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## **CONSTITUTION**

**Australasian College of Physical Scientists and Engineers in Medicine**

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Australasian College of Physical Scientists and Engineers in  
Medicine  
Constitution

## Part A – The Company

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### **1. Name and type of company**

- 1.1. The name of the company is Australasian College of Physical Scientists and Engineers in Medicine (referred to as the **College** in this Constitution).
- 1.2. The College is a not-for-profit public company limited by guarantee.
- 1.3. The liability of Members is limited to the guarantee amount in clause 1.4.
- 1.4. Each Member must contribute an amount not more than \$50.00 (the guarantee) to the property of the College if the College is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:
  - a. debts and liabilities of the College incurred before the Member stopped being a Member, or
  - b. costs of winding up.

### **2. Definitions and interpretation**

- 2.1. In this Constitution unless contrary intention appears:

"Act" means the Corporations Act 2001 (Cth).

"Board" means the Board of Directors that is constituted by the individuals who hold office as Directors, from time to time.

"Chair" means the individual appointed to chair:

- a. a General Meeting under clauses 22.1 and 22.2; or
- b. a Board meeting under clause 44.1.

"College" means Australasian College of Physical Scientists and Engineers in Medicine.

"Constitution" means this Constitution as amended or supplemented from time to time.

"Director" means any individual holding a position of Director of the College, including the Office Bearers, as appointed or elected pursuant to this Constitution.

“Elected Director” means an individual elected as a Director by the Members as described in clause 31.1.

“General Meeting” means a formal meeting of Members as described in Part C - General Meetings.

“Member” means a Member of the College pursuant to Part B – Membership.

“Non-voting Member” means a Member without voting rights (see clause 10.2).

“Objects” mean the objects of the College as set out in clause 3.

“Office Bearer” means an individual holding the position of President, Vice-President or Treasurer of the College in accordance with this Constitution.

“President” means the individual elected or appointed as President of the College in accordance with this Constitution.

“Special Resolution” means a resolution for which notice has been given under clause 19.2.c and that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

“Voting Member” means a Member with voting rights (see clause 10.1).

2.2. Reading this constitution with the Act:

- a. The replaceable rules set out in the Act do not apply to the College.
- b. A word or expression that is defined in the Act, or used in that Act and covering the same subject, has the same meaning as in this Constitution.

2.3. The following rules of interpretation apply unless contrary intention appears:

- a. a reference to any legislation or to any provision of any legislation includes any regulations made under it and any statutory modification or replacements thereto for the time being in force;
- b. a reference to a clause is a reference to a clause of this Constitution and includes any further embedded content;
- c. the word *person* means a natural person and any company, corporation, association, body or entity whether incorporated or not;
- d. the words *writing* and *written* means printing, typewriting and all other means of representing or reproducing words in visible form;
- e. singular includes plural and vice versa;
- f. where a word or phrase is defined, its other grammatical forms have corresponding meaning;

- g. headings, bold type and italics are for convenience only and do not affect the interpretation of this Constitution.

### **3. Objects**

- 3.1. The College is a member-based association of qualified professionals that has the objective of advancing the understanding and delivery of services and the establishment and implementation of professional standards for those using their scientific and engineering knowledge in medical fields for the benefit and protection of the community.
- 3.2. The College will achieve this objective by promoting the highest standards of practice, research, education and training in the physical sciences and engineering, and their application in medicine, through:
  - a. promotion and defence of equitable access of all patients to high quality and safe healthcare;
  - b. contributing to the advancement of knowledge;
  - c. establishing and supporting the maintenance of professional and ethical standards of practice;
  - d. facilitation of continuing professional development;
  - e. co-operating with professional bodies sharing similar objectives in any manner that furthers the objects of the College;
  - f. facilitation of the education of trainees; and
  - g. promotion of collegiality.

### **4. Powers**

- 4.1. The College has the legal capacity and powers of a company set out under section 124(1) of the Act and may only exercise such powers to:
  - a. pursue its Objects; and
  - b. do all things incidental or convenient in relation to the exercise of power under sub-clause (a).

### **5. Application of income and property**

- 5.1. The income and property of the College will only be applied towards the promotion of the Objects.
- 5.2. The College must not distribute any surplus, income or assets directly or indirectly to its Members in the form of dividends or distribution of profits.
- 5.3. Clause 5.2 does not prevent the College from paying a Member:
  - a. by way of reimbursement for expenses properly incurred by the Member on behalf of the College;

- b. in return for any services rendered or goods supplied in the ordinary course of business to the College;
- c. as a Director in accordance with clause 40; or
- d. for any other bona fide reason or purpose for the attainment of the Objects.

## **Part B – Membership**

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### **6. Admission**

- 6.1. Any person who:
  - a. is committed to the Objects; and
  - b. satisfies the eligibility criteria of the relevant category of membership as set out in this Constitution and the by-laws;may apply to become a Member.

