



CONSTITUTION

**BARINGA CHILD-CARE CENTRE ASSOCIATION
INCORPORATED ABN 42 028 145 288**



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1. NAME

The name of the Association is **Baringa Child-Care Centre Association Incorporated.**

2. OBJECTS

2.1 Objects of the Association

The objects of the Association are set out in Schedule 1.

2.2 Review and Variation of Objects

- (a) A review of the Objects may be proposed by any Member submitting to the Board a written review proposal explaining the reasons for and detail of a proposed review and any proposed variations to the Objects.
- (b) Promptly upon receipt of same the Chair will distribute copies of a review proposal to all Directors and prepare a resolution to be put to Members which can only be passed by a special resolution of members.
- (c) Before distributing any proposed special resolution the Chair or the Board may seek such information or advice or commission such reports as the Chair may consider or the Board may resolve to be required to provide relevant information to Members to assist in their consideration of the review proposal.
- (d) If the special resolution is passed by Members, clause 2.1 of this Constitution must be read subject to the terms of the resolution.

3. MODEL RULES

To the maximum extent permitted by the Act, the model rules contained in Schedule 1 to the Regulations do not apply.

4. CHANGES TO THIS CONSTITUTION

Subject to clause 2.2, any amendment, alteration or addition to this constitution will only be effective if undertaken in accordance with the requirements in the Act.

5. CODE OF CONDUCT & ETHICS

- 5.1 The Members may, by Special Resolution of Members, approve a 'Code of Conduct and Ethics' to apply in relation to and govern the conduct and behaviour of any or all Members.
- 5.2 Subject to clause 5.3, the Code of Conduct and Ethics may only be amended or revoked by Special Resolution of Members.
- 5.3 From time to time the Board may, by unopposed resolution at a duly convened Board meeting, make any such changes to the Code of Conduct and Ethics as it considers necessary or desirable in order to:
 - (a) remove or clarify existing ambiguity; or
 - (b) give the Code of Conduct and Ethics or any part of it its full intended effect.
- 5.4 Any and all changes made to the Code of Conduct and Ethics by the Board in accordance with clause 5.3:
 - (a) will take temporary effect on and from the date they are notified to the Members until conclusion of the next general meeting of the Association; and

- (b) will become permanent if, at the next general meeting, the Members pass a Special Resolution of Members approving their continued operation. If no such resolution is passed, the changes will cease to have effect on and from conclusion of the meeting.

6. INCOME & PROPERTY

6.1 Promotion of the Objects

The income and property of the Association must be applied solely towards the promotion of the Objects.

6.2 Not for Profit

No part of the income or property of the Association may be paid to or distributed among the Members except as:

- (a) fair and reasonable remuneration in return for any services rendered to or for the Association in the ordinary course of business and on an arms' length basis;
- (b) director remuneration (if any) as per clause 11.15;
- (c) fair and reasonable reimbursement for out of pocket expenses of a kind authorised by resolution of the Board and reasonably and properly incurred by the Member for or on behalf of the Association;
- (d) payment for goods or services supplied to the Association for fair value and in the ordinary course of business;
- (e) interest at a commercial rate on money borrowed by the Association from any Member;
or
- (f) reasonable and proper rent for premises let by any Member to the Association.

6.3 Deductible Gift Recipient Status

- (a) The Board may establish one or more funds to be used for specific purposes consistent with the Objects and into which the public, or specific members of the public, will be invited to make gifts and donations of money and property.
- (b) Subject to anything else in this Constitution, the Board shall determine the operation the administration procedures for each fund created under clause (a).
- (c) At the first occurrence of:
 - (i) the winding-up of a fund created under clause (a); or
 - (ii) the Association ceasing to be a deductible gift recipient within the meaning of section 30-227 of the *Income Tax Assessment Act 1997* (Cth);any surplus assets of any funds created by the Board must be transferred to funds, authorities or institutions:
 - (iii) that have objects similar to the Objects;
 - (iv) which are charitable at law; and
 - (v) which are deductible gift recipients within the meaning of section 30-227 of the *Income Tax Assessment Act 1997* (Cth).
- (d) Receipts issued for gifts made to a fund created under clause (a) must state:
 - (i) the number of the receipt;

- (ii) the date the donation was received;
- (iii) the name and Australian Business Number (ABN) of the Association;
- (iv) the name of the fund;
- (v) the signature of a person authorised to act on behalf of the fund;
- (vi) the name of the donor; and
- (vii) that the amount is for a gift.

