.

## 8. Powers of attorney

- 8.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Association or the Member's membership in the Association, that Member must deliver the instrument appointing the attorney to the Association for notation.
- 8.2 If the Association asks the Member to file with it a certified copy of the instrument for the Association to retain, the Member will promptly comply with that request.
- 8.3 The Association may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.



# General meetings

## 9. Calling general meeting

- 9.1 Any Director may, at any time, call a general meeting.
- 9.2 The Directors must call and arrange to hold a general meeting on the request of at least 20% of registered members as at the date of the request.

## 10. Notice of general meeting

- 10.1 Subject to the provisions of the Associations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 10.2 A notice calling a general meeting:
- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
  - (b) must state the general nature of the business to be transacted at the meeting; and
  - (c) must specify a place and electronic address for the purposes of proxy appointment.
- 10.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
  - (b) the election of directors; or
  - (c) the appointment and fixing of the remuneration of the Auditor.
- 10.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 9.2).
- 10.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 46.1 entitled to receive notices from the Association.
- 10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

# Proceedings at general meetings

## 11. Member

In clauses 12, 13, 15 and 19, **Member** includes a Member present in person or by proxy or attorney.

## 12. Quorum

- 12.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 12.2 A quorum of Members is any 8 Members.

- 12.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

## 13. Chairperson

- 13.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 13.2 The Directors present may elect a chairperson of a general meeting if:
- (a) there is no chairperson or deputy chairperson; or
  - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
  - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 13.3 If the Directors make no election under clause 13.2 when they are entitled to do so, then:
- (a) the Members may elect one of the Directors present as chairperson; or
  - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 13.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

## 14. Adjournment

- 14.1 The chairperson of a general meeting at which a quorum is present:
- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
  - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 14.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 14.4 Notice of an adjourned general meeting must only be given in accordance with clause 10.1 if a general meeting has been adjourned for more than 21 days.

## 15. Decision on questions

- 15.1 Subject to the Associations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

- 15.2 A resolution put to the vote of a meeting is to be decided on a show of hands unless a poll is demanded in accordance with the Associations Act.
- 15.3 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- 15.4 The demand for a poll may be withdrawn.
- 15.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

## 16. Taking a poll

- 16.1 If a poll is demanded under clause 15.2, a poll will be taken when and in the manner that the chairperson directs.
- 16.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 16.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 16.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 16.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 16.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## 17. Casting vote of chairperson

The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy or attorney.

## 18. Offensive material

A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
  - (i) electronic or recording device;
  - (ii) placard or banner; or
  - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

# Votes of Members

## 19. Entitlement to vote

19.1 Subject to this Constitution, on a show of hands and on a poll every Member has one vote.

## 20. Objections

20.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

20.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.

20.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

## 21. Votes by proxy

21.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.

21.2 A proxy must be a Member and can be a proxy for one Member only.

21.3 A proxy may demand or join in demanding a poll.

21.4 A proxy or attorney may vote on a poll.

21.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

## 22. Document appointing proxy

22.1 An appointment of a proxy is valid if it is completed and signed by the Member making the appointment. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required.

22.2 For the purposes of clause 22.1, an appointment received at an electronic address will be taken to be signed by the Member if:

(a) a personal identification code allocated by the Association to the Member has been input into the appointment; or

(b) the appointment has been verified in another manner approved by the Directors.

22.3 A proxy's appointment is valid at an adjourned general meeting.

22.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

22.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

(a) to vote on:

(i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and

(ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,

even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and

- (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

22.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors or the Public officer.

## 23. Lodgement of proxy

23.1 The written appointment of a proxy or attorney must be received by the Association, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

23.2 The Association receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- (a) the Association's registered office;
- (b) a facsimile number at the Association's registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## 24. Validity

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Association before the relevant general meeting or adjourned general meeting.

## Directors

### 25. Directors

25.1 The Directors and Public officer in office on the date this Constitution becomes effective, continue in office subject to this Constitution.

25.2 For the purpose of electing or appointing Directors to replace each initial Director, the initial Directors are deemed to have been elected or appointed in the capacity (by reference to clause 26.3) set out beside each of their names in Annexure 1 to this Constitution.

25.3 Employees of the School are ineligible to be a Director, with the exception of those who are initial directors listed in Annexure 1. These initial directors must retire prior to the 2016 AGM and are to remain, only to the extent necessary to ensure a minimum number of Directors is maintained in accordance with clause 26.3.