### **7. Membership categories**

- 7.1. The membership categories of the College are:
    - a. Member;
    - b. Associate Member;
    - c. Distinguished Fellow;
    - d. Fellow;
    - e. Life Member;
    - f. Affiliate;
    - g. Student;
    - h. Honorary Fellow; and
    - i. Organisational Supporter.
  - 7.2. The Board may from time to time determine:
    - a. the various sub-categories under each category of membership; and
    - b. the eligibility criteria for such sub-categories.
  - 7.3. The Board may transfer a Member from one category of membership to another category provided the Member consents to the transfer and satisfies the eligibility criteria for the new category.
- ### **8. Eligibility criteria for Membership**
- 8.1. **Members** are individuals with a degree in a physical science or engineering and who have appropriate experience as a physical scientist or engineer in a hospital, university or other relevant institution.

- a. **Associate Members** are individuals who are not eligible for admission as a Member who have:
- b. an appropriate bachelor's degree in a physical science or engineering; or
- c. other qualifications and experience deemed suitable by the Board.

8.2. **Fellows** are individuals who:

- a. members who have applied to be considered for the category (including payment of an assessment fee); and
- b. have a minimum 15 years as a clinical, academic/clinical or academic medical physicist, biomedical/clinical engineer or radiopharmaceutical scientist, confirmed by 2 referees who are members of the ACPSEM; and
- c. have been a Member of the ACPSEM for at least 10 of the 15 years preceding application; and
- d. have served on ACPSEM committees and/or groups for at least 5 years (in total and not necessarily continuously) and if part of working groups, branches or specialty groups, a statement about personal contribution must be included in the application.

8.3. **Distinguished Fellows** are individuals who:

- a. have been a Member for at least 3 years who, in the opinion of the Board, have extensive experience in a physical science or engineering in medicine and have made a noteworthy contribution to these disciplines and to the College; or
- b. in the opinion of the Board, have made a noteworthy and significant contribution to the field of physical sciences and engineering in medicine and are expected to continue to contribute to the field.

8.4. **Life Members** are individuals who are Fellows or Members who, in the opinion of the Board, have retired from their chief professional occupation and who have actively participated in and contributed to College activities for considerable periods.

8.5. **Affiliates** are individuals (including students) currently engaged in duties or studying in a relevant field, or with a high level of interest in a relevant field or the College, who do not qualify for Associate Membership.

8.6. **Students** are individuals currently engaged in studying in a relevant field.

8.7. **Honorary Fellows** are Distinguished Scientists or Engineers who have rendered outstanding services to the physical sciences or engineering in medicine and other eminent persons who the College wishes to honour.



- 8.8. **Organisational Supporters** are companies or organisations with an interest in the application or the promotion of the physical sciences and engineering in medicine.

## **9. Applications for Membership**

- 9.1. Applications for membership must be made in the form and manner prescribed by the Board from time to time.
- 9.2. The Board may at its discretion accept or reject an applicant as a Member.
- 9.3. The Board may delegate the authority to consider and determine membership applications.
- 9.4. The College must notify the applicant of the Board's decision to accept or reject the application for admission to membership in accordance with the procedures determined by the Board from time to time.
- 9.5. Upon acceptance of an application to be a Member, the applicant must pay any subscriptions in accordance with Clause 15.1 within a period as determined by the Board. If any such payment is not made then the Board may, in its discretion, cancel its acceptance of the applicant for membership of the College.
- 9.6. Subject to clause 9.5, an applicant becomes a Member and is entitled to exercise the rights and privileges of that membership when their name is entered in the register of Members.

## **10. Rights and obligations of Members**

- 10.1. Members, Associate Members, Distinguished Fellows, Fellows and Life Members (the **Voting Members**) are entitled to:
- a. receive notices of and attend and speak at General Meetings;
  - b. vote at a General Meeting; and
  - c. vote in elections for Directors.
- 10.2. Students, Affiliates, Honorary Fellows and Corporate Supporters (the **Non- voting Members**):
- a. are entitled to receive notices of and to attend General Meetings but may only speak at the invitation of the Chair;
  - b. are not entitled to vote at a General Meeting; and
  - c. are not entitled to vote in elections for Directors.
- 10.3. Every Member shall be bound to further to the best of the Member's ability the Objects, interests, influence and standing of the College and shall observe the Constitution and the by-laws and regulations of the College in force from time to time.

## **11. Legal effect of Constitution**

11.1. This Constitution constitutes a contract between:

- a. the College and each Member;
- b. the College and each Director and other Officer; and
- c. each Member and each other Member

under which each person referred to above agrees to comply with and be bound by the provisions of this Constitution so far as they apply to that person.