7. MEMBERS

7.1 Classes of Membership

- (a) Subject to paragraphs 7.1(b) through (d), membership of the Association shall consist of the classes of Members with such rights and privileges as are set out in **Schedule 2**.
- (b) The members may unanimously resolve to establish other classes of membership with such rights, including as to the appointment of directors, and restrictions on admission to that class, as are determined by the members.
- (c) Subject to the terms of a particular class of membership, the Association may vary or cancel rights attached to being a member of that class, or convert a member from one class to another, by special resolution of the Association and either:
 - (i) a special resolution passed at a meeting of the members of that class; or
 - (ii) the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of membership of that class.
- (d) The provisions in this constitution concerning meetings of members (with the necessary changes) apply to a meeting held under rule 7.1(c)(i).

7.2 Members' Liability

The liability of Members is limited in accordance with section 51 of the Act.

7.3 Application Procedure

- (a) The Board may from time to time implement an application process and procedure for membership of the Association. Any such determinations must be prescribed in the By-Laws.
- (b) The Board has the discretion to refuse any person or body corporate admission as a Member without giving any reason in writing.

7.4 Representatives

- (a) This clause applies to all Members that are bodies corporate.
- (b) If a Member or prospective Member is a body corporate it must appoint an individual person as its Representative.
- (c) The name and address of the Representative will be entered in the Register as the Representative of the body corporate. All correspondence and notices from the Association will be served on the Representative and service on the Representative will be deemed service of the body corporate that is represented by that Representative.
- (d) If the appointment of a Representative by a body corporate is made by reference to a position held, the appointment must identify the position.

- (e) A body corporate may replace a Representative at any time by sending notice in writing to the Board.
- (f) A signature by a Representative on behalf of its body corporate is taken to be the signature of the body corporate for the purposes of this Constitution.
- (g) Any power or right of a Member as granted by this Constitution can be exercised by the Representative of that particular body corporate Member.
- (h) Members who are bodies corporate will be represented at meetings of Members by their Representatives, subject to the right of a Representative to appoint a proxy under clause 10.1.

7.5 Consequences of Membership

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by and must comply with:
 - (i) this Constitution; and
 - (ii) any By-Laws, determination, resolution or policy which may be made or passed by the Board or any duly authorised persons or committee in accordance with this Constitution;
- (b) by being a Member they are subject to the jurisdiction of the Association; and
- (c) subject only to this Constitution, they are entitled to all the rights, advantages, privileges and services of Association membership.

7.6 Cessation of Membership

In addition to any rule attaching to a particular class of Membership, Membership will cease automatically:

- (a) if the Member is an individual person, if the Member:
 - (i) dies;
 - (ii) becomes bankrupt; or
 - (iii) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (b) if the Member is a body corporate, if:
 - (i) the Member is dissolved or otherwise ceases to exist; or
 - (ii) the Member has a receiver, a receiver and manager, a liquidator or an administrator appointed;
- (c) if the Member resigns their membership by giving notice in writing addressed to the Board. Such resignation will be effective from the date of receipt of the notice by the Board, unless otherwise specified in the letter of resignation;
- (d) if the Member is expelled pursuant to clause 7.11;
- (e) if the Member fails, without prior arrangement with the Association, to pay his/her Membership Fees and/or Building & Administration Levy;

- (f) if the Association in a general meeting resolves by special resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Association renders it undesirable that the Member continue to be a Member of the Association. The Member must be given at least twenty one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed.

7.7 No Transfer

A right, privilege or obligation which a person or body corporate has by reason of being a Member of the Association:

- (a) is not capable of being transferred or transmitted to another person or body corporate;
- (b) terminates on cessation of the person's or body corporate's Membership; and
- (c) may not be exercised during any period that the Member's Membership Fees have been due but not paid.

