



## Scotch College (WA) Foundation (Inc)

### Rules

(May 2019)



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**1. Name of the Association**

The name of the Association is "Scotch College (WA) Foundation (Inc)".

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**2. Objects of the Association**

2.1 The objects for which the Association is established are as follows:

- (a) to create opportunities for the College to attract and retain the continuing interest and financial support of concerned and interested past students, parents, friends, corporations and others;
- (b) to solicit donations and gifts to or for the benefit of the College or any of its funds or accounts from past students, parents and friends and any other source appropriate to the promotion of the objects of the Association;
- (c) to attract and encourage bequests and deferred gifts;
- (d) to provide financial assistance for the employment of teaching staff with specialised skills, educational research projects, attendance at or participation in conferences and seminars and visits from academic specialists;
- (e) to provide financial assistance for the granting of scholarships, bursaries, endowments and educational allowances;
- (f) to consult with the Council and align the strategy of the Association with the strategy of the Council;
- (g) to provide financial assistance for the development of new teaching methods and the cultural environment of the College;
- (h) to provide financial assistance for the acquisition by the College of library books, works of art and education plant and equipment of all kinds;
- (i) to establish, administer, undertake and execute trusts and funds for educational purposes or other purposes conducive to the objects of the Association;
- (j) to raise finance for the acquisition of land or facilities for the acquisition, construction or maintenance of buildings used or to be used by the College;
- (k) to raise money for the purposes of the objects of the Association by any method that seems desirable including the undertaking of or participating in commercial ventures of all kinds including through sensible investment strategies which are reviewed annually;

- (l) to make donations, grants, loans or subsidies to any person or body for the purpose which is conducive to the objects of the Association; and
  - (m) to do any other thing which is conducive or incidental to the attainment of the above objects or any of them.
- 2.2 None of the objects above are limited or restrained by reference to the name of the Association or by reference to matters of the same or a similar kind to those elsewhere in that rule or otherwise be limited or restrained by any other provision of that rule not containing an express limitation or restraint nor by any inference to be drawn from any other part so that the objects specified above may be carried out and acted upon in as full and ample a manner and construed in as wide a manner as if each of the paragraphs above defined the objects of a separate and independent body.
- 2.3 The Association's financial year will be the period of 12 months commencing on the 1st January and ending on the 31st of December of each year. Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination.
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### **3. The Powers of the Association**

The Powers of the Association include:

- (a) to purchase, receive, take up or otherwise acquire and hold and to sell, exchange, deal with, manage, turn to account and dispose of any real or personal property of any kind and whether situated in Western Australia or elsewhere;
- (b) to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, warrants and other negotiable instruments;
- (c) to borrow and raise money for any of the objects of the Association and to secure the payment thereof by mortgage of, charge on or debenture over all or any of the property of the Association or in any other lawful manner;
- (d) to establish and maintain as the Board from time to time thinks fit a building fund, an endowment fund and any other funds for any of the objects of the Association and to pay or expend the moneys or assets representing those funds or the income thereof as is appropriate in each case to the Council upon trust for a purpose consistent with the objects for which the fund was established or in a manner consistent with those objects approved by the Council;
- (e) to invest any of the moneys or funds of the Association that are not immediately needed in any investments for the time being authorised by law for the investment of trust funds and in accordance of the investment criteria established annually by the Board;

- (f) to appoint, engage, supervise, control, suspend and dismiss officers and employees;
  - (g) to promote, establish, superintend, conduct, control and assist branches, committees and other organisations for the purpose of widening the influence and operation of the Association or the attainment of any of its objects;
  - (h) to produce publications and issue them to members of the Association and others;
  - (i) to compromise and settle any claim or action and enter into submissions to arbitration;
  - (j) to enter into any contract of insurance the Board thinks fit;
  - (k) to accept deferred gifts on any conditions the Board thinks fit; and
  - (l) generally to do any other act matter or thing or enter into any agreement or arrangement that is incidental to or conducive to the attainment of any of the objects of the Association.
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#### **4. Association to be Not For Profit Body**

- 4.1 The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- 4.2 A payment may be made to a member out of the funds of the Association only if it is authorised under sub-rule (4.3).
- 4.3 A payment to a member out of the funds of the Association is authorised if it is -
  - (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business;
  - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
  - (c) the payment of reasonable rent to the member for premises leased by the member to the Association;
  - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association; or

- (e) where gifts of money, bequests, devises or other gifts have been made to the Association upon conditions for the objects of the Association, the Association shall use or apply money representing those gifts, bequests or devises in accordance with the conditions upon which they were made.
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## **5. Members**

### **5.1 Eligibility for membership**

A person (including a body corporate) with an interest in advancing the objects of the Association is eligible to be a member of the Association.

### **5.2 Dealing with membership applications**

- (a) The Board must consider each application for membership of the Association and decide whether to accept or reject the application.
- (b) Subject to sub-rule (c), the Board must consider applications in the order in which they are received by the Association.
- (c) The Board may delay its consideration of an application if the Board considers, in its absolute discretion, that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (d) The Board must not accept an application unless the applicant is eligible under rule 5.1.
- (e) The Board may reject an application even if the applicant is eligible under rule 5.1. If the Board does so;
  - (i) the Board must notify the applicant of the Board's decision to accept or reject the application as soon as practicable after making the decision; and
  - (ii) the Board is not required to give the applicant its reasons for doing so.

