

Constitution of Australian and New Zealand Society of Nephrology

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ACN 008 505 502

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Preliminary

1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) or any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework for the not-for-profit sector, as modified or amended from time to time and includes any regulations made under that Act or any other such legislation and any rulings or requirements of the Commissioner of the Australian Charities and Not-for-profits Commission under that Act, or any commissioner or body under any other such legislation, having application to the Society.

Affiliate Member means a person admitted to membership of the Society as an affiliate member.

Applicable Not-for-Profit Law means any law relating to the regulation of charities or not-for-profit entities applicable to the Society, including each Charitable Fundraising Act, the Tax Act, section 150 of the Corporations Act and the ACNC Act.

Associate Member means a person admitted to membership of the Society as an associate member.

Auditor means the Society's auditor.

By-Laws means the By-Laws of the Society passed pursuant to this Constitution.

Charitable Fundraising Act means the legislation of any State or Territory of Australia, or the Commonwealth of Australia, regulating the raising of funds for charitable purposes and applicable to the Society, which may, for example, include the *Charitable Fundraising Act 1991* (NSW) and the *Fundraising Appeals Act 1998* (Vic).

Constitution means the constitution of the Society as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) 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 Society.

Council means all or some of the Councillors acting as a board.

Councillor includes any person occupying the position of member of the Council of the Society.

Honorary Executive Officer means the person appointed by the Council to perform the duties of the honorary executive officer for the time being.

Honorary Member means a person admitted to membership of the Society as an honorary member.

Honorary Treasurer means a person appointed by the Council to perform the duties of the honorary treasurer for the time being.

Life Member means a person admitted to membership of the Society as a life member.

Member means a member under clause 7, and includes an Ordinary Member, an Associate Member, an Honorary Member, a Life Member and an Affiliate Member.

Member Councillor means a member of the Society who is a Councillor.

Non-member Councillor means a Councillor who is not a member of the Society.

Office Bearer has the meaning given by clause 39 (being a person appointed to any position or office in the Society other than auditor or any employed position or office).

Ordinary Member means an individual admitted to membership of the Society as an ordinary member.

President means the president of the Society.

President Elect means the president elect of the Society.

Register means the register of Members of the Society.

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

Secretary means any person appointed by the Council to perform any of the duties of a secretary of the Society and if there are joint secretaries, any one or more of those joint secretaries.

Society means Australian and New Zealand Society of Nephrology ACN 008 505 502

State means a State of Australia, being one of New South Wales, Tasmania, South Australia, Queensland, Victoria or Western Australia.

Tax Act means the *Income Tax Assessment Act 1997* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any rulings or requirements of the Commissioner of Taxation of the Commonwealth of Australia having application to the Society.

Territory means either of the Australian Capital Territory or the Northern Territory.

- 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 Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

2. Interpretation

- 2.1 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 statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (h) a reference to **applicable law** includes the applicable law and any applicable authorisation or licence granted thereunder; and
- (i) a reference to "in writing" includes writing transmitted electronically.

- 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 Corporations Act and this Constitution conflict on the same matter, the provisions of the Corporations Act prevail.

3. Replaceable rules

To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Society.

Objects

4. Objects

- 4.1 The objects of the Society are, in Australia and New Zealand, and such other places as the Council thinks appropriate including the Asia Pacific region, to:
- 4.1.1 promote the highest quality health care and patient safety in relation to kidney health and kidney disease through education, training, advocacy and research;
 - 4.1.2 educate and train future generations of nephrologists, kidney researchers and health professionals;
 - 4.1.3 for health professionals practising in the areas of nephrology, or the promotion and maintenance of kidney health or the treatment of kidney disease more generally:
 - a. maintain professional standards and ethics through continuing professional development and other activities;
 - b. bring them together for their common benefit and for scientific discussions;
 - c. develop them as clinicians, teachers and researchers;
 - d. enhance professional practice and support for all members including those practising in rural and remote settings;
 - 4.1.4 foster opportunities for professional engagement in the Society's governance or other activities, having regard to the principles of gender equity and diversity (and any related policies and targets) and social accountability;
 - 4.1.5 encourage eligible Aboriginal and Torres Strait Islander and Māori clinicians and researchers to be members of the Society, and identify opportunities for their professional development;
 - 4.1.6 increase the evidence and knowledge on which the practice of nephrology, the maintenance of kidney health and the treatment of kidney disease, are based through research (basic, clinical, population health, and health services research) and dissemination of new knowledge and innovation to health professionals and the community;
 - 4.1.7 advocate on any issue which promotes improved kidney health for all people, or improved care and treatment of people with kidney disease, including in partnership with Aboriginal and Torres Strait Islander and Māori communities and other health consumers;
 - 4.1.8 promote cooperation with organisations and individuals, that have objectives similar to the Society in Australia and New Zealand, as well as internationally, including relevant peak consumer organisations;
 - 4.1.9 to do all such other things that may be ancillary to, or conducive to the attainment of, and not inconsistent with, any of the above; and

- 4.1.10 for the avoidance of doubt and for the purpose of section 150(1)(a) of the Corporations Act, it is confirmed that this Constitution requires the Society to pursue charitable purposes only and to apply its income in promoting those purposes.
- 4.2 In pursuit of the achievement of those objects, the Society shall have all powers and functions necessary or desirable to the maximum extent permitted by law.

Income and property of the Society

5. Income and property of the Society

- 5.1 The income, profits and assets of the Society will only be applied towards the promotion of the objects of the Society set out in clause 4, and the Society will not be carried on for the profit or gain of the Members, neither while it is operating nor on a winding up.
- 5.2 No income, profits or assets (whether in money, property or other benefits) will be paid, distributed or transferred directly or indirectly to any Member of the Society except, subject to clause 52, for payments to a Member as genuine compensation for services provided to, or reasonable expenses incurred on behalf of, the Society, or such other payments, distributions or transfers as may be permitted by the Applicable Not-for-Profit Laws.
- 5.3 The Society shall not nor shall any Meeting of members of the Society be or be used as or for the purpose of a medium or venue for or as a means of commercial promotion of any product provided always that nothing in this Constitution shall prevent:
- (a) the holding of trade exhibitions approved of by the Society in conjunction or association with conference or meetings of or arranged by the Society; or
 - (b) the support of named scholarships, lectureships, professorships, travel grants and awards to be made available to or by any member of the Society; or
 - (c) the Society from accepting the sponsorship and support of any commercial organisation in the carrying out of any of the objects of the Society.

6. Receipts

If the Society accepts a gift, contribution or donation of money or property, the Society must give the donor a receipt, and otherwise comply with all applicable laws in relation to any such gift, contribution or donation, including without limitation the Applicable Not-for-Profit Laws.

