

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

Constitution

Shearwater The Mullumbimby Steiner School Limited
ACN 141884120

Constitution of Shearwater The Mullumbimby Steiner School Limited ACN 141 884 120

1. Defined terms	5
2. Interpretation	6
3. Replaceable rules	6
Objects	6
4. Objects	6
Income and property of Company	7
5. Income and property of Company	7
Membership	8
6. Classes of membership	8
7. Admission	8
8. Ceasing to be a Member	9
General meetings	9
9. Calling general meeting	9
10. Notice of general meeting	10
Proceedings at general meetings	10
11. Member	10
12. Quorum	11
13. Chairperson	11
14. Adjournment	11
15. Decision on questions	12
16. Taking a poll	12
17. No casting vote of chairperson	12

18. Offensive material	13
Votes of Members	13
19. Entitlement to vote	13
20. Objections	13
21. Votes by proxy	13
22. Document appointing proxy	14
23. Lodgement of proxy	14
24. Validity	15
Directors	15
25. Nomination of candidates for election as Directors	15
26. Appointment and removal of Directors	16
27. Retirement	17
28. Vacation of office	17
29. Casual appointments	18
30. Powers and duties of Directors	18
31. Board meetings	18
32. Decision on questions	19
33. Special Matters	19
34. Payments to Directors	20
35. Directors' interests	20
36. Alternate Directors	21
37. Remaining Directors	21
38. Chairperson	22
39. Delegation to Committees	22
40. Written resolutions	23
41. Validity of acts of Directors	24
42. Minutes and Registers	24
43. Appointment of attorneys and agents	24

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

Secretary	25
44. Secretary	25
Inspection of records	25
45. Inspection of records	25
Notices	25
46. Service of notices	25
47. Persons entitled to notice	26
Audit and accounts	26
48. Audit and accounts	26
Winding up	27
49. Winding up	27
Indemnity	27
50. Indemnity	27

1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

Alumni means former students of the School.

Alternate Director means a person appointed as an alternate Director under clause 36.

Auditor means the Company's auditor.

Business Manager means the person appointed by the Board with executive responsibility for finance and management of administrative staff.

College of Teachers means the body of teachers currently employed at the School responsible for the development and delivery of a registered and accredited curriculum in accordance with the pedagogical principles of Rudolf Steiner.

Company means Shearwater The Mullumbimby Steiner School Limited.

Constitution means the constitution of the Company 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 Company.

Director includes any person occupying the position of director of the Company, and where appropriate includes an Alternate Director.

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

Executive Officer/s means the executive officer/s who are responsible for the day to day management and operation of the School and who report to the Board.

Life Member means the six founding members of the School namely Ian Howden, Tracey Howden, Konrad Frederick Korobacz, Dierdre Korobacz, Stanley William Stevens and Sally Anne Davison and any other person the Board resolves to constitute a Life Member in recognition of outstanding service to the School.

Member means a person admitted as an Ordinary Member under clause 7 whose membership has not ceased under clause 8 or a Life Member.

Parent means parent or legal guardian of a child currently enrolled at the School.

Parents and Friends Association means Shearwater Parents and Friends Association being an organisation constituted by the Parents and other persons who actively support the objects of the Company.

Principal means the person appointed by the Board with executive responsibility for education.

Register means the register of Members of the Company.

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

School has the meaning given in clause 4.1(a).