### **5.3 Becoming a member**

- (a) A person that is eligible under rule 5.1 may become a member of the Association by making a qualifying gift or notifying the Association of an intention to make a qualifying bequest as prescribed by this rule.
- (b) For the purposes of this rule a gift or bequest is a qualifying gift or bequest, as the case may be, if it is -
  - (i) a gift of not less than \$5,000 in cash or of assets of that value made to an approved fund paid either in a lump sum or by instalments not less frequently than annually over a period of not more than five years except in circumstances outlined at subclause (i) (ii); or

- (ii) a bequest to the Association of not less than \$20,000 in cash or of assets of that value.
- (c) Where a person gives an undertaking in a form approved by the Board to make a qualifying gift to an approved fund by instalments in accordance with paragraph (i) of sub-rule (b) he shall so long as he complies with the undertaking be deemed for the purpose of this rule to have made a gift of the full amount referred to in the undertaking.
- (d) Where a person notifies the Association of an intended bequest the Board may require him to furnish to it evidence of the terms of the will or the relevant rule or provision thereof by which the bequest is made before that person is admitted to membership of the Association.
- (e) If an intended bequest or the will by which an intended bequest to the Association is made is revoked the membership of the testator or a person nominated by him under sub-rule (h) is terminated on the date of the revocation of the intended bequest or will.
- (f) For the purposes of sub-rule (e) an intended bequest or will is not deemed to have been revoked if it is revoked by a later will by which a bequest of the same or a greater amount or value is made to the Association.
- (g) A person who makes a qualifying gift or gives notification of an intended qualifying bequest may simultaneously nominate in writing another person to be a member of the Association in place of himself and, subject to these Rules, the person so nominated is entitled to become and remain a member of the Association.
- (h) A nomination made pursuant to sub-rule (g) cannot be revoked but if the nominee dies or resigns during the lifetime of the person who made the qualifying gift or gave notification of the intended qualifying bequest that person may nominate another person in accordance with that sub-rule notwithstanding that the nomination is not made simultaneously with the gift or notification of the intended bequest.
- (i) Joint or Family Gifts:
  - (i) Where two or more persons jointly or together, whether as a partnership, family or otherwise, make to the Association a qualifying gift as defined in rule 5.3(b), those persons may -
    - (A) nominate one of their number; or
    - (B) pursuant to rule 5.3(g) nominate another person; or
    - (C) where the amount of the gift equals or exceeds twice the sum prescribed by rule 5.3(b)(i) (in this paragraph referred to as "the base sum") nominate one person, whether one of their number or not, for each complete base sum comprised in the gift, as a member of the Association at their discretion.



- (j) Where a donation of no less than \$5,000 is made over a period of more than 5 years the Board shall have discretion to approve the membership of that person by a resolution of the Board where more than 75% of the board vote in favour.
- (k) Qualifying gifts and bequests accepted under these rules are non-refundable.

#### **5.4 Classes of membership**

- (a) The Association consists of ordinary members and any associate members provided for under sub-rule (b).
- (b) The Association may have any class of associate membership approved by resolution at a general meeting, including junior membership, senior membership, honorary membership and life membership.
- (c) An individual who has not reached the age of 18 years is only eligible to be an associate member.
- (d) A person can only be an ordinary member or belong to one class of associate membership.
- (e) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Board.
- (f) An associate member has the rights referred to in sub-rule (e) other than full voting rights.
- (g) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.
- (h) Where a person or corporation who has made a qualifying gift or given notification of an intended qualifying bequest and has been admitted to membership of the Association subsequently makes a gift or further gift or gives notification of an intended bequest or further intended bequest the Board may alter the classification of membership of that person as it sees fit.
- (i) Where a person makes both a qualifying gift and gives notification of an intended qualifying bequest and is admitted to membership of the Association the Board shall determine the classification of membership of that person as it sees fit.
- (j) Honorary Life Members
  - (i) The Board may propose to a general meeting that a person who, in its opinion, has rendered outstanding services to the Association be made an Honorary Life Member of the Association.
  - (ii) Prior notice of a proposal pursuant to sub-rule (i) is not required.

- (iii) If a proposal that a person be made an honorary life member is passed at a general meeting by a majority of at least three quarters of the members present in person or by proxy who vote on the proposal, the person then becomes an honorary life member.
- (iv) Subject to the provisions of this rule, an honorary life member is –
  - (A) not required to make a qualifying gift or bequest as provided in rule 5.3;
  - (B) entitled to all the privileges of membership;
  - (C) bound by the rules and by-laws of the Association for the time being in force; and
  - (D) not eligible to be elected or appointed to the Board unless the person is otherwise qualified to be elected or appointed.
- (v) A person who is already a member may be proposed as an Honorary Life Member.
- (k) Corporate Members
  - (i) A body corporate which is a member of the Association may appoint in writing a person to act as its representative at meetings of and for the purposes of the Association and may revoke an appointment so made and appoint another person.
  - (ii) A person so appointed is entitled to attend at meetings and vote and exercise the same powers on behalf of the appointor they represent as the appointor could exercise if it were an individual member of the Association.
- (l) Patrons
  - (i) The Board may from time to time appoint or remove one or more persons as patrons or Deputy-patrons of the Association.

## **5.5 When membership ceases**

- (a) A person ceases to be a member when any of the following takes place:
  - (i) for a member who is an individual, the individual dies;
  - (ii) for a member who is a body corporate, the body corporate is wound up or otherwise for the period determined in each case by the Board;
  - (iii) the person resigns from the Association under rule 5.5(c);
  - (iv) the person is expelled from the Association under rule 6.2; or

- (v) if the person is a member under rule 5.3(a) having notified of their intention to make a bequest, subsequently changes their will and removes such bequest.
- (b) The Executive Officer must keep a record, for at least one year after a person ceases to be a member, of:
  - (i) the date on which the person ceased to be a member; and
  - (ii) the reason why the person ceased to be a member.
- (c) Resignation
  - (i) A member may resign from membership of the Association by giving written notice of the resignation to the Executive Officer.
  - (ii) The resignation takes effect:
    - (A) when the Executive Officer receives the notice; or
    - (B) if a later time is stated in the notice, at that later time.
- (d) Rights not transferable

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

## **5.6 Register of members**

- (a) The Board is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (b) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.
- (c) The register of members must be kept at the Executive Officer's place of work, or at another place determined by the Board.
- (d) A member who wishes to inspect the register of members must contact the Executive Officer to make the necessary arrangements.
- (e) If:
  - (i) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (ii) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the Board may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

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## **6. Disciplinary Action, Disputes and Mediation**

### **6.1 Term used**

In this Part,

*member*, in relation to a member who is expelled from the Association, includes former member.