Membership

7. Admission

- 7.1 The number of Members of the Society is unlimited.
- 7.2 The Members of the Society are any persons over the age of 18 years who are admitted to membership in accordance with this Constitution, and whose membership has not ceased pursuant to clause 15.
- 7.3 The categories of Members shall be:
- (a) Ordinary Members;
 - (b) Honorary Members;
 - (c) Life Members;

- (d) Associate Members;
 - (e) Affiliate Members; and
 - (f) such other categories of Members as may be created from time to time by the Society in general meeting pursuant to clause 7.4.
- 7.4 Subject to this Constitution and applicable law (including the Corporations Act), the Society in general meeting may by ordinary resolution from time to time determine, vary and replace:
- (a) the classes of membership of the Society (including the rights attaching, or not attaching, to a particular class of membership); and
 - (b) the qualifications for admission, and continued membership, in a particular class of membership.
- 7.5 Every applicant for ordinary membership and associate membership of the Society must complete and submit to the Honorary Executive Officer a form of application for admission framed in such terms as the By-Laws for the time shall require together with such evidence as the Council shall determine as to his/her qualifications for membership. Where required by Council, an application shall be supported by references in a required form supplied by two Members of the Society to whom the applicant for membership is personally known.
- 7.6 The Councillors or their delegate (who may be the Honorary Executive Officer) will consider the application for membership as soon as convenient after the application is received. In considering an application for membership, the Councillors or their delegate may:
- (a) accept or reject the application (and, if they accept the application, the Councillors or their delegate shall determine (subject to clauses 8.1, 9, 10, 11 and 12) whether the applicant is to be admitted as an Ordinary Member, Associate Member, Honorary Member, Life Member, Affiliate Member (or such other category of membership as may exist at that time); or
 - (b) ask the applicant to give more evidence of eligibility or suitability for membership.
- 7.7 If the Council or its delegate ask for more evidence under clause 7.6(b), their determination of the application for ordinary membership is deferred until the evidence is given.
- 7.8 The Council (or its delegate) does not have to give any reason for rejecting an application for membership, nor for any determination whether to admit an applicant as an Ordinary Member, Associate Member, Honorary Member, Life Member, Affiliate Member or other category of Member, under clause 7.6(a).
- 7.9 As soon as practicable following acceptance of an application for membership by the Council or its delegate under clause 7.6(a), the Secretary will:
- (a) send, or cause to be sent to, the applicant written notice of the acceptance (and, unless it accompanied the applicant's application for membership, request payment of any entrance fee or first annual subscription payable by the applicant); and
 - (b) subject to the Society's receipt of any entrance fee or first annual subscription payable by the applicant (and the Council or its delegate not having cancelled their acceptance under clause 7.10), cause to be entered, the applicant's name in the Register (as an Ordinary Member, Associate Member, Honorary Member, Life Member, Affiliate Member or other existing category of Member, as the case may be), whereupon the applicant becomes a Member.
- 7.10 If an entrance fee or first annual subscription payable by an applicant for membership is not paid within 60 days after the date the applicant is notified of acceptance of their application for membership, the Council or their delegate may cancel their acceptance of the applicant for membership of the Society.
- 7.11 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or by operation of law.

8. Ordinary Membership

- 8.1 Subject to clauses 9, 10, 11 and 12, applications for ordinary membership of the Society:
- (a) may be made by any person:
 - (i) who is ordinarily resident in Australia or New Zealand; and
 - (ii) who in the opinion of the Council:
 - (A) holds an appropriate university degree;
 - (B) has an equivalent qualification; or
 - (C) is otherwise qualified; and
 - (iii) who is actively engaged in the clinical practice, treatment, teaching, research or study of kidney function or disease;
 - (b) must be in writing, signed by the applicant and in a form approved by, and containing the information required by, the Council in their absolute discretion; and
 - (c) may (and if the Council so determine, shall) be accompanied by any entrance fee or first annual subscription payable by the applicant if their application is accepted.
- 8.2 Ordinary Members shall be entitled to such privileges of membership of the Society under this Constitution (including that of voting as members of the Society) as may be determined from time to time by the Council.
- 8.3 Nothing in this clause affects the membership status of any person who was an existing Ordinary Member at the time of adoption of this Constitution.

9. Associate Membership

- 9.1 Associate Members of the Society may be elected by the Council from Ordinary Members of the Society who since being admitted to Ordinary Membership have ceased to be resident in Australia or New Zealand for a period of twelve (12) months prior to the date on which any such Member applied for Associate Membership.
- 9.2 Associate Membership may also be granted to applicants who do not reside in Australia and New Zealand and who, in the opinion of Council, hold qualifications comparable to those required for admission to ordinary membership.
- 9.3 Associate Members shall be entitled to such privileges of membership of the Society under this Constitution (other than that of voting as members of the Society) as may be determined from time to time by the Council.

10. Honorary Membership

- 10.1 Honorary Members of the Society may be elected from distinguished persons of any country who have contributed materially to the advancement of nephrology and on whom the Society desires to confer honour.
- 10.2 Honorary Members shall be elected in such manner as may be determined by the Council from time to time and Honorary Members so elected shall be entitled to such privileges of membership of the Society (other than that of voting as members of the Society) as may be determined from time to time by the Council.

11. Life Membership

- 11.1 Life Members of the Society may be elected from distinguished Members of the Society on whom the Society desires to confer honour and who in the opinion of Members, have:

- (a) contributed materially to the advancement of nephrology; and
- (b) rendered exceptional services to the Society.

11.2 Life Members may be elected at any general meeting of the Society upon any member giving notice as required by clause 18. Life Members shall have all the same rights as an Ordinary Member but shall retain such membership for life.

12. Affiliate Membership

12.1 Applications for Affiliate Membership of the Society may be made by any person:

- (a) who is ordinarily resident in Australia or New Zealand; and
- (b) who in the opinion of the Council has been engaged in the clinical practice of the broad field of kidney function or disease, or who has demonstrated particular interest in kidney function or disease; or
- (c) who is a full member of an affiliated society as determined by the Council.

12.2 Applications for Affiliate Membership of the Society:

- (a) must be in writing, signed by the applicant and in a form approved by, and containing the information required by, the Council in their absolute discretion; and
- (b) may (and if the Council so determine, shall) be accompanied by any entrance fee or first annual subscription payable by the applicant if their application is accepted.

12.3 Affiliate Members shall be entitled to such privileges of membership of the Society under this Constitution (other than that of voting as members of the Society) as may be determined from time to time by the Council.

12.4 Nothing in this clause affects the membership status of any person who was an existing Affiliate Member at the time of adoption of this Constitution.

13. Notifications by Members

A Member must promptly notify the Secretary in writing of:

- (a) any change in their qualifications to be a Member; and
- (b) a change in their name, address or electronic mail address.

14. Entrance fees and annual subscriptions

14.1 The:

- (a) Council may, in its absolute discretion, determine:
 - (i) that an entrance fee is payable:
 - (A) by any applicant; or
 - (B) by any class or sub-class of applicants (with such class or sub-class to be defined by reference to particular circumstances, specified criteria or other distinguishing characteristics as may be specified from time to time);
 - (ii) the amount of any such fee;
 - (iii) the manner of payment; and
 - (iv) the due date for payment of any such fee; and
- (b) Society in general meeting may determine:

- (i) that an annual subscription is payable:
 - (A) by each Member; or
 - (B) by a particular class or sub-class or category of Members (with such class or sub-class to be defined by reference to particular circumstances, specified criteria or other distinguishing characteristics as may be specified from time to time);
- (ii) the amount of any such fee;
- (iii) the period for which it applies;
- (iv) the manner of payment; and
- (v) the due date for payment of any such fee; and
- (c) in any event, no such fees shall be payable by an Honorary Member or Life Member or an applicant for either such category of membership.