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

In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$ A, dollar or \$ is to Australian currency; and
- (f) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

3. Replaceable rules

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

Objects

4. Objects

- 4.1 The Company is established for the objects of:
 - (a) operating an educational facility that includes a kindergarten, a primary school and a secondary school in accordance with the educational principles of Rudolf Steiner (the School); and
 - (b) undertaking other educational or related activities that are considered appropriate for a Steiner School by the Board provided that those activities can be independently funded without recourse to the general revenues of the Company.
- 4.2 In order to achieve the objects specified in clause 4.1 it is a further object of the Company that the primary objects be fulfilled by:

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- (a) the decision making bodies of the Company working collegially by which means it is intended to make decisions by consensus or unanimous agreement, failing which, decisions are to be made by majority vote; and
 - (b) striving for the highest quality and inclusive relationships between the students, the teachers and other staff members, Parents and others associated with the School.
- 4.3 The Company may exercise the powers granted in section 124(1) of the Corporations Act only to:
- (a) carry out the objects set out in clause 4.1; and
 - (b) do all things incidental or convenient in relation to the exercise of power under clause 4.3(a) including:
 - (i) establishing and operating a Building Fund; and
 - (ii) establishing and operating a Scholarship Fund in accordance with clause 4.4.
- 4.4 The Company may establish and operate a Scholarship Fund as a public fund. It is a requirement of the operation of any Scholarship Fund that:
- (a) members of the public will be invited to contribute to the Scholarship Fund;
 - (b) members of the public, not already enrolled at the School, will be invited to apply for a scholarship; and
 - (c) scholarships will be granted according to merit and issues of equity.

Income and property of Company

5. Income and property of Company

- 5.1 The Company must apply its income and property only towards the promotion of the objects set out in clause 4.
- 5.2 The Company must not pay or transfer any of its income or property directly or indirectly to any Member except as payment:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (b) of interest on a loan to the Company at a rate not exceeding:
 - (i) current bank overdraft rates of interest for moneys lent; or
 - (ii) in the case of loans in place at 26 May 2010 and continuing until 26 May 2020, the higher of current overdraft rates for moneys lent or 4.5%.

Membership

6. Classes of membership

- 6.1 A Member of the Company is either:
- (a) an Ordinary Member; or
 - (b) a Life Member.
- 6.2 A person is eligible for admission as an Ordinary Member if:
- (a) he or she is a Parent ;
 - (b) he or she is a current member of staff of the School; or
 - (c) the Board is satisfied that he or she actively supports the objects of the Company .
- 6.3 Except for the purposes of admission to and cessation or renewal of membership a Life Member has the same rights, privileges and responsibilities as an Ordinary Member.

7. Admission

- 7.1 The Members of the Company are:
- (a) the persons who were members of Shearwater – the Mullumbimby Steiner School Inc at 8 February 2010; and
 - (b) any other eligible persons whom the Board admits to membership in accordance with this Constitution.
- 7.2 The Board may admit a person as a Member if the person:
- (a) meets the eligibility criteria set out in clause 6.2;
 - (b) is a natural person;
 - (c) has never been a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) nor ever been convicted of an indictable offence; and
 - (d) is not an undischarged bankrupt.
- 7.3 Applications for membership of the Company must be in writing, signed by the applicant, and be in a form approved by the Board in its absolute discretion.
- 7.4 The Board must consider each application for membership at the next meeting of the Board after the application is received. In considering an application for membership, the Board may:
- (a) accept the application;
 - (b) reject the application; or
 - (c) ask the applicant to give more evidence of eligibility or suitability for membership.
- 7.5 If the Board asks for more evidence under clause 7.4, its determination of the application for membership is deferred until the evidence is given.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- 7.6 The Board need not give any reason for rejecting an application for membership.
- 7.7 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. Ceasing to be a Member

- 8.1 A Member's membership of the Company ceases immediately:
- (a) if the Member was admitted based on eligibility as a Parent or a current staff member, when the Member no longer satisfies either of those criteria;
 - (b) if the Member was admitted based on eligibility arising from active support of the objects of the Company, at the later of:
 - (i) the expiry of one year after the Member was admitted; or
 - (ii) if the Member is a Director, the date on which the Member ceases to be a Director;
 - (c) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
 - (d) if a majority of three-quarters of the Directors present and voting at a Board meeting by resolution terminate the membership of a Member:
 - (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company; and
 - (ii) who has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed; or
 - (e) if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
 - (iii) is a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) or is convicted of an indictable offence; or
 - (iv) files or is the subject of a petition for bankruptcy.
- 8.2 A person whose membership of the Company ceases under clause 8.1 may be readmitted as a Member in accordance with clause 7.