### **6.2 Disciplinary action**

#### **(a) Suspension or expulsion**

- (i) The Board may decide to suspend a member's membership or to expel a member from the Association if:
  - (A) the member contravenes any of these rules; or
  - (B) the member acts detrimentally to the interests of the Association.
- (ii) The Executive Officer must give the member written notice of the proposed suspension or expulsion at least 28 days before the Board meeting at which the proposal is to be considered by the Board.
- (iii) The notice given to the member must state:
  - (A) when and where the Board meeting is to be held; and
  - (B) the grounds on which the proposed suspension or expulsion is based; and
  - (C) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion;
- (iv) At the Board meeting, the Board must:
  - (A) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion; and
  - (B) give due consideration to any submissions so made; and

- (C) decide:
    - (1) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
    - (2) whether or not to expel the member from the Association.
  - (v) A decision of the Board to suspend the member's membership or to expel the member from the Association takes immediate effect.
  - (vi) The Board must give the member written notice of the Board's decision, and the reasons for the decision, within 7 days after the Board meeting at which the decision is made.
  - (vii) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under sub-rule (vi), give written notice to the Executive Officer requesting the appointment of a mediator under rule 6.4(b).
  - (viii) If notice is given under sub-rule (vii), the member who gives the notice and the Board are the parties to the mediation.
- (b) **Consequences of suspension**
- (i) During the period a member's membership is suspended, the member -
    - (A) loses any rights (including voting rights) arising as a result of membership; and
    - (B) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
  - (ii) When a member's membership is suspended, the Executive Officer must record in the register of members -
    - (A) that the member's membership is suspended; and
    - (B) the date on which the suspension takes effect; and
    - (C) the period of the suspension.
  - (iii) When the period of the suspension ends, the Executive Officer must record in the register of members that the member's membership is no longer suspended.

### 6.3 Resolving disputes

- (a) Terms used

In this Division:

***grievance procedure*** means the procedures set out in this Division;

***party to a dispute*** includes a person:

- (i) who is a party to the dispute; and
- (ii) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

(b) Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes:

- (i) between members; or
- (ii) between one or more members and the Association.

(c) Parties to attempt to resolve dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

(d) How grievance procedure is started

(i) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 6.3(d)), any party to the dispute may start the grievance procedure by giving written notice to the Executive Officer of:

- (A) the parties to the dispute; and
- (B) the matters that are the subject of the dispute.

(ii) Within 28 days after the Executive Officer is given the notice, a Board meeting must be convened to consider and determine the dispute.

(iii) The Executive Officer must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

(iv) The notice given to each party to the dispute must state:

- (A) when and where the Board meeting is to be held; and
- (B) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.

- (v) If:
  - (A) the dispute is between one or more members and the Association; and
  - (B) any party to the dispute gives written notice to the Executive Officer stating that the party:
    - (1) does not agree to the dispute being determined by the Board; and
    - (2) requests the appointment of a mediator

the Board must not determine the dispute.
- (e) Determination of dispute by Board
  - (i) At the Board meeting at which a dispute is to be considered and determined, the Board must:
    - (A) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
    - (B) give due consideration to any submissions so made; and
    - (C) determine the dispute.
  - (ii) The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board meeting at which the determination is made.
  - (iii) A party to the dispute may, within 14 days after receiving notice of the Board's determination under sub-rule (ii), give written notice to the Executive Officer requesting the appointment of a mediator under rule 6.4(b).
  - (iv) If notice is given under sub-rule (iii), each party to the dispute is a party to the mediation.

#### **6.4 Mediation**

- (a) Application of Division
  - (i) This Division applies if written notice has been given to the Executive Officer requesting the appointment of a mediator:
    - (A) by a member under rule 6.2(a)(vii); or
    - (B) by a party to a dispute under rule 6.3(d)(iv)(B) or 6.3(e)(iii).
  - (ii) If this Division applies, a mediator must be chosen or appointed under rule 6.4(b).

- (b) Appointment of mediator
- (i) The mediator must be a person chosen:
    - (A) if the appointment of a mediator was requested by a member under rule 6.2(a)(vii) - by agreement between the Member and the Board; or
    - (B) if the appointment of a mediator was requested by a party to a dispute under rule 6.3(d)(v)(B)(1) or 6.3(e)(iii) - by agreement between the parties to the dispute.
  - (ii) If there is no agreement for the purposes of sub-rule (A) or (B), then, subject to sub-rules (iii) and (iv), the Board must appoint the mediator.
  - (iii) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by:
    - (A) a member under rule 6.2(a)(vii); or
    - (B) a party to a dispute under rule 6.3(d)(v)(B)(1); or
    - (C) a party to a dispute under rule 6.3(e)(iii) and the dispute is between one or more members and the Association.
  - (iv) The person appointed as mediator by the Board may be a member or former member of the Association but must not:
    - (A) have a personal interest in the matter that is the subject of the mediation; or
    - (B) be biased in favour of or against any party to the mediation.
- (c) Mediation process
- (i) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
  - (ii) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
  - (iii) In conducting the mediation, the mediator must:
    - (A) give each party to the mediation every opportunity to be heard; and
    - (B) allow each party to the mediation to give due consideration to any written statement given by another party; and



- (C) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
  - (iv) The mediator cannot determine the matter that is the subject of the mediation.
  - (v) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
  - (vi) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.
- (d) If mediation results in decision to suspend or expel being revoked
- If:
- (i) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 6.2(a)(vii) and
  - (ii) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

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

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## **7. Board of Trustees**

### **7.1 Powers of Board of Trustees**

- (a) The Board members are the persons who, as the management Board of the Association, have the power to manage the affairs of the Association.
- (b) The Board must take all reasonable steps to ensure that the Association complies with the Act, these rules and the by-laws (if any).

### **7.2 Composition of Board and duties of Board**

- (a) Board
  - (i) The Board consists of:
    - (A) two members of the Council nominated by the Council; and
    - (B) up to ten other trustees elected by the members.
- (b) Officeholders
  - (i) The following are the office holders of the Association:
    - (A) the Chairperson;

(B) the Deputy-Chairperson;

(ii) A person may be a Board member if the person is an individual who has reached 18 years of age;

(iii) A person must not hold 2 or more of the offices mentioned in rule 7.2(b) (i) at the same time.

(c) Chairperson and Deputy-Chairperson

(i) It is the duty of the Chairperson or in their absence the Deputy-Chairperson to preside at all Board general meetings and in the absence of both the Chairperson and the Deputy-Chairperson the members present at the meeting shall elect one of their number to preside.