## 26. Appointment and removal of Directors

- 26.1 Subject to the Associations Act, the Association may by special resolution passed at a general meeting increase the minimum number of Directors or increase or reduce the maximum number of Directors.
- 26.2 Until the Association resolves otherwise in accordance with clause 26.1, the Association shall have a minimum of 6 and a maximum of 8 Directors.
- 26.3 The Directors must be Members of the Association and shall comprise:
- (a) at least 3 but no more than 4 Directors elected by the Members of the Association, for terms of 1, 2 or 3 years; and
  - (b) at least 2 but no more than 4 Directors appointed by the Board.
- 26.4 Subject to applicable law, if the Board considers in its discretion, acting reasonably, that the conduct or position of any Director is such that continuance in office is likely to be prejudicial to the interests of the Association, the Board, at a meeting of the Directors specifically called for that purpose, may suspend that Director. The relevant Director will not be eligible to vote on the resolution.
- 26.5 As soon as possible after the suspension (subject to the notice provisions in the Associations Act and this Constitution), the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office or annul the suspension and reinstate the Director.
- 26.6 For Directors appointed by the Board in accordance with clause 26.3 (b), at least two appointed Directors will be neither parent or employee of the School.
- 26.7 Appointment of Directors by the Board will be by 2/3 majority vote in favour of the appointment.

## 27. Retirement

- 27.1 All Directors, must retire from office at the conclusion of the third annual general meeting after the Director was last elected or appointed. The terms of some Directors may be shortened by determination of the Board to ensure that no more than half of the Directors are due to retire at any one time.
- 27.2 Subject to clause 27.3, a retiring Director is eligible for re-election or re-appointment.
- 27.3 Subject to clause 27.4, any person (including appointees) who has been a Director for six consecutive years is not eligible to be a Director for a period of 1 year after those six years' service.
- 27.4 The Directors may, by a two-thirds majority, resolve that a person is eligible to be a Director if that person would otherwise not be eligible solely by operation of clause 27.3.

## 28. Vacation of office

A person immediately ceases to be a Director if he or she:

- (a) ceases to be a Director by virtue of the Associations Act;
- (b) is prohibited by the Associations Act from holding office or continuing as a Director;
- (c) is prohibited from holding or is removed from the office of Director by an order made under the Associations Act;

- (d) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (e) resigns by notice in writing to the Association;
- (f) is removed by a resolution of the Association;
- (g) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (h) is absent from Directors' meetings for 6 consecutive months without leave of absence from the Directors;
- (i) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of the interest as required by the Associations Act;
- (j) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW); or
- (k) ceases to be a Member of the Association.

## 29. Additional and casual Directors

- 29.1 Subject to clause 26, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors so that the total number of Directors of the Board shall not at any time exceed the number fixed in accordance with clause 26.2.
- 29.2 A Director appointed under clause 29.1 ceases to be a Director at the conclusion of the next annual general meeting of the Association but is, subject to clause 27.3, eligible for re-election or re-appointment as a Director.

## 30. Powers and duties of Directors

- 30.1 The business of the Association is managed by the Directors who may exercise all powers of the Association that this Constitution and the Associations Act do not require to be exercised by the Association in general meeting.
- 30.2 Without limiting the generality of clause 30.1, the Directors may exercise all the powers of the Association to:
- (a) borrow money;
  - (b) charge any property or business of the Association;
  - (c) issue debentures or give any other security for a debt, liability or obligation of the Association or of any other person; and
  - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

## 31. Directors' meetings

- 31.1 A Director may at any time, and the Public officer must on the request of a Director, call a Directors' meeting.

- 31.2 A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.
- 31.3 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Public officer, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.
- 31.4 Subject to the Associations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 31.5 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 31.6 Subject to clause 35, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 31.7 Clauses 31.4 to 31.5 apply to meetings of Committees as if all committee members were Directors.
- 31.8 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 31.9 A quorum for meetings of Directors is 5 Directors.
- 31.10 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.
- 31.11 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

## 32. Decision on questions

- 32.1 Subject to clause 33, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 35, each Director has one vote.
- 32.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