14.2 The Council may from time to time:

- (a) suspend any determination made under clause 14.1(a) for a particular applicant or class or classes of applicants (in which case no entrance fee will be payable by the applicant); or
- (b) revoke any determination made under clause 14.1(a), in which case entrance fees will not thereafter be payable by applicants from the effective date of the revocation but:
 - (i) any applicant whose application is accepted will not, unless the Council determines otherwise, be entitled to any refund (or part refund) of any entrance fee paid to the Society before the effective date of the revocation; and
 - (ii) the Council may subsequently make a new determination under clause 14.1(a) at any time.

14.3 The Society in general meeting may from time to time:

- (a) suspend any determination made under clause 14.1(b) for a particular annual subscription period or particular annual subscription periods (in which case no annual subscription will be payable by a Member in respect of that period or those periods); or
- (b) suspend any determination made under clause 14.1(b) for a particular Member, or class or sub-class or category of Members, in respect of a specified annual subscription period or periods (in which case no annual subscription will be payable by that Member, or a Member of that class or sub-class or category, in respect of the specified period of suspension);
- (c) revoke any determination made under clause 14.1(b), in which case annual subscriptions will not thereafter be payable by Members from the effective date of the revocation but:
 - (i) Members will not, unless the Council determines otherwise, be entitled to any refund (or part refund) of any annual subscription paid to the Society before the effective date of the revocation; and
 - (ii) the Society in general meeting may subsequently make a new determination under clause 14.1(b) at any time.

14.4 Subject to clause 14.2, if under clause 14.1(a) the Council determines that an entrance fee is payable by an applicant or class or sub-class of applicants:

- (a) the Council shall, in its absolute discretion, determine the amount of the entrance fee payable by each applicant required to pay such entrance fee (which amount they may vary from time to time and as between applicants or classes of applicants); and
 - (b) any such entrance fee payable by an applicant shall be payable either with their application for membership or, subject to any determination of the Council under clause 8.1(c), within 60 days after the date the applicant is notified under clause 7.9(a) of the acceptance of their application for membership.
- 14.5 Subject to clause 14.3, if under clause 14.1(b) it is determined that an annual subscription is payable by each Member or a particular class or sub-class of Members:
- (a) the Society in general meeting shall determine the amount of the annual subscription payable by each Member required to pay such annual subscription (which amount the Society in general meeting may vary from time to time, and as between classes, sub-classes or categories of Members or individual Members), provided that if the Society in general meeting has not made such a determination, the Council shall make such a determination which shall be effective until the Society in general meeting makes such a determination;
 - (b) unless otherwise determined by the Society in general meeting, the annual subscription period will commence on 1 February of each year, and, subject to clause 14.5(d), the annual subscription will be due in advance within 60 days after this date;
 - (c) the first annual subscription payable by a person who is a Member at the time a determination is made under clause 14.1(b) that an annual subscription is payable by such Member (or such a Member) will be payable:
 - (i) if the determination is that annual subscriptions will be payable commencing with effect from the next annual subscription period after the determination, in accordance with clause 14.5(b);
 - (ii) if the determination is that annual subscriptions will be payable commencing immediately, including in respect of the current annual subscription period, within 60 days after the date the Society notifies the Member of the determination and the amount payable (which amount the Society in general meeting may determine shall only be a fraction of the normal annual subscription for a full year);
 - (d) in the case of an applicant who is to be admitted as a Member after the making of a determination under clause 14.1(b) that an annual subscription is payable by such Member (or such a Member):
 - (i) the first annual subscription shall be payable by the applicant either with their application for membership or, subject to any determination of the Council under clause 8.1(c), within 60 days after the date the applicant is notified under clause 7.9(a) of the acceptance of their application for membership; and
 - (ii) if the applicant is to be admitted as a Member at a date more than 6 months after the start of the applicable annual subscription period, the Council or its delegate may determine that they will pay only one-half of the annual subscription until their next annual subscription falls due; and
 - (e) if a Member who is required to do so does not pay their annual subscription within 12 months after it becomes due, the Council:
 - (i) will give the Member notice of that fact; and
 - (ii) if the subscription remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.

15. Ceasing to be a Member

15.1 A Member's membership of the Society will cease:

- (a) if the Member gives the Secretary two months written notice of resignation, from the expiration of that notice;
- (b) if the Member is expelled from membership by resolution of the Society as provided for in clause 15.2.
- (c) if their membership is forfeited under clause 14.5(e)(ii); or
- (d) if the Member:
 - (i) dies;
 - (ii) ceases to retain any of the qualifications rendering him/her eligible for admission to membership of the Society;
 - (iii) becomes permanently mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to guardianship;
 - (iv) is convicted of an indictable offence.

15.2 The Society may expel any Member whose conduct is in the opinion of the Council detrimental to the Society or to the interest of the Society or brings the Society into disrepute or contempt or who wilfully and persistently refuses to comply with or has committed a wilful breach of this Constitution or any of the By-Laws of the Society.

- (a) Such Member may be expelled from membership of the Society by Resolution by the Society in general meeting specifying the ground of expulsion and declaring that the Member be expelled.
- (b) Provided always that a Member shall not be expelled from membership of the Society unless a resolution is passed by a majority of not less than two-thirds of the Members of the Society present in person and voting at a meeting called to consider the matter and of which meeting such member shall have been given at least 28 days' notice.
- (c) Such notice shall state the purpose of the meeting and what is alleged against the member concerned and such members shall be entitled to attend the meeting with or without counsel or solicitor and be given the opportunity of stating his/her case to the meeting or to submit in writing any explanation concerning what is alleged against him/her provided always however that such written submissions shall have been delivered to the Honorary Executive Officer by not later than fourteen days prior to the date of the meeting.

15.3 Any Member ceasing to be a Member:

- (a) will cease to be entitled to any of the rights and privileges of a Member and will have no right to or claim upon the property or funds of the Society;
- (b) will not be entitled to any refund (or part refund) of any entrance fee or annual subscription unless otherwise determined by the Council;
- (c) will remain liable for and will pay to the Society all annual subscriptions and moneys which were due at the date of ceasing to be a Member unless otherwise determined by the Council;
- (d) will not be eligible for re-admission as a Member of the Society until he/she shall have paid all arrears of subscription and any other moneys due from him/her to the Society at the date when his/her former membership ceased unless otherwise determined by the Council; and
- (e) will not be relieved thereby from liability for the payment of any other moneys due from him/her to the Society under clause 63.

16. Powers of attorney

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

General meetings

17. Calling general meeting

- 17.1 The President or any two Councillors may, at any time, call a general meeting.
- 17.2 A Member may:
- (a) only request the Council to call a general meeting in accordance with section 249D of the Corporations Act; and
 - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act.
- 17.3 The Council must call an annual general meeting to be held each calendar year to the extent required by, and in accordance with, the Corporations Act.

18. Notice of general meeting

- 18.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 28 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.
- 18.2 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;
 - (b) must state the general nature of the business to be transacted at the meeting;
 - (c) must specify a place and facsimile number and may specify an electronic address or other electronic means for the purposes of proxy appointment or proxy appointment authorities;
 - (d) if a special resolution is to be proposed at the meeting, must specify an intention to propose the special resolution and state the resolution; and
 - (e) must comply with the Corporations Act.
- 18.3 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, Council's report and the Auditor's report;
 - (b) the election of Councillors; or
 - (c) the appointment and fixing of the remuneration of the Auditor.

- 18.4 The Council may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 17.2).
- 18.5 The Council must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 61.1 entitled to receive notices from the Society.
- 18.6 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

19. Member

In clauses 20, 21 and 26, Member includes a Member present in person or by proxy or attorney.