(ii) The Chairperson has the powers and duties relating to convening and presiding at Board meetings and presiding at general meetings provided for in these rules.

(d) Executive Officer

The Board shall appoint a person to the office of Executive Officer and define the powers, authorities, discretions and duties of the Executive Officer and of any other officer or employee of the Association in accordance with these rules and by way of the Board's written delegation of authority and may from time to time alter or limit any of those powers, authorities, discretions or duties as it thinks fit.

The Executive Officer has the following duties:

(i) dealing with the Association's correspondence;

(ii) consulting with the Chairperson regarding the business to be conducted at each Board meeting and general meeting;

(iii) preparing the notices required for meetings and for the business to be conducted at meetings;

(iv) unless another member is authorised by the Board to do so, maintaining on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;

(v) maintaining on behalf of the Association an up-to-date copy of these rules, as required under section 35(1) of the Act;

(vi) unless another member is authorised by the Board to do so, maintaining on behalf of the Association a record of Board members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;

- (vii) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (viii) maintaining full and accurate minutes of Board meetings and general meetings;
- (ix) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (x) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the Board;
- (xi) ensuring that any payments to be made by the Association that have been authorised by the Board or at a general meeting are made on time;
- (xii) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (xiii) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (xiv) if the Association is a tier 1 association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
- (xv) if the Association is a tier 2 association or tier 3 association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;
- (xvi) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
- (xvii) carrying out any other duty given to the Executive Officer under these rules or by the Board.

### **7.3 Election of Board members and tenure of office**

- (a) How members become Board members
  - (i) A member becomes a Board member if the member:
    - (A) is elected to the Board at the annual general meeting of the Association to be held each year; or
    - (B) is appointed to the Board by the Board to fill a casual vacancy under rule 7.3(g).
- (b) Nomination of Board members

- (i) At least 42 days before an annual general meeting, the Executive Officer must send written notice to all the members:
    - (A) calling for nominations for election to the Board; and
    - (B) stating the date by which nominations must be received by the Executive Officer to comply with sub-rule (i).
  - (ii) A member who wishes to be considered for election to the Board at the annual general meeting must nominate for election by sending written notice of the nomination to the Executive Officer at least 28 days before the annual general meeting.
  - (iii) The written notice must include a statement by another member in support of the nomination.
  - (iv) A member may nominate for one specified position of office holder of the Association or to be an ordinary Board member.
  - (v) A member whose nomination does not comply with this rule is not eligible for election to the Board unless the member is nominated under rule 7.3(c)(iii).
- (c) Election of office holders
- (i) At the annual general meeting, a separate election must be held for each position of office holder of the Association.
  - (ii) If there is no nomination for a position, the Chairperson of the meeting may call for nominations from the ordinary members at the meeting.
  - (iii) If only one member has nominated for a position, the Chairperson of the meeting must declare the Member elected to the position.
  - (iv) If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Board to decide who is to be elected to the position.
  - (v) Each ordinary member present at the meeting (including by proxy) may vote for one member who has nominated for the position.
  - (vi) A member who has nominated for the position may vote for themselves.
  - (vii) On the member's election, the new Chairperson of the Association may take over as the Chairperson of the meeting.
  - (viii) The Chairperson elected by the members in accordance with rules 7.3(c)(vii) must continue as Chairperson for the duration of the meeting for which the Chairperson was elected.

- (d) Term of office
  - (i) The term of office of a Board member begins when the member:
    - (A) is elected at an annual general meeting or under sub-rule 7.3(c); or
    - (B) is appointed to fill a casual vacancy under rule 7.3(g).
  - (ii) A Board member may be re-elected.
  - (iii) The Association may by special resolution remove a member of the Board, other than a member nominated by the Council, before the expiration of the period of his office and appoint another qualified person in his place.
  - (iv) A person appointed pursuant to sub-rule (iii) shall hold office during the time the person in whose place he is appointed would have held office if he had not been removed.
- (e) Resignation and removal from office
  - (i) A Board member may resign from the Board by written notice given to the Executive Officer or, if the resigning member is the Executive Officer, given to the Chairperson.
  - (ii) The resignation takes effect:
    - (A) when the notice is received by the Executive Officer or Chairperson; or
    - (B) if a later time is stated in the notice, at the later time.
  - (iii) At a general meeting, the Association may by resolution:
    - (A) remove a Board member from office; and
    - (B) elect a member who is eligible to fill the vacant position.
  - (iv) A Board member who is the subject of a proposed resolution under sub-rule (A) may make written representations (of a reasonable length) to the Executive Officer or Chairperson and may ask that the representations be provided to the members.
  - (v) The Executive Officer or Chairperson may give a copy of the representations to each member or, if they are not so given, the Board member may require them to be read out at the general meeting at which the resolution is to be considered.
- (f) When membership of Board ceases

A person ceases to be a Board member if the person:

  - (i) dies or otherwise ceases to be a member; or

- (ii) resigns from the Board or is removed from office under rule 7.3(e);  
or
  - (iii) becomes ineligible to accept an appointment or act as a Board member under section 39 of the Act;
  - (iv) becomes permanently unable to act as a Board member because of a mental or physical disability;
  - (v) fails to attend 3 consecutive Board meetings, of which the person has been given notice, without having notified the Board that the person will be unable to attend; or
  - (vi) completes three (3) consecutive years as a member of the Board.
- (g) Filling casual vacancies
- (i) The Board may appoint a member who is eligible to fill a position on the Board that:
    - (A) has become vacant under rule 7.3(f); or
    - (B) was not filled by election at the most recent annual general meeting or under rule 7.3(g).
  - (ii) If the position of Executive Officer becomes vacant, the Board must appoint a person who is eligible to fill the position within 14 days after the vacancy arises.
  - (iii) Subject to the requirement for a quorum, the Board may continue to act despite any vacancy in its membership.
  - (iv) If there are fewer Board members than required for a quorum, the Board may act only for the purpose of:
    - (A) appointing Board members under this rule; or
    - (B) convening a general meeting.

(h) Validity of acts

The acts of a Board or Management Committee, Subcommittee, or of a Board member or member of a Subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Board member or member of a Subcommittee.