7.8 Effect of Termination of Membership

- (a) The cancellation or cessation of a Member's membership does not:
 - (i) prejudice, lessen or affect the rights, duties, liabilities and obligations of a Member whether they arise under this constitution or otherwise existing at the date of cancellation or cessation or which may arise or crystallise after that date out of or by reason of any facts or circumstances occurring or in existence at or before that date;
 - (ii) relieve a Member from any obligation to record or account for or pay any monies for which the Member may be liable under this constitution where such liability accrued from facts or circumstances arising prior to the cancellation or cessation of membership; or
 - (iii) extinguish the Member's liability in the event of winding up or dissolution of the Association.
- (b) A Member who ceases to be a Member of the Association for any reason will not have any claim (monetary or otherwise) upon the Association, its funds or property.

7.9 Subscriptions, Levies & Fees

- (a) Subject to clause 7.9(c) the Board may from time to time in its discretion:
 - (i) fix initial and/or recurring 'Membership Fees;'
 - (ii) set different rates of Membership Fee for different classes of Membership or establish a scale of rates for a particular class of Membership;
 - (iii) fix an annual and/or recurring 'Building & Administration Levy;'
 - (iv) set different rates of Building & Administration Levy for different classes of Membership or establish a scale of rates for a particular class of Membership;
 - (v) determine and fix any other subscription, fee or levy which it may in its discretion deem appropriate with reference to the Objects.
- (b) Any subscriptions and fees determined by the Board under clause 7.9(a), and the basis of, time for and manner of payment for those subscriptions and fees must be prescribed in the By-Laws.

- (c) In any Financial Year, the fees, subscriptions and levies determined by the Board may not exceed the amount (if any) determined by the members from time to time by Special Resolution.
- (d) If a Member fails to pay all monies due and payable by that Member to the Association under this clause 7.9:
 - (i) that Member's rights under this Constitution will be immediately suspended from the expiry of time prescribed for the payment of those monies, unless the Board determines otherwise;
 - (ii) such rights will be suspended until all monies are fully paid unless the Board determines otherwise; and
 - (iii) if the monies remain unpaid for more than 56 days, the Board may deal with the Member at its discretion and in line with any applicable By-Laws and may suspend, disqualify, discipline or retain (but not impose a financial penalty on) that Member as a Member, or impose such other conditions and/or requirements as the Board considers appropriate.
- (e) The principles of natural justice are expressly excluded and do not apply to any decision by the Board under clause 7.9(d).
- (f) In addition and without prejudice to clause 7.9(d), any Membership Fees or other monies which are not paid in full and on time:
 - (i) may be recovered by the Association as a debt immediately due and payable without the need for any prior demand for payment; and
 - (ii) shall attract simple interest at the rate of 2% above the rate of interest from time to time prescribed for post-judgment debts within the jurisdiction of the Supreme Court of the Australian Capital Territory calculated daily based on a 365 day year. This clause shall not merge on entry of judgment.

7.10 **General Obligations**

Each Member must:

- (a) co-operate with the other Members in good faith and use all reasonable endeavours to ensure that the Association's business is conducted successfully in order to achieve the Objects;
- (b) at all times act in good faith in relation to the Member's activities and dealings with the other Members of the Association;
- (c) not use, disclose or share confidential information or allow confidential information to be used, disclosed or shared in a manner reasonably likely to be detrimental to the interests of the Association, its business or another Member;
- (d) not unreasonably delay any action, determination or decision which is required of a Member under this Constitution; and
- (e) at all times use all reasonable endeavours to comply with the Code of Conduct and Ethics (if any) approved under clause 5.

7.11 **Disciplining Members and Representatives**

- (a) The Board may resolve to:
 - (i) expel or suspend any Member; or

- (ii) disqualify or suspend any person from acting as Representative of a corporate Member;

where the Board holds the opinion that the Member or Representative:

- (iii) has persistently or wilfully refused or neglected to comply with a provision or provisions of this Constitution or the Code of Conduct and Ethics (if any) approved under clause 5; or
 - (iv) has persistently or wilfully acted in a manner prejudicial to the interests and Objects of the Association.
- (b) A resolution of the Board pursuant to clause 7.11(a) will be of no effect unless the Board confirms the resolution in accordance with this clause at a meeting held not earlier than fourteen (14) days and not later than twenty eight (28) days after the service on the Member of notice under clause 7.11(c).
- (c) If the Board passes a resolution under clause 7.11(a), it must serve the Member with a notice in writing:
- (i) setting out the resolution of the Board and the grounds upon which it is based;
 - (ii) stating that the Member or Representative may address the Board at a meeting to be held not earlier than fourteen (14) days and not later than twenty eight (28) days after service of the notice;
 - (iii) stating the date, place and time of that meeting; and
 - (iv) informing the Member or Representative that he/she may do either or both of the following:
 - (A) attend and speak at that meeting; or
 - (B) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- (d) At a meeting of the Board held in accordance with clause 7.11(c), the Board must:
- (i) give the Member or Representative an opportunity to make oral representations;
 - (ii) give due consideration to any written representations submitted to the Board by the Member or Representative at or prior to the meeting; and
 - (iii) resolve whether to confirm or to revoke the decision made under clause 7.11(a).
- (e) The Member or Representative must be notified in writing of the decision of the Board within seven (7) days. If the Board resolves to confirm the original decision, the Member must also be notified of the right of appeal available under clause 7.12.
- (f) A resolution confirmed by the Board does not take effect:
- (i) until the expiration of the period within which the Member is entitled to appeal against the resolution; or
 - (ii) if the Member exercises the right of appeal, until the Association confirms the resolution pursuant to clause 7.12.

7.12 Right of Appeal of Disciplined Member

- (a) A Member or Representative may appeal to the Association in general meeting against a resolution of the Board which is confirmed under clause 7.11. Written notice of such an appeal must be lodged with the Board within seven (7) days of service of the notice

required under clause 7.11(e) and the notice of appeal must be considered at the next general meeting.

- (b) At a general meeting of the Association which has the notice of appeal on its agenda, pursuant to clause 7.12(a):
 - (i) the Board and the Member or Representative must be given the opportunity to state their respective cases orally or in the writing, or both; and
 - (ii) the voting Members present must vote by secret ballot on the question of whether the resolution will be confirmed.
- (c) Confirmation of the resolution may be by a simple majority of those voting Members present at the meeting.

7.13 Register of Members

- (a) The Association must establish and maintain separately a register of Members containing for each Member:
 - (i) the name, address and current contact details of the Member and its Representative (if required);
 - (ii) the date on which they became a Member; and
 - (iii) any other relevant details of their membership including class.
- (b) The register of Members must be kept at the registered office and be open for inspection, free of charge, by any Member on reasonable prior notice at any reasonable hour.
- (c) Members must notify the Board of any changes in their relevant details which are recorded on the register of Members within one month after the change.

8. GENERAL MEETINGS

8.1 Annual General Meeting

- (a) In addition to any other meetings held during each year, a general meeting of Members called the AGM must be held at least once in every calendar year within five (5) months after the end of the Association's Financial Year.
- (b) The business of the AGM will include the following, even if not referred to in the notice of that meeting:
 - (i) the consideration of the annual financial report, Directors' report and auditor's report;
 - (ii) Director elections (where required).
- (c) A copy of the accounts, statements and reports prescribed by the Act to be presented at each AGM must be notified to the Members at least twenty-one (21) days prior the AGM.
- (d) The Chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Association.
- (e) If the Association's auditor or their representative is at the meeting, the Chair of an AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask the auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

8.2 Convening general meetings

- (a) A Director may call a general meeting at any time.
- (b) The Board must convene a general meeting on the request of Members in accordance with the Act.

8.3 Notice of general meeting

- (a) Subject to the provisions of the Act as to short notice, at least twenty-one (21) days' notice of a general meeting must be given in writing to those persons entitled to receive notices of general meetings from the Association.
- (b) A notice of a general meeting must contain the information required by the Act.
- (c) Notice of every general meeting of the Association must be given to every Member entitled to vote at the meeting and every Director, and no other person is entitled to receive notices of a general meeting of the Association unless the Act otherwise requires.
- (d) Each person entitled to receive notice of a general meeting is entitled to be present and to speak at, the general meeting.