General meetings

9. Calling general meeting

- 9.1 Any two Directors may, at any time, call a general meeting.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

9.2 A Member may:

- (a) only request the Board 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.

10. Notice of general meeting

10.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, the Company must give Members at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of any general meeting.

10.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- (b) must state the general nature of the business to be transacted at the meeting; and
- (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

10.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:

- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
- (b) the election of Directors; or
- (c) the appointment and fixing of the remuneration of the Auditor.

10.4 The Board may postpone or cancel any general meeting (other than a meeting called as the result of a request under clause 9.2).

10.5 The Board must give notice of the postponement or cancellation of a general meeting to all persons entitled to receive notice of general meetings under clause 47.1.

10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

Proceedings at general meetings

11. Member

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

12. Quorum

- 12.1 No business may be transacted at a general meeting unless a quorum is present.
- 12.2 Subject to clause 12.3(b)(ii)(A), a quorum for a general meeting is any 25 Members.
- 12.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it stands adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Board; and
 - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting:
 - (A) in the case of an annual general meeting, the Members present constitute a quorum; or
 - (B) in any other case, the general meeting is automatically dissolved.

13. Chairperson

- 13.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Board meetings is entitled to chair every general meeting.
- 13.2 The Directors present may elect a chairperson of a general meeting if:
- (a) there is no chairperson or deputy chairperson of Board meetings; or
 - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
 - (c) both the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 13.3 If the Directors do not make an election under clause 13.2 within 30 minutes after the time appointed for holding a general meeting, then:
- (a) the Members may elect one of the Directors present as chairperson; or
 - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 13.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

14. Adjournment

- 14.1 The chairperson of a general meeting at which a quorum is present:
- (a) 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.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- 14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 14.3 The only business that may be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 14.4 If a general meeting is adjourned for more than 21 days, the Company must give a new notice of the meeting in accordance with clause 10.1 .

15. Decision on questions

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

16. Taking a poll

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

17. Nocasting vote of chairperson

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

18. Offensive material

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

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

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

Votes of Members

19. Entitlement to vote

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

20. Objections

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

20.2 The decision of the chairperson of the general meeting, in relation to any objection is final.

21. Votes by proxy

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

21.2 A proxy must be a Member.

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

21.4 A proxy or attorney may vote on a poll.

21.5 A proxy may vote or abstain as he or she chooses unless the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If the appointment of a proxy directs the way in which the proxy is to vote, and the person appointed as proxy votes at all on a particular resolution, the proxy is taken to vote as directed.

21.6 Subject to clause 22.7, no Member may exercise more than 3 proxies.

22. Document appointing proxy

- 22.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act. The Board may determine that an appointment of proxy is valid even if it contains only some of the information required by section 250A(1) of the Corporations Act.
- 22.2 For the purposes of clause 22.1, an appointment received at an electronic address is taken to be signed by the Member if:
- (a) a personal identification code allocated by the Company to the Member has been input into the appointment; or
 - (b) the appointment has been verified in another manner approved by the Board.
- 22.3 A proxy's appointment is valid at an adjourned general meeting.
- 22.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 22.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney and, the appointment of the proxy or the attorney is taken to confer authority:
- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
 - (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 22.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors or the Secretary. The chairperson must allocate any undirected proxies to which this clause applies as close a possible to equally between the Directors.
- 22.7 Clause 21.6 does not limit the number of proxies a person appointed as proxy under clause 22.6 may exercise.