## 33. Special Matters

- 33.1 The Directors shall ensure that the Association does not undertake any of the matters set out below without a majority vote of at least 75% of the votes cast by Directors present and entitled to vote on the matter:
- (a) the sale or purchase of assets having a value greater than \$250,000;
  - (b) the borrowing of, or entering into any borrowing arrangement in respect of, an amount in excess of \$250,000;
  - (c) the making of any loan, credit facility, guarantee, or any other type of financial accommodation to any person otherwise than in the ordinary course of business and in accordance with the terms of this Constitution;
  - (d) departure from the accounting standards or principles prescribed by law for the preparation of its accounts or financial statements;
  - (e) the incorporation of a subsidiary or entry into any partnership, joint venture or agency agreement;



- (f) any material commercial transaction between the Association and a related party of the Association; and
- (g) subject to paragraph (b), the incurring of liabilities having a value greater than \$250,000.

## 34. Payments to Directors

No payment will be made to any Director of the Association other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Association where the amount payable does not exceed an amount previously approved by the Directors of the Association;
- (b) for any service rendered to the Association by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Association and where the amount payable is approved by the Directors of the Association and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Association where the terms of employment have been approved by the Directors of the Association;
- (d) of any honorarium as contemplated by section 21A(3) of the *Education Act 1990* (NSW) and
- (e) relating to an indemnity in favour of the Director and permitted by the Associations Act or a contract of insurance permitted by the Associations Act.

## 35. Directors' interests

- 35.1 As required by the Associations Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Association.
- 35.2 No contract made by a Director with the Association and no contract or arrangement entered into by or on behalf of the Association in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.3 No Director contracting with or being interested in any arrangement involving the Association is liable to account to the Association for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.4 A Director is not disqualified merely because of being a Director from contracting with the Association in any respect.
- 35.5 Subject to clause 33, a Director or a body or entity in which a Director has a direct or indirect interest may:
  - (a) enter into any agreement or arrangement with the Association;
  - (b) hold any office or place of profit other than as auditor in the Association; and
  - (c) act in a professional capacity other than as auditor for the Association,and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Association or from holding an office or place of profit in or acting in a professional capacity with the Association.

- 35.6 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter,
- unless permitted by the Associations Act to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 35.7 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Association or in which the Association may be interested as a vendor, shareholder or otherwise and is not accountable to the Association for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

## 36. Remaining Directors

- 36.1 The Directors may act even if any of the directors' positions are vacant.
- 36.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
  - (b) call a general meeting.

## 37. Chairperson

- 37.1 The Directors may by simple majority appoint, remove and replace a Director as chairperson of Directors' meetings and may determine the period for which the chairperson shall hold office (save that any chairperson shall cease to be chairperson if they cease to be a Director).
- 37.2 If no chairperson is appointed or if the chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 37.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

## 38. Delegation

- 38.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees (each a **Committee**).
- 38.2 The Directors may at any time revoke any delegation of power to a Committee.
- 38.3 At least one member of each Committee must be a Director.
- 38.4 A Committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

- 38.5 A Committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 38.6 Meetings of any Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

## 39. Written resolutions

- 39.1 The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 39.2 For the purposes of clause 39.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 39.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 39.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this clause.
- 39.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

## 40. Validity of acts of Directors

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Committee; or
- (b) a person appointed to one of those positions was disqualified,

all acts of the Directors or the Committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 41. Minutes and Registers

- 41.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
  - (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (c) all resolutions passed by Directors in accordance with clause 39;
  - (d) all appointments of officers;
  - (e) all orders made by the Directors and Directors' committees; and
  - (f) all disclosures of interests made under clause 35.
- 41.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 41.3 The Association must keep all registers required by this Constitution and the Associations Act, including a register of Members (**Register**). A register showing names of current members and a

report on membership will be made available at each AGM. This report will provide the following information on membership since the last AGM: number expired, number of applications, number accepted, number rejected and the change in number of members.

## 42. Appointment of attorneys and agents

42.1 The Directors may from time to time by resolution or power of attorney appoint a person in accordance with clause 42.2 to be the attorney or agent of the Association:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Directors.

42.2 An appointment by the Directors of an attorney or agent of the Association may be made in favour of:

- (a) any Association;
- (b) the members, directors, nominees or managers of any Association or firm; or
- (c) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

42.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

42.4 An attorney or agent appointed under this clause may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

## 43. Public Officer

43.1 The Directors must appoint a Public Officer for a term and at remuneration and on conditions determined by them.

43.2 The Public Officer is entitled to attend and be heard on any matter at all Directors' and general meetings.

43.3 The Directors may, subject to the terms of the Public Officers employment contract, suspend, remove or dismiss the Public Officer.