8.4 Meetings may be cancelled or postponed

The Board may at any time after notice of a general meeting has been given, postpone or cancel the general meeting by giving reasonable notice to all persons entitled to receive notice of that general meeting except that a meeting convened on the requisition of Members as allowed by the Act must not be cancelled without the consent of those Members.

8.5 Failure to give notice

Subject to the Act, the accidental omission to give notice of a general meeting to or the non-receipt of notice of a general meeting by any Member does not invalidate any of the proceedings of that meeting or any resolution passed at such meeting.

8.6 Technology

The Association may hold a general meeting using any technology that gives the Members as a whole a reasonable opportunity to participate in the meeting. Without limiting the generality of the foregoing, this includes using technology to simultaneously hold a meeting at two or more venues.

9. PROCEDURE AT GENERAL MEETINGS

9.1 Business at general meeting

No business will be transacted at any general meeting except as set out in the notice of the meeting given under clause 8.3 unless all Members of the Association are present at the meeting and otherwise agree.

9.2 Quorum required

- (a) No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Subject to the By-Laws referred to in clause 9.9(b), a quorum will be achieved when more than five (5) of the Members are present (whether in person, by proxy, by Representative or via any technology as contemplated by clause 8.6).
- (c) For the purpose of determining whether a quorum is present, a person attending as a proxy, or a Representative is treated as being a Member. If a person attends a meeting as both a Member or Representative and as a proxy for another Member or

Representative, such person will be counted as attending for each of the proxies held by that person in addition to their own presence as member or Representative.

9.3 **Absence of quorum**

If a quorum is not present within half an hour after the time appointed for the general meeting:

- (a) where the meeting was convened on the requisition of Members – the meeting is dissolved; or
- (b) in any other case:
 - (i) the meeting stands adjourned to the date and at the time and place, as the Board determine or, if no determination is made by the Board, to the same day in the next week at the same time and same place; and
 - (ii) if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting is dissolved.

9.4 **Chairperson – General Meetings**

- (a) Subject to clause 9.4(b), the Chair shall preside as chairperson at each general meeting.
- (b) Where a general meeting is held and there is no Chair, or the Chair is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting:
 - (i) the other Directors present at the meeting must elect one of their number to chair the general meeting; or
 - (ii) if no Director is present or willing to act, the Members present must by simple majority elect one of their number to chair the meeting.
- (c) In the case of an equality of votes, the chairperson of a general meeting does not have a casting vote.

9.5 **Final Ruling**

The rulings of the Chair of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting will be final and no motion of dissent from such rulings will be accepted.

9.6 **Adjournment of meetings**

The Chair of any general meeting may with the consent of the meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.7 **Notice of adjourned meeting**

Notice of an adjournment or of the business to be transacted at an adjourned meeting need only be given when a general meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting must be given as in the case of the original meeting.

9.8 **Voting at general meetings**

Subject to the requirements of the Act and subject to clause 9.9, at any general meeting a resolution put to the vote of the meeting must be decided on a show of hands. Before a vote on a resolution is taken, the Chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

9.9 Direct voting

- (a) In this clause 9.9, “**Direct Vote**” means any means of voting on a resolution proposed for a meeting other than voting physically, in-person, such as for example completing a postal or electronic vote.
- (b) The Board may establish and supervise processes and procedures for Direct Voting at any particular and/or at all general meetings on such terms as the Board may in its discretion deem appropriate from time to time including as to: the treatment of Direct Votes; dealing with multiple votes; and counting Direct Votes for the purposes of quorum. Any such determinations must be prescribed in the By-Laws.

9.10 Result of voting

A declaration by the Chair that a resolution has on a show of hands been carried, or by a particular majority, or lost, and 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 recorded in favour of or against the resolution.

9.11 Voting entitlement

Subject to this constitution:

- (a) at meetings of Members, each Member entitled to vote may vote in person or by proxy, attorney or (where the Member is a body corporate) by its Representative;
- (b) on a show of hands every Member present has one vote, and on a poll every Member present in person or by proxy, attorney or Representative has one vote; and
- (c) a Member whose Membership Fees for the current Financial Year has been due but not paid for a period in excess of six (6) months is not entitled to vote.