23. Lodgement of proxy

- 23.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
 - (b) the taking of a poll on which the appointee proposes to vote.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- 23.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Company's registered office;
 - (b) a facsimile number at the Company's registered office; or
 - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

24. Validity

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

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

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

Directors

25. Nomination of candidates for election as Directors

- 25.1 A Member who has been a Member for at least 3 calendar months may nominate or second another Member to stand for election as a Director at an annual general meeting of the Company.
- 25.2 The nomination under clause 25.1 of a person to stand for election as a Director must:
- (a) be in writing and signed by the proposed candidate to evidence that candidate's consent to act as a Director of the Company if elected;
 - (b) include a statement of the qualifications and experience of the proposed candidate;
 - (c) be signed by 2 other Members, both of whom have been Members for at least 3 calendar months, as nominator and seconder;
 - (d) otherwise be in the form from time to time approved by the Board; and
 - (e) be delivered to the registered office of the Company marked for the attention of the Board no later than 31 March in the relevant calendar year, or any later date determined by the Board .
- 25.3 The Board may, at any time before the election of Directors is held at an annual general meeting, nominate any Member to stand for election as a Director at that annual general meeting.

26. Appointment and removal of Directors

26.1 The Board comprising the appointed Directors and those elected at the first annual general meeting must comprise seven directors. Thereafter the Board may from time to time determine whether the total number of directors is five, seven or nine Directors.

At least one member of the Board must have a background and or experience in Steiner/Waldorf education.

26.2 The Directors must:

- (a) be Members of the Company; except in the case of appointed Directors who must become Members upon appointment and
- (b) not be employees of the Company.
- (c) be representative of a broad mix of professional persons and/or persons who have governance experience including but not limited to:
 - (i) Waldorf/Steiner education;
 - (ii) school management;
 - (iii) law
 - (iv) planning
 - (v) financial and business management;
 - (vi) human resources and industrial relations management;
 - (vii) building and project management; and
 - (viii) communications, fund-raising and marketing.

26.3 Subject to clause 29, a majority of Directors must be elected by the Members. In the case of a Board constituted by nine Directors, seven Directors, or five Directors:

- (a) five Directors, four Directors or three Directors respectively must be elected by the Members; and
- (b) four Directors, three Directors and two Directors respectively must be appointed by the Board.

26.4 Subject to clauses 27, 28 and 29.2:

- (a) the two Directors elected at the 2011 annual general meeting of the Company with the highest number of votes hold office until the 2013 annual general meeting; and
- (b) the next two Directors elected at that meeting hold office until the 2012 annual general meeting;
- (c) if there is an equal number of votes cast so that it is not possible to determine which Directors hold office until the 2012 annual general meeting and which Directors hold office until the 2013 annual general meeting under clauses 26.4 (a) and (b), the

Directors may agree their respective terms in office and failing agreement must determine them by lot;

- (d) all Directors elected after the 2011 annual general meeting are elected for terms that expire at the second annual general meeting following the election; and
 - (e) the Directors appointed under clause 26.3(b) hold office for two year terms.
- 26.5 If a majority of the Directors consider the conduct or position of any Director is such that continuance in office will be prejudicial to the interests of the Company, the Board may, at a Board meeting specifically called for that purpose, suspend that Director.
- 26.6 Within 14 days of the suspension, the Board must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office or annul the suspension and reinstate the Director.

27. Retirement

- 27.1 Subject to clauses 25.2, 26.3(d) and 29.2, a Directors must retire from office at the conclusion of the second annual general meeting after that Director was last elected or appointed.
- 27.2 A retiring Director is eligible for re-election or re-appointment.
- 27.3 If the Board determines that for the time being the total number of Directors is five, the last appointed Director is taken to retire at the conclusion of the next annual general meeting or, if appointed as a casual Director under rule 29, at the time of the appointment .

28. Vacation of office

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

- (a) is prohibited by the Corporations Act from holding office or continuing as a director;
- (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 Board incapable of performing his or her duties;
- (c) resigns by notice in writing to the Company;
- (d) is removed by a resolution of the Company;
- (e) is absent from Board meetings for 6 consecutive months without leave of absence from the Board;
- (f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act;
- (g) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW);
- (h) ceases to be a Member of the Company; or
- (i) becomes employed by the Company.