## **12. Cessation of Membership**

12.1. A Member's membership of the College will cease:

- a. upon receipt by the College of written notice of the Member's resignation from membership;
- b. when the Member no longer meets the criteria for their respective category of membership, unless transferred to another category of membership by the Board;
- c. if membership lapses under clause 15.2;
- d. if the Member is expelled from the College;
- e. if the Member becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- f. upon the death of that Member;
- g. unless resolved otherwise by the Board, upon the bankruptcy or insolvency of that Member or if the Member is convicted of an indictable offence.

12.2. Any Member who ceases to be a Member:

- a. will not be entitled to any refund or part refund of any membership fee; and
- b. will not be readmitted as a Member until any unpaid monies outstanding at the time they ceased to be a Member are paid including any interest or other charges levied on any outstanding monies.

## **13. Disciplining Members**

13.1. Disciplinary action may be taken against a Member who, in the opinion of the Board has:

- a. become a Member as a result of false representation;
- b. wilfully refused or neglected to comply with the provisions of this Constitution or the by-laws; or
- c. engaged in conduct that is contrary to accepted ethical standards of the profession or that brings the profession or the College into disrepute.

13.2. The Board may establish or delegate to a disciplinary committee that

will have the power to:

- a. investigate any complaints or disciplinary matters about a Member;
  - b. determine the outcomes of any investigation or disciplinary hearing; and
  - c. recommend to the Board what penalties to impose, if any, against a Member.
- 13.3. The Board may determine the procedures and rules relating to the disciplining of Members and any appeals process. Any such procedures and rules must be followed by the disciplinary committee in exercising the power under clause 13.2.
- 13.4. Procedural fairness must be applied to any procedures and rules relating to the disciplining of Members and any appeals process. This includes ensuring that the Member:
- a. is informed of the grounds upon which the disciplinary action is proposed to be taken; and
  - b. has been given an opportunity to be heard in relation to the matter.
- 13.5. The penalties that may be recommended by the disciplinary committee and imposed by the Board include, but are not limited to:
- a. suspension of the membership rights of the Member for a specified period; or
  - b. expulsion of the Member from the College.
- 13.6. If the Board suspends the membership, expels a Member or imposes some other penalty against a Member, the Member must be notified in writing. The Member has 14 days from the time of receipt of such notice to lodge an appeal to the College.
- 13.7. Any penalties imposed by the Board do not take effect until the expiration of the 14 days in clause 13.6 where the Member does not lodge an appeal. If the Member lodges an appeal in accordance with clause 13.6, then the penalty does not apply until the Board affirms the penalty under clause 13.8.
- 13.8. The appeal under clause 13.6 will be reviewed and considered by the Board at the next Board meeting (if reasonably practical) or the following Board meeting after the College receives the notice of appeal. The Board may decide to affirm or revoke the penalty/penalties.
- 13.9. The Board's decision in clause 13.8 is final.

#### **14. Rights not transferable**

- 14.1. A right, privilege or obligation which a person has by reason of being a Member:
- a. is not capable of being transferred or transmitted to another

- person; and
- b. terminates upon the person ceasing to be a Member.

**15. Membership fees**

- 15.1. The Board may from time to time charge fees to Members that may include joining fees and annual membership fees. The Board may determine the amounts of such fees for each Member or each class or category of membership and the time and manner of payment of such fees.
- 15.2. If a Member fails to pay the fees when they are due, the Member will be notified of the default and if the default is not rectified within 30 days of the Member being notified, then membership will lapse and their name will be removed from the register of Members. The Board may make exceptions to this rule in special circumstances.
- 15.3. The Board may at its discretion determine that no fee, in full or in part, is payable by a Member or a particular category of membership.

## **Part C - General Meetings**

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**16. Calling of General Meetings**

- 16.1. The Board may convene a General Meeting at any time it thinks fit.
- 16.2. Annual General Meetings will be convened by the Board in accordance with the Act.
- 16.3. Members may request or call and arrange to hold a General Meeting in accordance with the provisions of the Act.

**17. Using technology to hold meetings**

- 17.1. A General Meeting may be held at 2 or more places using any technology that gives the Members present at those places a reasonable opportunity to participate in the meeting, including to hear and be heard.
- 17.2. Anyone using this technology is taken to be present in person at the meeting and as such entitled to vote if a Voting Member.

**18. Business at Annual General Meetings**

- 18.1. The business of the Annual General Meeting may include the following matters even if not referred to in the notice of meeting:
- a. consideration of the annual financial report, Directors' report and auditor's report;
  - b. announcement of Directors; and
  - c. appointment of the auditor.