The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by a member does not invalidate the proceedings at the meeting.

(i) Payments to Board members

- (i) In this rule:

*Board member* includes a member of a Subcommittee;

*committee meeting* includes a meeting of a Subcommittee.

- (ii) A Board member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred:
  - (A) in attending a Board meeting or
  - (B) in attending a general meeting; or
  - (C) otherwise in connection with the Association's business.

#### **7.4 Board meetings**

- (a) Board meetings
  - (i) The Board must meet at least one time a year on the dates and at the times and places determined by the Board.
  - (ii) The date, time and place of the first Board meeting must be determined by the Board members as soon as practicable after the annual general meeting at which the Board members are elected.
  - (iii) Extraordinary Board meetings may be convened by the Chairperson or any 2 Board members.
- (b) Notice of Board meetings
  - (i) Notice of each Board meeting must be given to each Board member at least 48 hours before the time of the meeting.
  - (ii) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
  - (iii) Unless sub-rule (iv) applies, the only business that may be conducted at the meeting is the business described in the notice.
  - (iv) Urgent business that has not been described in the notice may be conducted at the meeting if the Board members at the meeting unanimously agree to treat that business as urgent.
- (c) Procedure and order of business
  - (i) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson must preside as Chairperson of each Board meeting.
  - (ii) If the Chairperson and Deputy Chairperson are absent or are unwilling to act as Chairperson of a meeting, the Board members at the meeting must choose one of them to act as Chairperson of the meeting.

- (iii) The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- (iv) The order of business at a Board meeting may be determined by the Board members at the meeting.
- (v) A member or other person who is not a Board member may attend a Board meeting if invited to do so by the Board.
- (vi) The Chairperson of the Council or their nominee and the Headmaster or acting Headmaster of the College are entitled to attend every meeting of the Board and of any committee appointed by the Board and may speak on any matter but are not entitled to vote unless otherwise qualified.
- (vii) The Executive Officer has a right to attend all Board meeting and has a right to an agenda, minutes and other documents circulated at the meeting.
- (viii) A person invited under sub-rule (v) to attend a Board meeting:
  - (A) has no right to any agenda, minutes or other document circulated at the meeting; and
  - (B) must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
  - (C) cannot vote on any matter that is to be decided at the meeting.
- (d) Use of technology to be present at Board meetings
  - (i) The presence of a Board member at a Board meeting need not be by attendance in person but may be by that Board member and each other Board member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
  - (ii) A member who participates in a Board meeting as allowed under sub-rule (i) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.
- (e) Quorum for Board meetings
  - (i) Subject to this rule, no business is to be conducted at a Board meeting unless a quorum is present.
  - (ii) Any four members of the Board constitute a quorum for the conduct of the business of a Board meeting.
  - (iii) If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting:
    - (A) in the case of an Extraordinary meeting - the meeting lapses; or



- (B) otherwise, the meeting is adjourned to the same time, day and place in the following week.
  - (iv) If:
    - (A) a quorum is not present within 30 minutes after the commencement time of a Board meeting held under sub-rule (ii)(B); and
    - (B) at least 2 Board members are present at the meeting, those members present are taken to constitute a quorum.
- (f) Voting at Board meetings
  - (i) Each Board member present at a Board meeting has one vote on any question arising at the meeting.
  - (ii) A motion is carried if a majority of the Board members present at the Board meeting vote in favour of the motion.
  - (iii) If the votes are divided equally on a question, the Chairperson of the meeting does not have a second or casting vote and the motion is lost.
  - (iv) A vote may take place by the Board members present indicating their agreement or disagreement or by a show of hands or if present by use of technology; by electronic communication including email or instantaneous messaging service, unless the Board decides that a secret ballot is needed to determine a particular question.
  - (v) If a secret ballot is needed, the Chairperson of the meeting must decide how the ballot is to be conducted.
- (g) Minutes of Board meetings
  - (i) The Board must ensure that minutes are taken and kept of each Board meeting.
  - (ii) The minutes must record the following -
    - (A) the names of the Board members present at the meeting;
    - (B) the name of any person attending the meeting under rule 7.4(c)(v);
    - (C) the business considered at the meeting;
    - (D) any motion on which a vote is taken at the meeting and the result of the vote.
  - (iii) The minutes of a Board meeting must be entered in the Association's minute book within 30 days after the meeting is held.

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

## **7.5 Subcommittees and subsidiary offices**

- (a) Subcommittees and subsidiary offices
  - (i) To help the Board in the conduct of the Association's business, the Board may, in writing, do either or both of the following -
    - (A) appoint one or more Subcommittees;
    - (B) create one or more subsidiary offices and appoint people to those offices.
  - (ii) A Subcommittee may consist of the number of people, whether or not members, that the Board considers appropriate.
  - (iii) A person may be appointed to a subsidiary office whether or not the person is a member.
  - (iv) Subject to any directions given by the Board:
    - (A) a Subcommittee may meet and conduct business as it considers appropriate; and
    - (B) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.
  - (v) A committee shall cause minutes to be kept of all resolutions and proceedings at all meetings of the committee.
  - (vi) A committee may elect a Chairperson but if no Chairperson is elected or if at any meeting the Chairperson is not present within fifteen (15) minutes after the time appointed for holding the meeting the members of the committee present may choose one of their number to be Chairperson of the meeting.