29. Casual appointments

- 29.1 Subject to clause 26.2, the Board may appoint any person as a Director to fill a casual vacancy on the Board.
- 29.2 A Director appointed under clause 29.1 to a casual vacancy in an elected position ceases to be a Director at the conclusion of the next annual general meeting of the Company but is, subject to this Constitution, eligible for re-election or re-appointment as a Director.

30. Powers and duties of Directors

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

31. Board meetings

- 31.1 A Director may at any time, and the Secretary must on the request of any two (2) Directors, call a Board meeting.
- 31.2 Except in a case of urgency, the Director or Secretary must give at least 48 hours written notice of a Board meeting to each Director.
- 31.3 Subject to the Corporations Act, a Board meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 31.4 The Directors need not all be physically present in the same place for a Board meeting to be held.
- 31.5 Subject to clause 35, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 31.6 Clauses 31.3 to 31.4 apply to meetings of Committees as if all committee members were Directors.
- 31.7 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 31.8 A quorum for Board meetings is a majority of the total number of Directors.
- 31.9 If a quorum cannot be established for the consideration of a particular matter at a Board meeting, the chairperson may call a general meeting to deal with the matter.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

31.10 Notice of a Board meeting may be given in writing, or the meeting may be otherwise called, using any technology consented to by all the Directors.

32. Decision on questions

32.1 Subject to clauses 4.2 (a) and 33, questions arising at a Board meeting must be decided by a majority of votes of the Directors present and voting and, subject to clause 35, each Director has one vote.

32.2 The chairperson of a Board meeting does not have a casting vote in addition to his or her deliberative vote.

33. Special Matters

33.1 Subject to clause 35 the the Company must not undertake any of the matters set out below without a vote of approval from at least 5 Directors present and entitled to vote on the matter:

- (a) the sale or purchase of assets having a value greater than \$200,000.00;
- (b) the borrowing of, or entering into any borrowing arrangement in respect of, an amount in excess of \$50,000.00;
- (c) the adoption or material variation of any business plan;
- (d) the adoption or material variation of any operating budget;
- (e) the making of any loan, credit facility, guarantee, or any other type of financial accommodation to any person otherwise than in the ordinary course of business and in accordance with the terms of this Constitution;
- (f) departure from the accounting standards or principles prescribed by law for the preparation of its accounts or financial statements;
- (g) the incorporation of a subsidiary or entry into any partnership, joint venture or agency agreement;
- (h) any material commercial transaction between the Company and a related party of the Company (as defined in section 228 of the Corporations Act);
- (i) employment by the Company of a Relative of a Director (as that term is defined in clause 33.2); and
- (j) subject to clause (b), the incurring of liabilities having a value greater than \$100,000.00.

33.2 For the purpose of clause 33.1(i), a Relative of a person is the father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister, uncle, aunt, nephew, niece, or cousin of the person. Also, if the person is or was married, then another who is or was a Relative of the person's spouse or ex-spouse, is a Relative of the first person. Also, if the person is or was in a de facto relationship, then another who is or was a Relative, or would have been a Relative if the persons in that de facto relationship were or had been married to each other, is a Relative of the first person.

34. Payments to Directors

- 34.1 The Company must not make any payment to any Director except payment:
- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Board;
 - (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (c) of any honorarium as contemplated by section 21A(3) of the *Education Act 1990* (NSW);
 - (d) of interest on money lent to the Company the payment of which is permitted under clause 5.2; or
 - (e) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.
- 34.2 The Company must disclose any payments that are made to a Director at the next annual general meeting of the Company.

35. Directors' interests

- 35.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.2 No Director who contracts with or is interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.3 A Director is not disqualified from contracting with the Company merely because of being a Director.
- 35.4 Subject to clauses 34(b) and 35.5, a Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
 - (b) hold any office or place of profit other than as auditor in the Company; and
 - (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

35.5 A Director who has a material personal interest in a matter that is being considered at a Board meeting must not:

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

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

- (c) be counted in determining whether or not a quorum is present at any Board meeting considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

35.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

36. Alternate Directors

36.1 A Director may, with the approval of the Board, and subject to clause 26.2, appoint any person as his or her alternate for a period determined by the Board.