**19. Notice of General Meeting**

- 19.1. Except where a shorter notice period is permitted by the Act, at least 21 days' notice of any General Meeting must be given to
- a. each Member;
  - b. each Director; and
  - c. the auditor.
- 19.2. A notice of a General Meeting must specify:
- a. the date, time and place of the meeting;
  - b. the general nature of the business to be transacted at the meeting;
  - c. if a Special Resolution is to be proposed, state in full the proposed resolution and the intention to propose it as a Special Resolution;
  - d. if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this; and
  - e. a statement that Voting Members have the right to appoint proxies and the relevant proxy form.
- 19.3. The non-receipt of a notice of a General Meeting or the accidental omission to give notice to any person entitled to receive the notice does not invalidate anything done or any resolution passed at the General Meeting.

## **20. Cancellation or postponement**

- 20.1. The Board may cancel, postpone or change the venue of a General Meeting (other than a meeting requisitioned by Members) at any time prior to the meeting. The Board must endeavour to notify each person entitled to receive notices of the meeting of the cancellation, postponement or change of venue.

## **21. Quorum**

- 21.1. No business shall be transacted at a General Meeting unless a quorum is present.
- 21.2. The quorum for any General Meeting is 5% of Voting Members entitled to vote at that General Meeting and present in person or by proxy.
- 21.3. If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present:
- a. the meeting if convened upon the requisition of Members shall be dissolved;
  - b. in any other case the meeting shall stand adjourned to such other day and at such other time and place as the President may determine.
- 21.4. If at the adjourned meeting the quorum is not present within half an hour after the appointed time for the commencement of the meeting, then the meeting will lapse.

## **22. Chair for General Meetings**

- 22.1. The President will be the Chair for each General Meeting.
- 22.2. If the President is not present within 15 minutes after the time appointed for the commencement, or is unable or unwilling to act, the following may chair the meeting (in order of precedence):
  - a. the Vice-President;
  - b. if the Vice-President is not present or is unable or unwilling to act, any other Director present who has been appointed as Chair by those other Directors present;
  - c. if none of the Directors are present or are able or willing to act, then a Voting Member present chosen by a majority of the Voting Members present.
- 22.3. Any question arising at a General Meeting relating to the order of business, procedure or conduct of the meeting must be referred to the Chair of the meeting whose decision is final.

## **23. Adjournment**

- 23.1. The Chair of a General Meeting at which a quorum is present may in accordance with the law or with the consent of the majority of Voting Members present at the meeting adjourn the meeting from time to time and place to place.
- 23.2. No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 23.3. When a General Meeting is adjourned for 28 days or more, new notice must be given of the adjourned meeting to each Member and person entitled to receive the notice.

## **24. Voting and decisions**

- 24.1. Decisions made at a General Meeting shall be determined by a majority of the votes cast by Voting Members eligible to vote at that meeting, except in the case where a Special Resolution is required by law or this Constitution.
- 24.2. If the votes are equal, the motion is not carried and the Chair does not have a second or casting vote.
- 24.3. Each Voting Member will have 1 vote only on a matter, whether on a show of hands or a poll.
- 24.4. A Voting Member will not be entitled to exercise their right to vote if at the time of the meeting, their membership fee is overdue and unpaid pursuant to clause 15.2.
- 24.5. A Member or the Chair may only challenge a person's right to vote at a General Meeting at that meeting. If a challenge is made, the Chair must decide whether or not the person may vote. The Chair's decision

is final.

- 24.6. At any General Meeting a resolution put to the vote at the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:
- a. the Chair; or
  - b. the lesser of at least 5 Voting Members entitled to vote on the resolution, or Voting Members with at least 5% of the votes that may be cast on the resolution on a poll.
- 24.7. On a show of hands, the Chair's decision is conclusive evidence of the result of the vote. The Chair and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 24.8. If a poll is duly demanded it will be taken when and how the Chair directs unless clause 24.9 applies.
- 24.9. A poll demanded on the election of a Chair or on the question of an adjournment must be taken immediately.
- 24.10. A demand for a poll may be withdrawn.

## **25. Proxies**

- 25.1. A Voting Member may appoint a proxy to attend and vote at a General Meeting on their behalf.
- 25.2. A proxy does not need to be a Member.
- 25.3. A proxy appointed to attend and vote for a Voting Member has the same rights as the Voting Member to:
- a. speak at the meeting;
  - b. vote on a poll (but only to the extent allowed by the appointment); and
  - c. join in to demand a poll under clause 24.6
- 25.4. An appointment of proxy (proxy form) must be signed by the Voting Member appointing the proxy and must contain:
- a. the Voting Member's name and address;
  - b. the proxy's name or the name of the office held by the proxy; and
  - c. the meeting(s) at which the appointment may be used.
- 25.5. A proxy appointment may be a standing one.
- 25.6. Proxy forms must be received by the College at the College's registered address or such other place or electronic address stated in the notice under clause 19.2 at least 48 hours before a General Meeting.
- 25.7. Unless the College receives written notice at least 48 hours (or any shorter period the Board may permit) before the start or resumption of

a General Meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing Voting Member:

- a. dies;
- b. is mentally incapacitated;
- c. revokes the proxy's appointment; or
- d. revokes the authority of a representative or agent who appointed the proxy.