20. Quorum

- 20.1 No business may be transacted at a general meeting unless a quorum of Members who are entitled to vote is present when the meeting proceeds to business.
- 20.2 Save as herein otherwise provided the quorum for a general meeting shall be 10 % of the total membership who is entitled to vote at the time of any such general meeting or 40 Members who are entitled to vote whichever is the less.
- 20.3 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 Council; 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 Members present being not less than two (2) shall be a quorum and may transact the business for which the meeting was called.

21. Chairperson

- 21.1 The President, or in the President's absence the President Elect will be the chairperson at every general meeting.
- 21.2 The Councillors present may elect a chairperson of a general meeting if:
- (a) there is no President or President Elect; or
 - (b) neither the President nor President Elect is present within 15 minutes after the time appointed for holding the general meeting; or
 - (c) the President and President Elect are unwilling to act as chairperson of the general meeting.
- 21.3 If no election is made under clause 21.2, then the Members may elect one of the Councillors present as chairperson; or
- 21.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

- 21.5 The chairperson of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Society.

22. Adjournment

- 22.1 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.
- 22.2 An adjourned general meeting may take place at a different venue or venues to the initial general meeting.
- 22.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 22.4 Notice of an adjourned general meeting must only be given in accordance with clause 18.1 if a general meeting has been adjourned for more than 42 days.

23. Decision on questions

- 23.1 Subject to the Corporations 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.
- 23.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.
- 23.3 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.
- 23.4 The demand for a poll may be withdrawn.
- 23.5 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.

24. Taking a poll

- 24.1 A poll will be taken when, and in the manner that, the chairperson directs.
- 24.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 24.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 24.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 24.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 24.6 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.

25. Casting vote of chairperson

25.1 Notwithstanding clause 26, the chairperson has a casting vote in addition to the chairperson's votes as a Member, proxy or attorney.

Votes of Members

26. Entitlement to vote

26.1 A Member entitled to vote has one vote (on a poll or show of hands).

26.2 A Member is not entitled to vote at a general meeting if:

- (a) any annual subscription payable by the Member is more than one month in arrears at the date of the meeting; or
- (b) they are in a class of Members in respect of which the right to vote at general meetings does not attach (whether such a class is a class of new Members established pursuant to clause 7.4 after the date of adoption of this Constitution or a class of Members existing on adoption of this Constitution but whose rights have been varied in accordance with clause 7.4),
- (c) and otherwise a Member is entitled to vote at a general meeting.

27. Objections

27.1 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.

27.2 An objection must be referred to the chairperson of the general meeting, whose decision made in good faith is final.

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

28. Votes by proxy

28.1 If a Member that is entitled to vote appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may, subject to the Corporations Act, vote on a show of hands.

28.2 A proxy need not be a Member.

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

28.4 A proxy or attorney may vote on a poll.

28.5 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 an appointment directs the way the proxy is to vote on a particular resolution:

- (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- (b) if the proxy has two or more appointments that specify different ways to vote on the resolution - the proxy must not vote on a show of hands;
- (c) if the proxy is the chair - the proxy must vote on a poll, and must vote that way; and
- (d) if the proxy is not the chair - the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

29. Document appointing proxy

- 29.1 An appointment of a proxy is valid if it is signed, or authenticated in accordance with the Corporations Act, by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act. The Council may determine that an appointment of a proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 29.2 The Society may send a proxy appointment form to Members in a form which has been approved by the Council.
- 29.3 A proxy's appointment is valid at an adjourned general meeting.
- 29.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 29.5 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 resolutions 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.
- 29.6 If a proxy appointment is signed or authenticated by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the proxy appointment by inserting the name or names of one or more Councillors or the Secretary.

30. Lodgement of proxy

- 30.1 Subject to clause 30.3, the appointment of a proxy or attorney must be received by the Society, by 5 pm at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting) at which the appointee is to attend and vote.
- 30.2 If the appointment purports to be executed under a power of attorney or other authority, the original document or a certified copy of it must be received by the Society at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting).
- 30.3 The Society receives an appointment of a proxy or attorney or other authority under which it was signed when they are:
- (a) received at:
 - (i) the Society's registered office;
 - (ii) a facsimile number at the Society's registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of general meeting; or

- (b) if the notice of general meeting specifies other electronic means by which a Member may give an appointment, received by the Society in accordance with the Corporations Act.

31. 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 Society before the relevant general meeting or adjourned general meeting.

Council and Councillors

32. Members of Council

- 32.1 The affairs, business and property of the Society shall be managed and conducted by a Council comprising at least ten (10), and no more than twelve (12), Councillors (unless the Society in general meeting by resolution changes the number) who shall be the Councillors for the time being of the Society and who shall comprise the following:
 - (a) President
 - (b) President Elect (previously referred to as Vice-President)
 - (c) Honorary Executive Officer
 - (d) Honorary Treasurer
 - (e) Six (6) other Member Councillors
 - (f) Up to two (2) Councillors who are not members of the Society.
- 32.2 The members of the Council shall be the Directors of the Company for the purposes of the Corporations Act.
- 32.3 Member Councillors shall retain office until the conclusion, dissolution or adjournment of the meeting at which their successors are elected to or assume office.
- 32.4 No member of the Council shall receive any remuneration for his/her services in the capacity of a member of the Council.
- 32.5 The office of a Member Councillor shall ipso facto be vacated if he/she ceases to be a member of the Society.
- 32.6 No person may be appointed or elected to, or remain on, the Council who is ineligible to be a Director under the Corporations Act.
- 32.7 Non-member Councillors shall retain office until the expiration of the period for which they are appointed, unless terminated sooner in accordance with this Constitution.
- 32.8 Of the ten (10) Member Councillors, at least two (2) shall be Members who are usually resident in New Zealand.

33. Removal of Councillors

- 33.1 The Society may by resolution passed in general meeting in accordance with the Corporations Act remove any Councillor before the end of the Councillor's period of office.
- 33.2 If the conduct or position of any Councillor is such that continuance in office appears to the majority of the Councillors to be prejudicial to the interests of the Society, a majority of Councillors at a meeting of the Council specifically called for that purpose may suspend that Councillor.
- 33.3 Within 14 days of the suspension, Council must call a general meeting, at which the Members may either:
- (a) confirm the suspension and remove the Councillor from office in accordance with clause 33.1; or
 - (b) annul the suspension and reinstate the Councillor.

34. Retirement

- 34.1 Subject to clauses 35 and 40, a Member Councillor must retire from office:
- (a) if the Councillor is appointed President Elect in accordance with clause 39.1, at the conclusion of his/her period as President unless his/her term as a Member Councillor has not yet expired; or
 - (b) in all other cases, at the conclusion of the third annual general meeting (three (3) years) after the Councillor was elected.
- 34.2 A retiring Councillor will be ineligible for re-election:
- (a) after serving two consecutive terms (up to 6 years continuously) in office or
 - (b) after concluding a period as President which has resulted in his/her term on Council extending beyond the three (3) year term for which he/she was most recently elected,
- but may be re-elected to the Council after a further period of three (3) years following his/her retirement from the Council.