- (vii) Questions arising at a meeting shall be determined by a majority of votes.
  - (viii) In case of an equality of votes the Chairperson does not have a second or casting vote and the motion is lost;
  - (ix) Each committee shall give to the Board regular reports of its activities.
  - (x) Unless otherwise decided by the Board, at meetings of a committee a quorum consists of one-half of the total number of members of the committee if that number is an even number or the integer nearest to but greater than one-half of that total number if it is an odd number, as the case may be.
- (b) Delegation to Subcommittees and holders of subsidiary offices
- (i) In this rule:

***non-delegable duty*** means a duty imposed on the Board by the Act or another written law.
  - (ii) The Board may, in writing, delegate to a Subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Board other than:
    - (A) the power to delegate; and
    - (B) a non-delegable duty.
  - (iii) A power or duty, the exercise or performance of which has been delegated to a Subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the Subcommittee or holder in accordance with the terms of the delegation.
  - (iv) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Board specifies in the document by which the delegation is made.
  - (v) The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.
  - (vi) Any act or thing done by a Subcommittee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Board.
  - (vii) The Board may, in writing, amend or revoke the delegation.
- 

## **8. General Meetings of Association**

### **8.1 Annual general meeting**

- (a) The annual general meeting shall be held in the month of March, April or May each year and the Board must determine the time and place of the annual general meeting.
- (b) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the Executive Officer must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- (c) The ordinary business of the annual general meeting is as follows:
  - (i) to confirm the minutes of the previous annual general meeting and of any Extraordinary general meeting held since then if the minutes of that meeting have not yet been confirmed;
  - (ii) to receive and consider:
    - (A) the Board's annual report on the Association's activities during the preceding financial year; and
    - (B) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
    - (C) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
    - (D) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
  - (iii) to elect the office holders of the Association and other Board members;
  - (iv) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
  - (v) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by members.
- (d) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

## **8.2 Extraordinary general meetings**

- (a) The Board may convene an Extraordinary general meeting.
- (b) The Board must convene an Extraordinary general meeting if at least 20% of the members require an Extraordinary general meeting to be convened.
- (c) The members requiring an Extraordinary general meeting to be convened must:

- (i) make the requirement by written notice given to the Executive Officer; and
  - (ii) state in the notice the business to be considered at the meeting; and
  - (iii) each sign the notice.
- (d) The Extraordinary general meeting must be convened within 28 days after notice is given under sub-rule (i).
- (e) If the Board does not convene an Extraordinary general meeting within that 28-day period, the members making the requirement (or any of them) may convene the Extraordinary general meeting.
- (f) An Extraordinary general meeting convened by members under sub-rule (e):
- (i) must be held within 3 months after the date the original requirement was made; and
  - (ii) may only consider the business stated in the notice by which the requirement was made.
- (g) The Association must reimburse any reasonable expenses incurred by the members convening an Extraordinary general meeting under sub-rule (e).

### **8.3 Notice of general meetings**

- (a) The Executive Officer or, in the case of an Extraordinary general meeting convened under rule 8.2, the members convening the meeting, must give to each member -
- (i) at least 21 days' notice of a general meeting if an Extraordinary resolution is to be proposed at the meeting; or
  - (ii) at least 14 days' notice of a general meeting in any other case.
- (b) The notice must:
- (i) specify the date, time and place of the meeting; and
  - (ii) indicate the general nature of each item of business to be considered at the meeting; and
  - (iii) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the Board; and
  - (iv) if an Extraordinary resolution is proposed:
    - (A) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
    - (B) state that the resolution is intended to be proposed as an Extraordinary resolution.

#### **8.4 Proxies**

- (a) An ordinary member may appoint an individual who is either the Chairperson or an ordinary member as their proxy to vote and speak on their behalf at a general meeting.
- (b) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (c) The member appointing the proxy may give specific directions as to how the proxy is to vote on their behalf.
- (d) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (e) The member may use a form set out in Appendix 1 or any other form -
  - (i) that clearly identifies the person appointed as the member's proxy; and
  - (ii) that has been signed by the member.
- (f) Notice of a general meeting given to an ordinary member under rule 8.3 must:
  - (i) state that the member may appoint an individual who is either the Chairperson or an ordinary member as a proxy for the meeting; and
  - (ii) include a copy of any form that the Board has approved for the appointment of a proxy.
- (g) A form appointing a proxy must be given to the Executive Officer before the commencement of the general meeting for which the proxy is appointed.
- (h) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

#### **8.5 Use of technology to be present at general meetings**

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

#### **8.6 Presiding member and quorum for general meetings**

- (a) The Chairperson or, in the Chairperson's absence, the Deputy Chairperson must preside as Chairperson of each general meeting.
- (b) If the Chairperson and Deputy Chairperson are absent or are unwilling to act as Chairperson of a general meeting, the Board members at the meeting must choose one of them to act as Chairperson of the meeting.
- (c) No business is to be conducted at a general meeting unless a quorum is present.
- (d) One-tenth of the total number of members of the Association or 25 members whichever is greater whether present in person or by proxy (being members entitled to vote under these rules at a general meeting) will constitute a quorum for the conduct of business at a general meeting.
- (e) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
  - (i) in the case of an Extraordinary general meeting - the meeting lapses; or
  - (ii) in the case of the annual general meeting - the meeting is adjourned to:
    - (A) the same time and day in the following week; and
    - (B) the same place, unless the Chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (f) If:
  - (i) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under sub-rule (d)(ii); and
  - (ii) at least 2 ordinary members are present at the meeting,
 those members present are taken to constitute a quorum.

### **8.7 Adjournment of general meeting**

- (a) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (b) Without limiting sub-rule (a), a meeting may be adjourned:
  - (i) if there is insufficient time to deal with the business at hand; or
  - (ii) to give the members more time to consider an item of business.

- (c) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (d) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 8.3.

### **8.8 Voting at general meeting**

- (a) On any question arising at a general meeting:
  - (i) subject to sub-rule (e), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under sub-rule (b); and
  - (ii) ordinary members may vote personally or by proxy.
- (b) An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.
- (c) A copy of the document by which the appointment is made must be given to the Executive Officer before any general meeting to which the appointment applies.
- (d) The appointment has effect until:
  - (i) the end of any general meeting to which the appointment applies; or
  - (ii) the appointment is revoked by the body corporate and written notice of the revocation is given to the Executive Officer.
- (e) Except in the case of an Extraordinary resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.
- (f) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (g) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.
- (h) For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under sub-rule (b), the ordinary member:
  - (i) must have been an ordinary member at the time notice of the meeting was given under rule 8.3; and



- (ii) must have paid any fee or other money payable to the Association by the member.

### **8.9 When special resolutions are required**

- (a) A special resolution is required if it is proposed at a general meeting:
  - (i) to affiliate the Association with another body; or
  - (ii) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (b) Sub-rule (a) does not limit the matters in relation to which a special resolution may be proposed.