25.8. Despite clause 25.7, if a Voting Member attends a general meeting and they have appointed a proxy, the proxy's appointment is deemed revoked. This means the proxy does not have the authority to speak and vote for a Voting Member at a meeting while the Voting Member is at the meeting.

25.9. A proxy appointment may specify the way the proxy must vote on a particular resolution.

25.10. If a person attends a General Meeting:

- a. both as a Voting Member and as a proxy; or
  - b. representing more than 1 Voting Member,
- then:
- c. on a show of hands, the person is entitled to 1 vote only regardless of the number of Voting Members the person represents; and
  - d. on a poll taken on a resolution, the person has 1 vote for each Voting Member the person represents and if the person is also a Voting Member, they have a separate vote as a Voting Member.

25.11. When a poll is taken on a resolution, a proxy does not need to vote, unless the proxy appointment specifies the way they must vote and if the way they must vote is specified on the proxy form, they must vote that way.

25.12. In the event of a Voting Member not nominating a particular person as proxy on the proxy form, the proxy may be exercised by the Chair unless the Voting Member indicates otherwise.

## **26. Direct voting**

26.1. The Board may determine that at any General Meeting, a Voting Member who is entitled to vote at that meeting is entitled to a direct vote. A 'direct vote' includes a vote delivered to the College by post, fax or other electronic means approved by the Board. The Board may specify the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

26.2. If a Voting Member casts a direct vote on a particular resolution that is put to a vote at a General Meeting, and the Voting Member or their proxy attends the meeting, then they are not entitled to vote and must not vote on the matter at the General Meeting.



## **27. Members' resolutions**

- 27.1. Voting Members with at least 5% of the votes that may be cast on a resolution may give written notice to the College of a resolution that they propose to move at a General Meeting.
- 27.2. If the College receives a notice under clause 27.1, the resolution is to be considered at the next General Meeting that occurs more than 2 months after the notice is given, provided it is a matter appropriate for consideration at a General Meeting pursuant to the law and this Constitution.
- 27.3. Subject to clause 27.2, the College must give Members notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.
- 27.4. The percentage of votes that Members have (as described in clause 27.1) is to be worked out as at midnight (Australian Eastern Time) on the day before the notice is given to the College.

## **28. Attendance of non-members at General Meetings**

- 28.1. The Board may invite any person, whether a Member or not, to attend and/or speak at a General Meeting.

## **Part D - Board of Directors**

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### **29. Powers of the Board**

- 29.1. The business and affairs of the College is managed by or under the direction of the Board. The Board may exercise all powers and do all such things that may be exercised or done by the College, except for anything which must be exercised by the College in General Meeting as required by the Act or by this Constitution.
- 29.2. The Board may by resolution make, amend or revoke by-laws for the purposes of giving effect to any provision of this Constitution or to govern the procedures and activities of the College. These by-laws are binding on the Board and the Members.
- 29.3. The Board may establish, dissolve and amend Branches according to the needs of the College, the geographic location of a particular group of Members or any other criteria as determined by the Board.
- 29.4. Any question, issue or dispute relating to or arising in consequence from this Constitution shall be determined by the Board.

### **30. Delegation of powers**

- 30.1. The Board may delegate any of its powers and/or functions to one or more committees, Branches or any employee of the College or any other person as the Board thinks fit.

- 30.2. In exercising any powers so delegated, the committee, Branch, employee or person must comply with any terms and conditions that may be set by the Board.

### **31. Number of Directors**

- 31.1. The Board will comprise:
- a. up to 8 Elected Directors; and
  - b. up to 1 Appointed Director appointed in accordance with clause 33.1.
- 31.2. The minimum number of Elected Directors shall be 4.

### **32. Director eligibility**

- 32.1. An Elected Director must be a Member, Distinguished Fellow, Fellow or Life Member.
- 32.2. A person is not eligible to be a Director if they are ineligible to be a director under the Act.

### **33. Appointed Director**

- 33.1. The Elected Directors may by resolution appoint up to 1 additional person as an Appointed Director to serve on the Board at any one time, where appropriate skill, experience or knowledge is sought that complement the existing skills on the Board and to enhance the ability of the Board to discharge its duties and advance the Objects of the College.
- 33.2. An Appointed Director may be, but is not required to be, a Member.

### **34. Elections**

- 34.1. Elections will be held in accordance with the procedures determined by the Board and set out in the by-laws.
- 34.2. Where nominations allow, there will be at least 1 Director from each of the following regions:
- i. New South Wales / Australian Capital Territory;
  - ii. Victoria / Tasmania;
  - iii. Queensland;
  - iv. Western Australia;
  - v. South Australia / Northern Territory; and
  - vi. New Zealand.
- 34.3. In order to implement clause 34.2, candidates shall be ranked according to the number of votes received. Priority for election will be given to the candidates who received the highest votes from each region not currently represented on the Board. The candidates with the highest number of votes from each of these regions will be declared elected.