## Inspection of records

### 44. Inspection of records

44.1 Except as otherwise required by the Associations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Association or any of them will be open for inspection by Members other than Directors.

44.2 Except as otherwise required by the Associations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Association unless the Member is authorised to do so by a court order or a resolution of the Directors.

# Notices

## 45. Service of notices

- 45.1 Notice may be given by the Association to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
  - (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Association for sending notices to the person.
- 45.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
  - (b) on the day after the day on which it was posted.
- 45.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (b) on the day of its transmission except if transmitted after 5.00pm in which case is taken to be served on the next day.
- 45.4 If a Member does not have an address recorded in the Register a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Association's registered office.
- 45.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's for the purposes of clause 45.
- 45.6 A certificate in writing signed by a Director, Public officer or other officer of the Association that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 45.7 Subject to the Associations Act the signature to a written notice given by the Association may be written or printed.
- 45.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

## 46. Persons entitled to notice

- 46.1 Notice of every general meeting must be given to:
- (a) every Member;
  - (b) every Director; and
  - (c) any Auditor.
- 46.2 No other person is entitled to receive notice of a general meeting.

## Audit and accounts

### 47. Audit and accounts

- 47.1 The Directors must cause the Association to keep written financial records in relation to the business of the Association in accordance with the requirements of the Associations Act.
- 47.2 The Directors must cause the financial records of the Association to be audited in accordance with the requirements of the Associations Act.

## Winding up

### 48. Winding up

- 48.1 If the Association is wound up:
- (a) each Member; and
  - (b) each person who has ceased to be a Member in the preceding year,
- undertakes to contribute to the property of the Association for the:
- (c) payment of debts and liabilities of the Association (in relation to clause 48.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
  - (d) adjustment of the rights of the contributories amongst themselves,
- the amount of \$2.00.
- 48.2 If any surplus remains following the winding up of the Association, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to a corporation to which income tax deductible gifts can be made and which, by its constitution, is:
- (a) required to pursue similar charitable purposes to those pursued by the Association;
  - (b) required to apply its profits (if any) or other income in promoting its objects; and
  - (c) prohibited from making any distribution to its members or paying fees to its directors (other than in circumstances contemplated by clause 34),
- such corporation to be determined by the Members at or before the winding up and, in default, by application to the Supreme Court of New South Wales for determination.

## Indemnity

### 49. Indemnity

- 49.1 To the extent permitted by law and subject to the restrictions in the Associations Act the Association indemnifies every person who is or has been an officer of the Association against:
- (a) any liability (other than for legal costs) incurred by that person as an officer of the Association (including liabilities incurred by the officer as an officer of a subsidiary of the Association where the Association requested the officer to accept that appointment); and
  - (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Association (including legal costs incurred by the officer as an

officer of a subsidiary of the Association where the Association requested the officer to accept that appointment).

- 49.2 The amount of any indemnity payable under clauses 49.1(a) or 49.1(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Association with a GST tax invoice for the GST Amount.
- 49.3 The Directors may agree to advance to an officer an amount which the Association might otherwise be liable to pay to the officer under clause 49.1(b) on such terms as the Directors think fit but which are consistent with this clause, pending the outcome of any findings of a relevant court or tribunal which would have a bearing on whether the Association is in fact liable to indemnify the officer under clause 49.1(b). If after the Association makes the advance, the Directors form the view that the Association is not liable to indemnify the officer, the Association may recover any advance from the officer as a debt due by the officer to the Association.
- 49.4 For the purposes of this clause, **officer** means:
- (a) a Director; or
  - (b) a Public officer.

# Annexure 1 – Initial Directors

## 1. Initial Directors

For the purpose of clause 25 of this Constitution, the initial Directors of the Association and the capacity (by reference to clause 26.3) in which they serve are:

	<b>Name</b>	<b>Capacity (by reference to clause 26.3) in which Director deemed to be appointed</b>
1.	James Dodds	Elected by the membership
2.	Jamie Morton	Elected by the membership
3.	Sophie Kemm	Elected by the membership
4.	Rachel Knight	Elected by College of Teachers
5.	Teera Palmer	Elected by College of Teachers
6.	Steven Richards	Elected by College of Teachers