### **8.10 Determining whether resolution carried**

- (a) In this rule:

*poll* means the process of voting in relation to a matter that is conducted in writing.
- (b) Subject to sub-rule (d), the Chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been:
  - (i) carried; or
  - (ii) carried unanimously; or
  - (iii) carried by a particular majority; or
  - (iv) lost.
- (c) If the resolution is a special resolution, the declaration under sub-rule (b) must identify the resolution as a special resolution.
- (d) If a poll is demanded on any question by the Chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy -
  - (i) the poll must be taken at the meeting in the manner determined by the Chairperson;
  - (ii) the Chairperson must declare the determination of the resolution on the basis of the poll.
- (e) If a poll is demanded on the election of the Chairperson or on a question of an adjournment, the poll must be taken immediately.
- (f) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the Chairperson.

- (g) A declaration under sub-rule (b) or (d) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

### **8.11 Minutes of general meeting**

- (a) The Executive Officer, or a person authorised by the Board from time to time, must take and keep minutes of each general meeting.
- (b) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (c) In addition, the minutes of each annual general meeting must record:
  - (i) the names of the ordinary members attending the meeting; and
  - (ii) any proxy forms given to the Chairperson of the meeting under rule 8.4; and
  - (iii) the financial statements or financial report presented at the meeting, as referred to in rule 8.21; and
  - (iv) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 8.1.
- (d) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (e) The Chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by:
  - (i) the Chairperson of the meeting; or
  - (ii) the Chairperson of the next general meeting.
- (f) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that:
  - (i) the meeting to which the minutes relate was duly convened and held; and
  - (ii) the matters recorded as having taken place at the meeting took place as recorded; and
  - (iii) any election or appointment purportedly made at the meeting was validly made.

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## **9. Financial Matters**

### **9.1 Source of funds**

The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, credit, interest, gifts of money, bequests, devises, other gifts, anything expressly permitted by these rules and any other sources approved by the Board and acceptable by law.

## **9.2 Control of funds**

- (a) The Association must open one or more accounts in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (b) Subject to any restrictions imposed at a general meeting, the Board may approve expenditure on behalf of the Association.
- (c) The Board may authorise the Executive Officer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended.
- (d) All payments, whether electronically or by way of cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - (i) 2 Board members;
  - (ii) one Board member and a person authorised by the Board; or
  - (iii) the Executive Officer or other approved Board member
  - (iv) otherwise by a methodology specified in the Board's written Delegation of Authority in force from time to time, and referable to the type and value of such payment.
- (e) All funds of the Association must be deposited into one of the Association's accounts within 5 working days after their receipt.

## **9.3 Financial statements and financial reports**

- (a) For each financial year, the Board must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- (b) Without limiting sub-rule (a), those requirements include:
  - (i) if the Association is a tier 1 association, the preparation of the financial statements; and
  - (ii) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
  - (iii) if required, the review or auditing of the financial statements or financial report, as applicable; and

- (iv) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
  - (v) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report.
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## **10. General Matters**

### **10.1 By-laws**

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

### **10.2 Executing documents and common seal**

- (a) The Association may execute a document without using a common seal if the document is signed by:
  - (i) 2 Board members;
  - (ii) one Board member and a person authorised by the Board; or
  - (iii) the Executive Officer or other approved Board member
- (b) If the Association has a common seal:

- (i) the name of the Association must appear in legible characters on the common seal; and
- (ii) a document may only be sealed with the common seal by the authority of the Board and in the presence of:
  - (A) 2 Board members;
  - (B) one Board member and a person authorised by the Board; or
  - (C) the Executive Officer or other approved Board member.

and each of them is to sign the document to attest that the document was sealed in their presence.

- (c) The Executive Officer must make a written record of each use of the common seal.
- (d) The common seal must be kept in the custody of the Executive Officer or another Board member authorised by the Board.

### **10.3 Giving notices to members**

- (a) In this rule:
 

*recorded* means recorded in the register of members.
- (b) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and:
  - (i) delivered by hand to the recorded address of the member; or
  - (ii) sent by prepaid post to the recorded postal address of the member; or
  - (iii) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

### **10.4 Custody of books and securities**

- (a) Subject to sub-rule (b), the books and any securities of the Association must be kept in the Board's custody or under the Board's control.
- (b) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the Board's custody or under the Board's control.
- (c) Sub-rules (a) and (b) have effect except as otherwise decided by the Board.
- (d) The accounts shall be kept at the office of the Association or any other place from time to time determined by the Board and are open to inspection by members of the Board or of the Council at any time.

- (e) Subject to rule 9 and to sub-rule (g) of this rule, all moneys, other than contributions to the building fund or any other specific fund of the College, received by or on behalf of or as a result of the activities of the Association shall after meeting normal management and collection costs incurred by the Association be applied by the Board in a manner which is consistent with the objects of the Association.
- (f) The Board shall not expend or apply, other than by way of investment in a manner authorised by these Rules, any part of the corpus of the endowment fund except when and to the extent authorised by a special resolution.
- (g) The books of the Association must be retained for at least 7 years.

#### **10.5 Pecuniary Interest**

A member of the Board or of a committee shall not vote on a matter in which they have a direct or indirect pecuniary interest or take part in the debate on such a matter unless the majority of the other members of the Board or committee, as the case may be, present at the meeting after full disclosure of the nature of the interest resolve that they be permitted to take part in the debate.

#### **10.6 Record of office holders**

- (a) sets out the details of the record that an incorporated association must maintain of the Board members and certain others; and
- (b) provides for members to inspect, make a copy of or take an extract from the record; and
- (c) prohibits a person from disclosing information in the record except for authorised purposes.

#### **10.7 Inspection of records and documents**

- (a) Sub-rule (b) applies to a member who wants to inspect:
  - (i) the register of members under section 54(1) of the Act; or
  - (ii) the record of the names and addresses of Board members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - (iii) any other record or document of the association.
- (b) The member must contact the Executive Officer to make the necessary arrangements for the inspection.
- (c) The inspection must be free of charge.
- (d) If the member wants to inspect a document that records the minutes of a Board meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board meetings generally, or the

minutes of a specific Board meeting, being available for inspection by members.

- (e) The member may make a copy of or take an extract from a record or document referred to in sub-rule (iii) but does not have a right to remove the record or document for that purpose.