34.4. The candidates with the highest number of votes from the remaining candidates equal to number of vacancies available will be declared elected. For avoidance of doubt, candidates from regions already represented shall be elected only after at least 1 candidate from each of the unrepresented regions if nominated has been elected.

34.5. If insufficient nominations are received to fill all positions on the Board, the vacant positions shall be deemed casual vacancies.

### **35. Terms of office**

35.1. Results of an election will be announced in accordance with the procedures determined by the Board and set out in the by-laws and reported at the next Annual General Meeting. Elected Directors will commence their term from 1 January and hold office for a term of 3 years.

35.2. Each year, one half of the Elected Directors or if their number cannot be divided by 3, then the number nearest one third will retire. The elected Directors to retire are those elected 3 years earlier and those appointed to fill a casual vacancy for a Director elected 3 years earlier.

35.3. A Director may not serve more than 9 consecutive years as a Director. Upon serving 9 consecutive years, a Director may only stand for re-election or reappointment after a period of at least 3 years following the expiration of their 9th year.

35.4. An Appointed Director will hold office for a term determined by the Elected Directors not exceeding 3 years from the date of appointment, but may be re-appointed.

35.5. An Appointed Director will hold office for a term determined by the Elected Directors not exceeding 3 years from the date of appointment, but may be re-appointed.

### **36. Alternate Directors**

36.1. Alternate Directors are not permitted.

### **37. Casual vacancies**

37.1. The Directors may appoint a person as an Elected Director to fill a casual vacancy if that person is an eligible Member, Distinguished Fellow, Fellow or Life Member.

37.2. Any individual so appointed to fill a vacancy of an Elected Director will hold office for the remainder of the term of that vacancy.

37.3. The Board may act even if there are vacancies on the Board. However, if the number of Directors is reduced below the minimum of 4 Elected Directors, the continuing Directors may act only:

a. in an emergency; or

- b. for the purposes of appointing additional eligible Members, Distinguished Fellows, Fellows or Life Members as Elected Directors up to the minimum number; or

- c. to convene a General Meeting.

37.4. A Director stops being a Director if they:

- a. die;
- b. are an Elected Director who ceases to be an Member, Distinguished Fellow, Fellow or Life Member; or
- c. become bankrupt or makes any arrangement or composition with creditors generally;
- d. become ineligible to be a director of a company under the Act;
- e. resign their office by written notice given to the College;
- f. are removed from office pursuant to clause 38.1;
- g. become of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- h. are absent from three consecutive meetings of the Board, unless at the next Board meeting the Board resolves otherwise;
- i. are convicted on indictment of an offence and the Board does not resolve to confirm the Director's appointment following the conviction; or
- j. fail to disclose a material personal interest in breach of the law unless at the next meeting of the Board the Board resolves otherwise.

**38. Removal of Director**

- 38.1. Voting Members may by ordinary resolution in a General Meeting remove any Director from office in accordance with the Act.

**39. Office Bearers**

- 39.1. The Office Bearers of the College are:

- a. President;
- b. Vice President;
- c. Treasurer; and
- d. Head of Specialties.

- 39.2. The Board will appoint the Office Bearers from amongst its number at the first Board meeting in each calendar year or at any time after a vacancy arises.

- 39.3. Each Office Bearer will hold their position that the Board appoints:

- a. for a period of up to two years, and will be eligible for reappointment;
- b. until they resign from their position as Office Bearer by written notice to the College; or

- c. until they are removed from their position as Office Bearer by resolution of the Board.
- 39.4. The President and the Vice-President must each be an Elected Director.
- 39.5. There will be a limit on the term for the President of 4 consecutive years. Upon serving 3 consecutive years as President an individual may stand again as President after a period of 2 years has expired following the expiration of their 3rd year.
- 39.6. Office Bearers will not hold office beyond their removal or retirement from the Board as a Director.
- 40. Payments to Directors**
- 40.1. The Board may resolve to pay remuneration to a Director for ordinary services as a Director, provided:
  - a. the total amount paid in any year to all Directors who are Members of the College must not exceed the maximum amount if any fixed by the Voting Members in General Meeting; or
  - b. if the Director is an appointed Director under clause 33.1 and is not a Member of the College, the amount paid to such Director is as determined by the Board.
- 40.2. The College may pay Directors for:
  - a. out-of-pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously agreed by the Board; or
  - b. any service rendered to the College by the Director in a professional or technical capacity, other than in the capacity as a Director, where the provision of the service has the prior approval of the Board and is on reasonable commercial terms.