36.2 An Alternate Director is entitled to notice of Board meetings and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.

36.3 An Alternate Director is an officer of the Company and is not an agent of the appointor.

36.4 The provisions of this Constitution which apply to Directors also apply to Alternate Directors.

36.5 The appointment of an Alternate Director:

- (a) may be revoked at any time by the appointor or by the other Directors; and
- (b) end automatically when the appointor ceases to be a Director.

36.6 Any appointment or revocation under this clause must be made by written notice delivered to the Secretary.

37. Remaining Directors

37.1 The Board may act even if there are, for the time being, unfilled vacancies on the Board.

37.2 If the number of Directors is not sufficient to constitute a quorum at a Board meeting, the Directors may act only to:

- (a) appoint a Director; or
- (b) call a general meeting.

38. Chairperson

- 38.1 The Directors may by simple majority appoint, remove and replace a Director as chairperson of Board meetings and may determine the period for which the chairperson holds office (but a person ceases to be chairperson if he or she ceases to be a Director).
- 38.2 If no chairperson is appointed or if the chairperson is not present at any Board meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 38.3 The Board may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

39. Delegation to Committees

- 39.1 The Board may delegate any of its powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees (each a **Committee**).
- 39.2 The Board may at any time revoke any delegation of power to a Committee.
- 39.3 At least one member of each Committee must be a Director.
- 39.4 A Committee must exercise its powers in accordance with any directions of the Board and a power exercised in that way is taken to have been exercised by the Board.
- 39.5 A Committee may be authorised by the Board to sub-delegate all or any of the powers for the time being vested in it.
- 39.6 Meetings of any Committee are governed by the provisions of this Constitution which deal with Board meetings so far as they are applicable and are not inconsistent with any directions of the Board. The provisions apply as if each member was a Director.
- 39.7 The Board must establish standing committees comprising the Finance Committee, the Education Committee, the Planning and Development Committee and the Parents and Friends Committee in accordance with terms of reference specified by the Board and constituted in the following manner:
- (a) The Finance Committee shall comprise of not less than six eligible persons being:
- (i) The Business Manager of the School;
 - (ii) The Director appointed by the Board as chairperson of the committee;
 - (iii) Another Director appointed by the Board;
 - (iv) The chairperson of the Board;
 - (v) A person appointed by the College of Teachers; and
 - (vi) A person appointed by the Parents and Friends Association.
- (b) The Education Committee shall comprise not less than six eligible persons being:
- (i) The Principal of the School;
 - (ii) The chairperson of the Board;

- (iii) A Director appointed by the Board;
 - (iv) A person appointed by the Parents and Friends Association; and
 - (v) The Management Coordinators appointed by the College of Teachers.
- (c) The Planning and Development Committee shall comprise not less than six eligible persons being:
- (i) The Executive Officer/s of the School;
 - (ii) The chairperson of the Board;
 - (iii) A Director appointed by the Board;
 - (iv) A person appointed by the Parents and Friends Association;
 - (v) A person appointed by the College of Teachers; and
 - (vi) Such employees of the Company appointed by the Executive Officer/s.
- (d) The Parents, Friends and Alumni Committee shall comprise not less than six eligible persons being:
- (i) The Executive Officer/s of the School;
 - (ii) The chairperson of the Board;
 - (iii) Another Director appointed by the Board;
 - (iv) The members of the governing committee of the Parents and Friends Association;
 - (v) A member of the School's Alumni Association (if any)
 - (vi) A person appointed by the College of Teachers

39.8 For the purposes of clause 39.7 the role of:

- (a) the chairperson of the Board; and
- (b) the Executive Officer/s of the School,

in the Committees is as ex-officio members without the power to vote on any determinations made by the Committees.