35. Transitional Arrangements

- 35.1 The vacancy in office of Member Councillor arising from the increase in the number of Member Councillors, which takes effect upon adoption of this Constitution, is to be filled by a Member who is usually resident in New Zealand as a casual vacancy in accordance with clause 38, with the period of such appointment expiring at the conclusion of the 2020 annual general meeting.
- 35.2 Notwithstanding clause 34, but subject to clauses 32, 33, 37 and 39, all Councillors holding office at the commencement of the annual general meeting held in 2019, upon adoption of this Constitution, will continue to hold office as Member Councillors for the balance of their pre-existing terms.
- 35.3 Notwithstanding clause 34, but subject to clauses 32, 33, 37 and 39, all Councillors holding office as Office Bearers at the commencement of the annual general meeting held in 2019, upon adoption of this Constitution, will continue to hold office for the balance of their pre-existing terms as Office Bearers.
- 35.4 For the avoidance of doubt, and in accordance with sub-clause 35.3, the Councillor holding office as Vice-President at the commencement of the annual general meeting held in 2019, upon adoption of this Constitution, will be referred to as President Elect, rather than Vice-President, for the balance of their pre-existing term as such Office Bearer.

36. Nomination of Member Councillors

- 36.1 Subject to the exceptions and qualifications appearing in this Constitution the Member Councillors of the Society from time to time shall be elected by ballot to be held before an annual general meeting at which Councillors are due to retire.
- 36.2 Every candidate for Member Councillor shall be nominated in writing by two Ordinary Members and each nomination paper, together with the candidate's written acceptance of nomination shall be transmitted to the Honorary Executive Officer at least sixty (60) days prior to the annual general meeting.
- 36.3 Should there be more candidates than vacancies to be filled, the Honorary Executive Officer shall not less than fifty (50) days before the annual general meeting forward to Members by electronic means ballot papers listing the names of candidates for Councillors in alphabetical order. Such ballot papers shall contain a direction to vote for a fixed number of candidates which number shall be the number of vacancies to be filled. A Member shall record his/her vote by placing a cross on the ballot paper against the names of the persons for whom he/she desires to vote and by returning the ballot paper to the Honorary Executive Officer by post or electronic means. Only ballot papers received by the Honorary Executive Officer not less than twenty (20) days before the annual general meeting shall be deemed to be valid.
- 36.4 The President (or in his/her absence the President Elect) and the Honorary Executive Officer (or in his/her absence a Councillor specifically appointed by the Council) shall act as scrutineers and any paper adjudged by them in consultation to be improperly or incorrectly filled in shall be invalid.
- 36.5 The scrutineers shall deliver to the chairperson of the annual general meeting (the chairperson) a list of candidates (up to the number of vacancies to be filled) who received the largest number of votes and the chairperson shall, subject to the remaining sub-clauses of this clause declare those candidates elected as Councillors in accordance with the Constitution.
- 36.5A If the effect of the declarations of election by the chairperson as provided for in sub-clause 36.5 would be that the Council then apparent would not include at least two members usually resident in New Zealand then the following shall apply, as the case may be:
- (a) where there is already one Member Councillor who is usually resident in New Zealand whose term is not expiring at the annual general meeting, any candidate who is usually resident in New Zealand and who having failed to receive the necessary number of votes to entitle him/her to be declared an elected Councillor in accordance with the provisions of sub-clause 36.5, but who receives the largest number of votes from amongst those candidates who are usually resident in New Zealand, shall be declared elected as a Councillor by the chairperson in preference to and in place of that candidate appearing on the list mentioned above who received the least number of votes. If there is more than one (1) candidate on the list who received an equal lowest number of votes then the chairperson shall choose which of these candidates will remain on the list and be elected and the choice of the chairperson as hereinbefore provided for shall be final and binding; or
 - (b) in any other case:
 - (i) where there is only one Member usually resident in New Zealand on the list mentioned above, any candidate who is usually resident in New Zealand and who having failed to receive the necessary number of votes to entitle him/her to be declared an elected Councillor in accordance with the provisions of this clause but who receives the largest number of votes from amongst those candidates who are usually resident in New Zealand, shall be declared elected as a Councillor by the chairperson in preference to and in place of that candidate who is not usually resident in New Zealand appearing on the list mentioned above who received the least number of votes. If there is more than one (1) candidate on the list who received an equal lowest number of votes then the chairperson shall choose which of these candidates will remain

on the list and be elected and the choice of the chairperson as hereinbefore provided for shall be final and binding.; or

(ii) where there are no Members usually resident in New Zealand on the list mentioned above, any two candidates who are usually resident in New Zealand and who having failed to receive the necessary number of votes to entitle them to be declared elected Councillors in accordance with the provisions of this clause but who receive the largest and second largest number of votes respectively, or the equal largest number of votes each, from amongst those candidates who are usually resident in New Zealand, shall be declared elected as Councillors by the chairperson in preference to and in place of those two candidates appearing on the list mentioned above who received a lesser number of votes than the other candidates on the list. If there are more than two (2) candidates on the list who received an equal least number of votes then the chairperson shall choose which of these candidates will remain on the list and be elected and the choice of the chairperson as hereinbefore provided for shall be final and binding; or

(c) where there are insufficient candidates, who are Members usually resident in New Zealand, nominated in a ballot for vacancies on the Council to satisfy clause 32.8, then to the extent that clause 32.8 is unable to be met through a declaration of election by the chairperson under any provision of clause 36, the number of vacancies necessary to satisfy clause 32.8 are not to be filled through declaration of election but are to be held and filled as casual vacancies as set out in clause 36.10.

36.6 Notwithstanding anything to the contrary contained in this Constitution no candidate receiving the necessary number of votes in accordance with this Constitution which except as is herein provided would otherwise entitle him/her to be elected as and declared by the chairperson to be a Councillor shall be competent or entitled to be declared a Councillor following any such election if immediately prior to the declaration of his/her election by the chairperson (the chairperson would normally be empowered to make such declaration of election except for the restriction herein contained) the State within the Commonwealth of Australia or New Zealand within which the candidate has his/her usual residential address at the time of the counting of votes is already represented by three (3) Member Councillors and the election of any such Councillor shall be of no effect whatsoever without in any way derogating or detracting from the validity of the election of any other candidates at or following such elections.

36.7 Subject to clause 36.5A, whenever two or more candidates for the last position as a Member Councillor to be filled on the Council receive an equal number of votes the candidate to be elected shall be chosen by the chairperson and shall be that candidate whose usual residential address is within any of the States or Territories of the Commonwealth of Australia which is not represented at that time by a Member Councillor or if represented by a Member Councillor is represented by only one Member Councillor in the first instance or in the second instance by the least number of Member Councillors when compared with all other States and New Zealand at that time and the choice of the chairperson as hereinbefore provided for shall be final and binding.

36.8 The chairperson of the annual general meeting shall in the case of there being less candidates nominated than there are vacancies to be filled, declare such candidates, unless it would result in less than two (2) Member Councillors who are usually resident in New Zealand on the Council, in which case a ballot must be conducted unless clause 36.10 is able to be applied.

36.8A The chairperson of the annual general meeting shall in the case of there being more candidates nominated than there are vacancies to be filled, declare the candidates (to the extent of the vacancies to be filled) receiving the largest number of votes, duly elected as Member Councillors, but subject always to this Constitution including clause 36.5A.