## **Part E - Board meetings**

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### **41. Calling of Board meetings**

- 41.1. The Board will meet for the dispatch of business, adjourn and otherwise regulate its meetings at such place and time as the Board may determine.
- 41.2. The President or any 2 or more Directors may at any time, and the Company Secretary must on the request of the President and any 2 or more Directors, call a Board meeting.

### **42. Notice**

- 42.1. Subject to clause 42.2, all Directors must be given at least 7 days' notice of a Board meeting.

42.2. In cases of urgency, a meeting can be held without notice being given in accordance with clause 42.1 provided that as much notice as practicable is given to each Director by the quickest means practicable.

42.3. Notice may be given orally or in writing and using any technology.

#### **43. Quorum**

43.1. No business shall be transacted by the Board unless a quorum is present. The quorum for a meeting of the Board shall be a majority (more than 50%) of the number of Directors currently in office.

#### **44. Chair**

44.1. At a meeting of the Board, the President shall preside as Chair. If the President is absent or unwilling to act, then the Vice President shall preside and if the Vice President is not present or is unwilling to act, the remaining Directors shall choose another Director to preside as Chair at the meeting.

44.2. Despite anything in clause 44.1, if the President (or as applicable Vice President) later attends a meeting of Directors or is later willing to act then they must take the role of Chair of the meeting.

#### **45. Voting and decisions**

45.1. Decisions made at a meeting of the Board will be determined by a majority of votes cast by Directors present and eligible to vote at the meeting. Each Director has 1 vote.

45.2. In the event of an equality of votes on any question, the motion is not carried and the Chair does not have a second or casting vote.

#### **46. Conflicts of interest**

46.1. A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board meeting (or that is proposed in a resolution made outside of a Board meeting):

- a. to the other Directors; or
- b. if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.

46.2. The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

46.3. Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is proposed in a resolution made outside of a Board meeting) must not, except as provided under clause 46.4:

- a. be present at the meeting while the matter is being discussed, or
- b. vote on the matter.

46.4. A Director may still be present and vote if:

- a. their interest arises because they are a Member of the College, and the other Members have the same interest;
- b. their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the College (see clause 58);
- c. their interest relates to a payment by the College under clause 58 (indemnity), or any contract relating to an indemnity that is allowed under the Act;
- d. the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
- e. the Directors who do not have a material personal interest in the matter pass a resolution that:
  - i. identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the College; and
  - ii. says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

#### **47. Use of technology**

- 47.1. A Board meeting may be held using any technology consented to by all the Directors. The consent may be a standing one.
- 47.2. A Director may only withdraw their consent to the use of technology proposed for a Board meeting if they do so at least 48 hours before the meeting.
- 47.3. A Board meeting held by means of technology is taken to be held at the place where Chair of the meeting is, or at such other place as determined by the Chair of the meeting provided that at least 1 of the Directors involved was at that place for the duration of the meeting.
- 47.4. A Director who participates in a Board meeting permitted under clause 47.1 is taken to be present at the meeting and is entitled to vote.

#### **48. Resolutions made outside of Board meetings**

- 48.1. The Board may pass a resolution without a Board meeting being held. The resolution may be passed by written or electronic communication.
- 48.2. The resolution is passed if at least a majority of Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clauses 48.3 or 48.4.



- 48.3. The Directors may sign a single document setting out the resolution and containing a statement that they agree to the resolution or there may be multiple copies of the same document, each signed by one or more of the Directors.
- 48.4. The College may send the proposed resolution by email or other electronic message to the Directors and the Directors may agree to the resolution by sending a reply email or message to that effect, including the text of the resolution in their reply.
- 48.5. The resolution is taken to be passed when the last Director who constitutes a majority in favour signs or otherwise agrees to the resolution in the manner set out in clauses 48.3 or 48.4.
- 49. Validity of acts**
- 49.1. Any act done by the Board is valid and effective despite any defect that may afterwards be discovered in the appointment or qualification of any Director.
- 49.2. A procedural defect in decisions made by the Board will not result in such decisions being invalidated.

## **Part F - Records**

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### **50. Minutes**

- 50.1. The Board must ensure that minutes are made and kept of
- proceedings and resolutions of Board meetings;
  - proceedings and resolutions of General Meetings of Members;
  - resolutions passed by the Board without a meeting; and
  - proceedings and resolutions of any committees of the Board.

### **51. Registers**

- 51.1. The College must keep all registers required by this Constitution and the Act.
- 51.2. The registers must be made available as required by the Act.

### **52. Financial records**

- 52.1. The College must keep written financial records that:
- correctly record and explain its transactions and financial position and performance; and
  - would enable true and fair financial statements to be prepared and reviewed or audited.

**53. Inspection of records**

- 53.1. A Member is not entitled to inspect the financial records or other documents of the College unless authorised by the Board or the Act.