#### **10.8 Publication by Board members of statements about Association business prohibited**

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

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

#### **10.9 Indemnity**

- (a) The Association shall indemnify every member of the Board, the Executive Officer and every other officer or employee of the Association against all liability, loss, costs and expenses which they incur or suffer by reason of any act or thing done by them as a member of the Board, Executive Officer or officer or employee of the Association, as the case may be, or in any way in the discharge of their duties, including (but without limiting the generality of the foregoing) travelling expenses or expenses incurred in defending any proceedings whether civil or criminal in which judgment is given in their favour or in which they are acquitted.
- (b) The amount of the indemnity is charged on the property of the Association and has priority as between the members over all other claims.
- (c) A member of the Board, the Executive Officer or other officer or employee of the Association is not liable for -
  - (i) any act, omission, neglect or default of any other member of the Board, officer or employee;
  - (ii) any loss or expense to the Association through the insufficiency or deficiency of title to any property acquired pursuant to a decision of the Board for or on behalf of the Association;
  - (iii) any loss or expense incurred by the Association through the insufficiency or deficiency of any security upon which any of the moneys of the Association have been invested;
  - (iv) any loss or damage arising from bankruptcy, insolvency or unlawful act of any person with whom any moneys, securities or property are deposited;

- (v) any other loss, damage or misfortune whatever which happens in the execution of their duties or in relation thereto unless it happens through their own dishonesty, wilful negligence, default, breach of duty or breach of trust.

#### 10.10 Distribution of surplus property on cancellation of incorporation or winding up

- (a) In this rule:

*surplus property*, in relation to the Association, means property remaining after satisfaction of:

- (i) the debts and liabilities of the Association; and
- (ii) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include books relating to the management of the Association.

- (b) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act including but not limited to:

- (i) the College;
- (ii) another charitable institution, organisation, Association or body having objects similar to those of the Association.

- (c) No new rule or provision shall be added to these Rules nor shall any of the rules or provisions contained herein be amended, altered or rescinded unless a special resolution is passed at an annual general meeting or an extraordinary general meeting called for that purpose.

- (d) A least thirty (30) days' notice shall be given to the Executive Officer of a proposal to alter these Rules and notice of the proposal shall be included in the notice convening the meeting at which the proposal is to be considered.

- (e) The Chairperson of the meeting does not have a second or casting vote on a motion to alter these Rules

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#### 11. Terms used

In these rules, unless the contrary intention appears:

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

*approved fund* means:

- (a) a building fund established or conducted by the Association or the College;
- (b) an endowment fund established by the Association;



(c) any other fund established for the benefit of the College approved by the Council;

**associate member** means a member with the rights referred to in rule 5.4;

**Association** means the incorporated association to which these rules apply;

**bequest** includes a legacy, devise or gift by will;

**Board** means the Board of Trustees of the Association appointed or elected in accordance with these Rules for the time being in office;

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

**Board member** means a member of the Board;

**books**, of the Association, includes the following:

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

**by laws** means by-laws made by the Association under rule 10.1;

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

**College** means Scotch College, a body corporate under the provisions of the Uniting Church in *Australia Act 1976*;

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

**Council** means the Council of the College;

**deferred gift** means a gift of an asset with a retention of a life or other interest to the donor or a person nominated by the donor;

**Executive Officer** means the person holding the office of Director of Finance and Corporate Services at Scotch College or an appropriately qualified person as the Board determines from time to time.

**Extraordinary general meeting** means a general meeting of the Association other than the annual general meeting;

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

**financial records** includes:

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

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

***financial year***, of the Association, has the meaning given in rule 2.3;

***general meeting***, of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend;

***member*** means a person who is an ordinary member or an associate member of the Association and includes a person who is nominated to be a member pursuant to rule 5.3 and, subject to these Rules, an honorary life member elected under rule 5.4(j).

***objects*** means the objects set out in rule 2.1;

***ordinary Board member*** means a Board member who is not an office holder of the Association under rule 7.2;

***ordinary member*** means a member with the rights referred to in rule 5.4(a)

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

***rules*** means these rules of the Association, as in force for the time being;

***special resolution*** means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

***Subcommittee*** means a Subcommittee appointed by the Board under rule 7.5;

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

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

***tier 3 association*** means an incorporated association to which section 64(3) of the Act applies;

***value*** means the value as at the date a gift or notification of an intended bequest is made, as the case may be, determined by the Board;

***will*** includes codicil or other testamentary instrument.

**Appendix 1: PROXY FORM TEMPLATE**

**SCOTCH COLLEGE (WA) FOUNDATION (INC)**

**PROXY FORM**

*Please tender my apologies to the Chairman for the Annual General Meeting of the Foundation to be held on*

I (name – please print) \_\_\_\_\_

of (address) \_\_\_\_\_

being a member of the Scotch College (WA) Foundation (Inc)

hereby appoint the Chair, *please tick*

or \_\_\_\_\_ (Foundation member)

(address) \_\_\_\_\_

My proxy to vote for me and on my behalf: **(Tick  only ONE of the following)**

OPEN PROXY:

(i) at the Annual General Meeting of the Foundation to be held on the \_\_\_\_\_ and any adjournment of that meeting/s) of the Association.

(ii) as my proxy to vote for me and on my behalf at all meetings of the Association until this proxy is revoked by me.

OR, DIRECT PROXY:

(iii) in relation to the following resolutions and/or nominations:

IN FAVOUR	AGAINST
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<b>Resolution 1</b>	<input type="checkbox"/>	or	<input type="checkbox"/>	
<b>Resolution 2</b>	<input type="checkbox"/>	or	<input type="checkbox"/>	
<b>Resolution 3</b>	<input type="checkbox"/>	or	<input type="checkbox"/>	
<b>Resolution 4</b>	<input type="checkbox"/>	or	<input type="checkbox"/>	

\_\_\_\_\_ Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

(Signature)

TO ACHIEVE A QUORUM AND ALLOW THE ANNUAL GENERAL MEETING TO GO AHEAD, IT IS IMPORTANT THAT THE FOUNDATION HAS \_\_\_\_\_ MEMBERS PRESENT IN PERSON OR VIA PROXY.