36.9 Subject to clauses 32.8 and 36.10, if there shall be no nominations received or if an insufficient number of nominations be received or if there are less nominations than there are

vacancies in the offices of Member Councillors to fill then the Council may at its first meeting after the annual general meeting fill the vacancy or vacancies in the offices of Member Councillors as if the vacancy or vacancies were a casual vacancy or vacancies under clause 38 notwithstanding that their number may be less than four.

- 36.10 If there shall be no nominations received or if an insufficient number of nominations be received or if there are less nominations than there are vacancies to fill to provide for at least two Member Councillors who are usually resident in New Zealand on the Council, then the Council at its first meeting after the annual general meeting is to fill the vacancy or vacancies as if the vacancy or vacancies were a casual vacancy or vacancies under clause 38, notwithstanding that their number may be less than four, so as to ensure there are at least two Member Councillors who are usually resident in New Zealand.

36A. Appointment of Non-Member Councillors

- 36A.1 The Council may appoint up to two persons, at any one time, as Non-Member Councillors, who are not members of the Society and who have skills, knowledge and experience that in the opinion of the Council will contribute to the good governance of the Society.
- 36A.2 The term of office of a Non-Member Councillor may be for a period up to three (3) years.
- 36A.3 The maximum continuous period of consecutive terms a Non-Member Councillor may serve is six (6) years.

37. Vacation of office

The office of a Councillor immediately becomes vacant if the Councillor:

- (a) is prohibited by the Corporations Act from holding office or continuing as a Councillor;
- (b) 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 Council incapable of performing his or her duties;
- (c) resigns by giving seven (7) days' notice in writing to the Honorary Executive Officer; or
- (d) is removed by a resolution of the Society;
- (e) is absent from Council meetings for [six] consecutive months without leave of absence from the Council;
- (f) is directly or indirectly interested in any contract or proposed contract with the Society and fails to declare the nature of the interest as required by the Corporations Act;
- (g) is an employee of the Society;
- (h) in the case of a Member Councillor, ceases to be a Member under clauses 14.5(e) and 15.1; or
- (i) in the case of a Member Councillor who occupies his/ her office consequent on clause 36.5A or 36.10, ceases to be usually resident in New Zealand.

38. Additional and casual Councillors

- 38.1 The Councillors for the time being shall have power at any time and from time to time to fill a casual vacancy or vacancies occurring amongst the Member Councillors provided a proposed appointee to any casual vacancy has not held office as a Councillor for two consecutive terms of three (3) years immediately preceding the most recent annual general meeting.

- 38.2 Any person so appointed shall hold office so long only as the person whose death, resignation or retirement caused the vacancy would under this Constitution have been entitled to remain a Councillor.
- 38.3 In the event of a casual vacancy or vacancies occurring amongst the Member Councillors the continuing Councillors may act notwithstanding such vacancy or vacancies but so that if their number falls below four the Member Councillors shall not except for the purpose of filling the vacancies (which they are hereby empowered to do except insofar as provision therefore is hereinbefore made) act so long as the number is below that minimum.

Office Bearers (including President)

39. Appointment of Office Bearers

- 39.1 The Council may appoint a Member Councillor to any position or office in the Society (other than the positions of Auditor and any employed office or position) on such terms and conditions as they think fit, including (without limitation) the position or office of:
- (a) President Elect who by virtue of such appointment shall become the President at the conclusion of the term of the President holding office at the time of such appointment, and shall upon becoming President hold that office for two years, at which point he or she must retire if the period as President has resulted in his/her term on Council extending beyond the three (3) year term for which he/she was most recently elected;
 - (b) Honorary Executive Officer; and
 - (c) Honorary Treasurer.
- 39.2 Notwithstanding clause 34 but subject to clauses 32, 33, 37 and 39.4, a Member Councillor who holds office as President Elect or President pursuant to clause 39.1 continues to concurrently hold office as a Councillor notwithstanding his/her term as Councillor extends beyond the period of three (3) years for which he/she was most recently elected to Council.
- 39.3 A Councillor appointed to a position or office under clause 39.1, and a Councillor otherwise occupying for the time a position or office described in clause 39.1, is referred to in this Constitution as an Office Bearer.
- 39.4 The Council may, subject to the terms of any engagement with an Office Bearer, suspend, remove or dismiss him or her from the relevant office or position, or accept the written resignation of the Office Bearer from the relevant office or position, and appoint another Councillor in that place.
- 39.5 If an Office Bearer ceases to be a Councillor, then, unless the Council determines otherwise, his or her appointment to the relevant office or position in the Society terminates automatically.
- 39.6 If an Office Bearer is suspended from the relevant office or position in the Society, his or her duties and obligations as Councillor are suspended for the same period.
- 39.7 Subject to clauses 35, 39.1 (a) and 40, an Office Bearer is subject to the same provisions as to retirement, resignation and removal as the other Councillors.

40. Casual vacancies

- 40.1 Notwithstanding clause 34 but subject to clauses 32, 33, 37 and 39.4, in the event of a casual vacancy occurring in the office of President:
- (a) the President Elect for the time being shall automatically become President and shall hold that office for two years, at which point he or she must retire if the period as

President has resulted in his/her term on Council extending beyond the three (3) year term for which he/she was most recently elected; and

- (b) the members of the Council then remaining shall elect from their numbers a Vice-President who shall hold the office of President Elect until such time as he/she becomes President in accordance with clause 39.1 (a).

40.2 In the event of a casual vacancy occurring in the office of President Elect the members of the Council then remaining shall elect from their numbers a President Elect. Notwithstanding clause 34 but subject to clauses 32, 33, 37 and 39.4 the President Elect:

- (a) shall hold the office of President Elect for the period for which the President Elect whose office the person is filling (**Previous President Elect**) would have held office as President Elect if the casual vacancy had not arisen; and
- (b) by virtue of such appointment, shall become President at the conclusion of the term of the President holding office at the time of such appointment, and shall upon becoming President hold that office for two years, at which point he or she must retire if the period as President has resulted in his/her term on Council extending beyond the three (3) year term for which he/she was most recently elected.

40.3 Notwithstanding clauses 34, 40.1 and 40.2 but subject to clauses 32, 33 and 37, in the event of casual vacancies in the offices of President and President Elect occurring simultaneously, the members of the Council then remaining shall elect from their numbers a President Elect and a President. The term of a President elected under this sub-clause will be for such period as the Council by resolution determines. A President Elect elected under this sub-clause shall become President following the conclusion of the term of the immediate past President.

40.4 Notwithstanding clause 34 but subject to clauses 32, 33 and 37, a Member Councillor who holds office as President Elect or President pursuant to clause 40 continues to concurrently hold office as a Councillor notwithstanding his/her term as Councillor extends beyond the period of three (3) years for which he/she was most recently elected to Council.

41. Powers of Office Bearers

41.1 Subject to clause 37(g) (the prohibition on a Councillor being an employee of the Society), the Council may:

- (a) confer on an Office Bearer any powers exercisable by the Council, subject to any terms and restrictions determined by the Council; and
- (b) authorise an Office Bearer to sub-delegate all or any of the powers vested in him or her.

41.2 Any power conferred under this clause may be concurrent with but not to the exclusion of the Council's powers.

41.3 The Council may at any time withdraw or vary any of the powers conferred on an Office Bearer.

Powers and duties of Council

42. Powers and duties of Council

42.1 The business of the Society is managed by the Council who may exercise all powers of the Society that this Constitution and the Corporations Act do not require to be exercised by the Society in general meeting.