**Part G - Administration**

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**54. Company Secretary**

- 54.1. There must be at least 1 Company Secretary appointed by the Board on any terms as the Board sees fit. The Board may remove or terminate such appointment subject to law.

**55. Auditor**

- 55.1. Subject to the provisions of the Act, the College shall appoint an auditor, whose appointment, removal and duties shall be regulated by the Act.
- 55.2. The accounts of the College shall be examined by the auditor at least once in every year and a report prepared by the auditor in such form as is required by the Act.

**56. Alteration of Constitution**

- 56.1. This Constitution may only be altered by the Voting Members passing a Special Resolution.

**57. Notices**

- 57.1. Any notice required to be given to a Member under this Constitution may be given:
- a. by handing the notice to the Member personally; or
  - b. by sending it by post to the Member at the address recorded in the Register;
  - c. by email or facsimile transmission to an address or number provided by the Member; or
  - d. by any means specifically agreed to by the Member that allows the Member to create, receive or download hard or digital copies of the notices and any attachments.
- 57.2. Any notice required to be given to the College may be given:
- a. by sending the notice by post to the registered address; or
  - b. by leaving the notice at the registered address; or
  - c. by email to the email address nominated by the College for that purpose; or
  - d. by facsimile transmission to the facsimile number of the College.

- 57.3. A notice is taken, unless the contrary is proved, to have been given or served:
- a. in the case of a notice given or served personally, on the date on which it is received by the Member or the College;
  - b. in the case of a notice sent by post to a Member, on the day it would be delivered in the ordinary course of post; and
  - c. in the case of a notice sent by electronic or facsimile transmission, on the date it was sent.

## **58. Indemnity and insurance**

- 58.1. For the purposes of this clause 58, 'officer' has the same meaning as in the Act including a person who is or has been a Director or Company Secretary.
- 58.2. The College indemnifies each officer of the College out of the assets of the College, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the College.
- 58.3. In clause 58.2, 'to the relevant extent' means:
- a. to the extent that the company is not precluded by law (including the Act) from doing so; and
  - b. for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 58.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the College.
- 58.5. To the extent permitted by law (including the Act), and if the Directors consider it appropriate, the College may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the College against any liability incurred by the person as an officer of the College.

## **59. Seal and execution of documents**

- 59.1. If the College has a common seal, the seal shall be kept in the custody of the Company Secretary or their nominee.
- 59.2. The seal shall not be affixed to any instrument except by authority of the Board and the affixing thereof shall be attested by the signatures of:
- a. 2 Directors; or
  - b. a Director and the Company Secretary,
- and that attestation is sufficient for all purposes that the seal was affixed by authority of the Board.

- 59.3. Notwithstanding clauses 59.1 and 59.2, the College may execute a document without use of the seal or in any other manner as permitted by law.

**60. Winding Up or Revocation of Deductible Gift Recipient Status**

- 60.1 If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:

Gifts of money or property for the principal purpose of the organisation

Contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation

Money received by the organisation because of such gifts and contributions.

## Schedule of transitional arrangements

### **Board**

1. At the adoption of this Constitution, the members of the Council as listed in the table below shall continue as Elected Directors and their term will continue until the time specified, unless it ceases earlier pursuant to clause 37.4 of this Constitution. All individuals in the positions listed if eligible, may stand for re-election as an Elected Director at the election immediately prior to their term expiring.

<b>Council Position</b>	<b>Term Expires</b>
1. President	31 December 2017
2. Vice President	31 December 2017
3. Hon Treasurer	31 December 2017
4. Immediate Past President	31 December 2017
5. Chair, Professional Standards Board	31 December 2016
6. Hon Registrar	31 December 2016
7. Hon Secretary	31 December 2016
8. Chair Vic/Tas Branch	31 December 2016
9. Chair SA/NT Branch	31 December 2016
10. Chair NSW/ACT Branch	31 December 2016
11. Chair WA Branch	31 December 2016
12. Chair Qld Branch	31 December 2016
13. Chair NZ Branch	31 December 2016

2. Any continuous period that a Council member has served prior to the commencement of this Constitution will not count in determining term limits in accordance with clause 35.4.

### **Office Bearers**

3. At the adoption of this Constitution, the individual serving as President will continue as President until the first Board meeting in 2017. If such individual is re-elected as a Director and appointed as President in 2017 then the time they served as President under the constitution that is replaced by this Constitution will not be counted in the application of clause 39.5 of this Constitution.
4. At the adoption of this Constitution, the individual serving as Vice President will continue as Vice President and the individual serving as Honorary Treasurer will become the Treasurer.

### **Removal of schedule**

5. When the Directors whose term limits are subject to clause 2 and 3 of this schedule are no longer in office, then this schedule shall no longer have a purpose and will be removed from the Constitution.