40. Written resolutions

40.1 The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.

40.2 For the purposes of clause 40.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- 40.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 40.4 This clause applies to meetings of Committees as if all members of the Committee were Directors.

41. Validity of acts of Directors

If it is discovered that:

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

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

42. Minutes and Registers

- 42.1 The Board must cause minutes to be made of:
- (a) the names of the Directors present at all Board meetings and meetings of Committees;
 - (b) all proceedings and resolutions of general meetings, Board meetings and meetings of Committees;
 - (c) all resolutions passed by the Board in accordance with clause 40;
 - (d) all appointments of officers;
 - (e) all orders made by the Board and Committees; and
 - (f) all disclosures of interests made under clause 35.
- 42.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 42.3 The Company must keep all registers required by this Constitution and the Corporations Act.

43. Appointment of attorneys and agents

- 43.1 The Board may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint a person in accordance with clause 43.2 to be the attorney or agent of the Company:
- (a) for the purposes;
 - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Board under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions,
- determined by the Board.

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- 43.2 An appointment by the Board of an attorney or agent of the Company may be made in favour of:
- (a) any company;
 - (b) the members, directors, nominees or managers of any company or firm; or
 - (c) any fluctuating body of persons whether nominated directly or indirectly by the Board.
- 43.3 A power of attorney may contain any provisions for the protection and convenience of persons dealing with an attorney that the Board thinks fit.
- 43.4 An attorney or agent appointed under this clause may be authorised by the Board to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

Secretary

44. Secretary

- 44.1 If required by the Corporations Act, there must be at least one secretary of the Company appointed by the Board for a term and at remuneration and on conditions determined by it.
- 44.2 The Secretary is entitled to attend and be heard on any matter at all Board and general meetings.
- 44.3 The Board may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

Inspection of records

45. Inspection of records

- 45.1 Except as otherwise required by the Corporations Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, Members other than Directors may inspect the financial records and other documents of the Company.
- 45.2 Except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Board.

Notices

46. Service of notices

- 46.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

- (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 46.2 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.
- 46.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
 - (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day after its despatch.
- 46.4 If a Member does not have an address recorded in the Register a notice is taken to be served on that Member 24 hours after it was posted on a notice board at the Company's registered office.
- 46.5 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 46.
- 46.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 46.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 46.8 All notices sent by post to an address outside Australia must be sent by prepaid airmail post.

47. Persons entitled to notice

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

Audit and accounts

48. Audit and accounts

- 48.1 The Board must cause the Company to keep written financial records in relation to the business of the Company in accordance with the Corporations Act.
- 48.2 The Board must cause the financial records of the Company to be audited in accordance with the Corporations Act.

Winding up

49. Winding up

49.1 If the Company 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 Company for the:

- (c) payment of debts and liabilities of the Company (in relation to clause 49.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves,

the amount of \$2.00.

49.2 If any surplus remains following the winding up of the Company, the surplus must not be paid to or distributed amongst Members, but must be given or transferred to a corporation to which income tax deductible gifts can be made and which, by its constitution, is:

- (a) required to pursue similar charitable purposes to those pursued by the Company;
- (b) required to apply its profits (if any) or other income in promoting its objects; and
- (c) prohibited from making any distribution to its members or paying fees to its directors (other than in circumstances contemplated by clause 34),

such corporation to be determined by the Members at or before the winding up and, in default, by application to the Supreme Court of New South Wales for determination.

Indemnity

50. Indemnity

50.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against:

- (a) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); and
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

50.2 The amount of any indemnity payable under clauses 50.1(a) or 50.1(b) must include an additional amount (GST Amount) equal to any GST payable by the officer being indemnified

As first registered 8 February 2010 and amended at Annual General Meeting on 31 May 2011

(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 Company with a GST tax invoice for the GST Amount.

50.3 For the purposes of this clause, officer means:

- (a) a Director; or
- (b) a Secretary.