42.2 Without limiting the generality of clause 42.1, the Council may exercise all the powers of the Society to:

- (a) borrow money;
- (b) charge any property or business of the Society;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Society 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.

43. Delegation

- 43.1 The Council may delegate any of their powers, other than those which by law must be dealt with by the Council as a board, to:
- (a) a committee of Council (which may include persons other than Councillors in addition to at least one Councillor);
 - (b) a Councillor;
 - (c) an employee of the Society; or
 - (d) any other person.
- 43.2 A committee or person to which any powers have been delegated must exercise its powers in accordance with any directions of the Council and a power exercised in that way is taken to have been exercised by the Council.
- 43.3 A committee or person to which any powers have been delegated may be authorised to sub-delegate all or any of the powers for the time being vested in it.
- 43.4 The Council may at any time revoke any delegation of power.
- 43.5 Meetings of any committee will be governed by the provisions of this Constitution which deal with Council meetings so far as they are applicable and are not inconsistent with any directions of the Council.

44. By-Laws

- 44.1 Save in so far as otherwise determined by the Corporations Act or by this Constitution, the Council of the Society shall have full power to make by-laws not inconsistent with the Constitution on:
- (a) all matters relating to the affairs of the Society, the admission of members, the election of Councillors, the conduct or management of its business and of the business of all committees, subcommittees or otherwise for the purpose of carrying out its objects;
 - (b) all matters relating to ethics as concerning members and the rights and obligations of Members.
- 44.2 All By-Laws so made under this clause 44 and for the time being in force shall be binding on the Members of the Society as if they formed part of this Constitution and shall have full effect accordingly *provided* that any By-Law so made may be rescinded or amended by the resolution of the Council.
- 44.3 The Council shall adopt such means as it deems necessary and sufficient to bring to the notice of the Members of the Society by the By-laws of the Society for the time being in force.

Proceedings of Council

45. Council meetings

- 45.1 A Councillor may at any time, and the Secretary must on the request of a Councillor, call a Council meeting.
- 45.2 Unless otherwise determined by the Council, there shall be at least [4] Council meetings each calendar year.
- 45.3 A Council meeting must be called with not less than 48 hours' notice of the meeting to each Councillor, unless the Council unanimously agree otherwise. The notice may be in writing (including electronic transmission, such as email) or given using any other technology consented to by all the Council.
- 45.4 An accidental omission to send a notice of a meeting of Council to any Councillor or the non-receipt of such a notice by any Councillor does not invalidate the proceedings, or any resolution passed, at the meeting.
- 45.5 Subject to the Corporations Act, a Council meeting may be held by the Council communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 45.6 The Council need not all be physically present in the same place for a Council meeting to be held.
- 45.7 Subject to clause 53, a Councillor who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 45.8 Clauses 45.5 to 45.7 apply to meetings of Council committees as if all committee members were Council.
- 45.9 The Council may meet together, adjourn and regulate their meetings as they think fit.
- 45.10 A quorum is half of the number of Council for the time being in office (rounded up to the nearest whole number). The quorum must be present at all times during the meeting.
- 45.11 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Council, the chairperson may call a general meeting to deal with the matter.

46. Decision on questions

- 46.1 Subject to this Constitution, questions arising at a meeting of Council are to be decided by a majority of votes of the Council present and voting.
- 46.2 Subject to clause 53 and the Corporations Act, each Councillor has one vote.
- 46.3 If there is an equality of votes, the chairperson of a meeting has a casting vote in addition to his or her deliberative vote.

47. Remaining Councillors

- 47.1 The Council may act even if there are vacancies on the Council.
- 47.2 If the number of Councillors is not sufficient to constitute a quorum at a Council meeting, the Council may act only to:
 - (a) appoint a Councillor; or
 - (b) call a general meeting.

48. Chairperson

- 48.1 The President, or in the President's absence the President Elect, will be the chairperson at every Council meeting.
- 48.2 The Councillors present must elect a chairperson of a Council meeting if:
- (a) there is no President or President Elect; or
 - (b) neither the President nor the President Elect is present within ten minutes after the time appointed for holding the Council meeting; or
 - (c) the President and the President Elect are unwilling to act as chairperson of the Council meeting.

49. Written resolutions

- 49.1 The Council may pass a resolution without a Council meeting being held if all the Council entitled to vote on the resolution (except a Councillor who is outside Australia and who has not given the Society an email address for receipt of notices) 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 Councillor entitled to vote signs.
- 49.2 For the purposes of clause 49.1, separate copies of a document may be used for signing by Council if the wording of the resolution and statement is identical in each copy.
- 49.3 Any document referred to in this clause may be in the form of an electronic transmission (including email) or notification (and such a transmission that is received by the Society and which purports to be signed by a Councillor shall be treated as a document signed by the Councillor for the purposes of this clause 49).
- 49.4 The minutes of Council meetings must record that a resolution was passed in accordance with this clause.
- 49.5 This clause applies to meetings and resolutions of Council committees as if all members of the committee were Council.

50. Validity of acts of Council

If it is discovered that:

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

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

51. Minutes and Registers

- 51.1 The Council must cause minutes to be made of:
- (a) the names of the Councillors present at all general meetings, Council meetings and meetings of Council committees;
 - (b) all proceedings and resolutions of general meetings, Council meetings and meetings of Council committees;
 - (c) all resolutions passed by Members in accordance with the Corporations Act;
 - (d) all resolutions passed by Council in accordance with clause 49;
 - (e) all appointments of officers;

- (f) all orders made by the Council and Council committees; and
 - (g) all disclosures of interests made under clause 53.
- 51.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the Council be conclusive evidence of the matters stated in such minutes.
- 51.3 The Society must keep all registers required by this Constitution and the Corporations Act.

Payments to Councillors and Councillor interests

52. Payments to Councillors

- 52.1 No payment will be made to any Councillor of the Society other than payment:
- (a) of out of pocket expenses reasonably and properly incurred by the Councillor in the performance of any duty as Councillor of the Society where the amount payable does not exceed an amount previously approved by the Council;
 - (b) for any service rendered to the Society by the Councillor in a professional or technical capacity, other than in the capacity as Councillor, where the provision of the service, and
 - (c) the amount payable, has the prior approval of the Council and is not more than an amount which commercially would be reasonable payment for the service;
 - (d) of interest at a rate not exceeding the rate charged by bankers in Canberra on overdraft accounts on any money lent or reasonable and proper rent for premises demised or let by any member to the Society; and
 - (e) relating to an indemnity in favour of the Councillor and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.

53. Councillors' interests

- 53.1 As required by the Corporations Act, a Councillor must give the Council notice of any material personal interest in a matter that relates to the affairs of the Society.
- 53.2 Subject to this Constitution, including the provisions of this clause 53, a Councillor or a body or entity in which a Councillor has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Society;
 - (b) hold any office or place of profit other than as auditor in the Society; and
 - (c) act in a professional capacity other than as auditor for the Society,
- and the Councillor or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Society or from holding an office or place of profit in or acting in a professional capacity with the Society.
- 53.3 The fact that a Councillor holds office as a director, and has fiduciary obligations arising out of that office:
- (a) will not void or render voidable a contract made by a Councillor with the Society;
 - (b) will not void or render voidable a contract or arrangement entered into by or on behalf of the Society and in which the Councillor may have any interest; and

- (c) will not require the Councillor to account to the Society for any profit realised by or under any contract or arrangement entered into by or on behalf of the Society and in which the Councillor may have any interest.

53.4 A Councillor may be or become a director or other officer of, or otherwise be interested in:

- (a) any related body corporate of the Society; or
- (b) any other body corporate promoted by the Society or in which the Society may be interested as a vendor, shareholder or otherwise,

and is not accountable to the Society for any remuneration or other benefits received by the Councillor as a director or officer of, or from having an interest in, that body corporate.

53.5 A Councillor who has a material personal interest in a matter that is being considered at a Council meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted to do so by the Corporations Act, in which case the Councillor may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Council considering that contract or arrangement or a proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or a 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.

54. Conflicts of interest

In addition to clause 53.5, the Council shall, to the extent required by any applicable law, establish a mechanism for dealing with any conflicts of interest that may occur involving a Councillor, officer or employee of the Society.

55. Appointment of attorneys and agents

55.1 The Council may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Society:

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

determined by the Council.

55.2 An appointment by the Council of an attorney or agent of the Society may be made in favour of:

- (a) any member of any committee established under this Constitution;
- (b) any Society;
- (c) the members, Councillors, nominees or managers of any Society or firm; or

- (d) any fluctuating body of persons whether nominated directly or indirectly by the Council.
- 55.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Council think fit.
- 55.4 The Council may appoint attorneys or agents by facsimile or electronic transmission to act for and on behalf of the Society.
- 55.5 An attorney or agent appointed under this clause may be authorised by the Council to sub-delegate all or any of the powers, authorities and discretions for the time being vested in it.

Secretary

56. Secretary

- 56.1 Unless not required by the Corporations Act, there must be at least one secretary of the Society who ordinarily resides in Australia appointed by the Council on conditions determined by them.
- 56.2 The Secretary is entitled to attend and be heard on any matter at all Council and general meetings.
- 56.3 The Council may, subject to the terms of the Secretary's employment contract (if any), suspend, remove or dismiss the Secretary.

Seals

57. Common Seal

If the Society has a Seal:

- (a) the Council must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Council or a Council committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Councillor and be countersigned by another Councillor, the Secretary or another person appointed by the Council to countersign the document.

58. Duplicate Seal

If the Society has a Seal, the Society may have one or more duplicate seals of the Seal each of which:

- (a) must be a facsimile of the Seal with 'Duplicate Seal' on its face;
- (b) must not be used except with the authority of the Council.

Inspection of records

59. Inspection of records

- 59.1 Except as otherwise required by the Corporations Act, the Council 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 Society or any of them will be open for inspection by Members other than Council.

- 59.2 Except as otherwise required by the Corporations Act, a Member other than a Councillor does not have the right to inspect any financial records or other documents of the Society unless the Member is authorised to do so by a court order or a resolution of the Council.

Notices

60. Service of notices

- 60.1 Notice may be given by the Society 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 (or email) to the person at the person's address shown in the Register or the address supplied by the person to the Society for sending notices to the person; or
 - (c) if it is a notice of a meeting of Members, by giving it in accordance with section 249J(3) of the Corporations Act.
- 60.2 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.
- 60.3 Subject to the Corporations Act, 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 after its despatch.
- 60.4 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:
- (a) on a notice board at the Society's registered office; or
 - (b) on the Society's website.
- 60.5 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 60.
- 60.6 A certificate in writing signed by a Councillor, Secretary or other officer of the Society that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 60.7 Subject to the Corporations Act the signature to a written notice given by the Society may be written or printed.
- 60.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

61. Persons entitled to notice

- 61.1 Notice of every general meeting must be given to:
- (a) every Member who is entitled to attend the general meeting;
 - (b) every Councillor; and

- (c) any Auditor.
- 61.2 No other person is entitled to receive notice of a general meeting.

Audit and accounts

62. Audit and accounts

- 62.1 The Council must cause the Society to keep written financial records in relation to the business of the Society, and to prepare financial documents and reports, in accordance with the requirements of the Corporations Act and any other applicable laws.
- 62.2 The Council must cause the financial records and financial documents of the Society to be audited to the extent required by, and in accordance with the requirements of, the Corporations Act and any other applicable laws.

Winding up

63. Winding up

- 63.1 If the Society 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 Society for the:
- (c) payment of debts and liabilities of the Society (in relation to clause 63.1(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,
- such amount as may be required, not exceeding \$20.00 (and otherwise has no liability for the payment of debts and liabilities of the Society nor obligation to contribute to the property of the Society).
- 63.2 On the winding up of the Society, any surplus remaining following the satisfaction of all debts and liabilities of the Society will not be paid to or distributed amongst Members, but will, unless otherwise required by law, be given or transferred to another society, institution, corporation or body which, by its constitution, is:
- (a) required to pursue purposes similar (as far as possible) to those of the Society;
 - (b) required to apply its income in promoting such purposes; and
 - (c) prohibited from making any distribution to its members and paying fees to its Council, to at least the same extent of such prohibitions under this Constitution,
- such society, institution, corporation or body to be determined by the Members and in default, by application to the Supreme Court of New South Wales for determination.

Indemnity and insurance

64. Indemnity

- 64.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Society indemnifies every person who is or has been an officer of the Society against:
- (a) any liability (other than for legal costs) incurred by that person as an officer of the Society (including liabilities incurred by the officer as an officer of a subsidiary of the Society where the Society requested the officer to accept that appointment); or
 - (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Society (including legal costs incurred by the officer as an officer of a subsidiary of the Society where the Society requested the officer to accept that appointment).
- 64.2 The amount of any indemnity payable under clauses 64.1(a) or 64.1(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 Society with a GST tax invoice for the GST Amount.
- 64.3 For the purposes of this clause and clause 65, **officer** means:
- (a) a Councillor;
 - (b) a Secretary;
 - (c) a person who has formerly been a Councillor or a Secretary of the Society; or
 - (d) a person, whether as an individual or member of a committee, who is, or has been, delegated or sub-delegated a power of the Council under clause 43(the delegate) to the extent of the exercise in good faith of that power by the delegate.

65. Insurance

The Society may pay a premium in respect of a contract insuring a person who is or has been an officer against liability incurred by the person as an officer, except in circumstances prohibited by the Corporations Act.

Internal disputes

66. Resolution of internal disputes

- 66.1 Disputes between Members (in their capacity as Members), and disputes between Members and the Society that the parties have not been able to themselves resolve (after following any internal dispute procedures the Council may specify or adopt) are to be referred to the Dispute Settlement Centre of Victoria or such other mediator as the Council may, subject to applicable law, determine.
- 66.2 At least seven days before such a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.
- 66.3 Any internal dispute procedures the Council may specify or adopt include, without limitation:
- (a) the appointment of an independent person to arbitrate on the dispute;

- (b) processes to bring the parties together to help resolve the dispute at an early stage,
- (c) and should allow all parties a full and fair opportunity of presenting their case.

Complaints

67. Complaints

If, and to the extent, required by any applicable law, the Council shall ensure that a mechanism is established that will properly and effectively deal with complaints made by members of the public and grievances from employees.

Execution of documents

68. Execution of documents

The Society may execute a document:

- (a) in accordance with section 127(1) of the Corporations Act;
- (b) if the Society has a Seal, in accordance with section 127(2) of the Corporations Act and clauses 57 and 58; or
- (c) in any other way approved by the Council and permitted by law.