9.12 Circular resolutions of Members

- (a) Subject to the Act, and except in the case of a resolution to remove an auditor, the Association may pass a resolution without a general meeting being held if all the Members 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. Following signing the document containing the resolution Members will be required to post the document back to the Association, and the document will be counted as a postal vote on the resolution.
- (b) Separate copies of a document referred to in clause 9.12(a) may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

10. PROXIES BY MEMBERS

10.1 Appointment of proxies

Each Member may appoint a proxy and a proxy need not be a Member.

10.2 Instrument appointing a proxy

An instrument appointing a proxy:

- (a) must be in writing under the hand of the appointor or the appointor's attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or duly authorised attorney;
- (b) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument appointing a proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument; and

- (c) subject to the Act, must be in the form approved by the Board.

10.3 **Validity of instrument of appointment**

- (a) An instrument appointing a proxy or representative must not be treated as valid unless this clause 10.3 has been complied with.
- (b) An instrument appointing a proxy and, if the instrument is signed by the appointor's attorney, the power of attorney, or a certified copy of that power of attorney, must be completed and received by the Board at any time before the commencement of a meeting or an adjourned meeting at which the proxy proposes to vote.

10.4 **Validity of vote not affected**

A vote given in accordance with the terms of an instrument appointing a proxy, an instrument appointing a corporate representative, a power of attorney or other relevant instrument of appointment is valid despite:

- (a) the previous death or unsoundness of mind of the appointing Member; or
- (b) the revocation of the instrument (or of the authority under which the instrument was executed) or of the power,

if no notice in writing of the death, unsoundness of mind or revocation has been received by the Association at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

10.5 **Incomplete proxy**

- (a) An instrument appointing a proxy will not be invalid merely because it does not contain:
 - (i) the address of the appointor or of the proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument will be taken to be given in favour of the Chair of the meeting.

11. **BOARD**

11.1 **Composition**

The Board shall at all times consist of:

- (a) no less than three (3) and no more than ten (10) directors elected by the Members in general meeting; plus
- (b) no more than three (3) Co-Opted Directors appointed by the Board pursuant to clause 11.13.

11.2 **Powers**

- (a) The Board shall at all times control and manage the affairs of the Association.
- (b) The Board may exercise all such functions as may be exercised by the Association other than those functions that are required by the Act or these rules to be exercised by the Members in general meeting.

- (c) The Board has the power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association.

11.3 **Reserved Matters**

- (a) The Board may not delegate decisions in relation to any of the following matters ('**Reserved Matters**') to any Subcommittee, a Centre Director or an executive officer:
 - (i) any decision required by this Constitution or the Act to be determined by special or unanimous resolution of the Board;
 - (ii) the matters described in **Schedule 3**; or
 - (iii) any other task or type of decision that the Board may by resolution reserve to itself from time to time.
- (b) However, the Board may delegate responsibility for implementing any decision of the Board regarding a Reserved Matter.

11.4 **Decisions requiring Unanimous Board Approval**

The following types of decision require unanimous Board approval:

- (a) create any fixed or floating charge, lien (other than a lien arising by operation of law) or other encumbrances of the whole or any part of the undertaking, property or assets of the Association;
- (b) borrow any sum (except from the Association's bankers in the ordinary and proper course of the Business) in excess of a maximum aggregate sum outstanding at any time to be decided upon by the Board;
- (c) make any loan or advance or give any credit (other than nominal trade credit) in excess of a sum to be decided upon by the Board to any person;
- (d) give any guarantee or indemnity to secure the liabilities or obligations of any person;
- (e) sell, transfer, lease, assign, or otherwise dispose of any part of the undertaking, property or assets of the Association (or any interest in the Association), or contract to do so;
- (f) enter into any contract, arrangement or commitment involving expenditure except as authorised in the Association's annual budget;
- (g) take or agree to take any dealings with property; or
- (h) enter into any partnership or profit sharing agreement with any person.

11.5 **By-Laws**

- (a) The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of the Association and the advancement of the Objects as it thinks necessary or desirable.
- (b) Such By-Laws must be consistent with this Constitution and the Act.
- (c) All By-Laws made under this clause 11.5 are binding on the Association and its Members.
- (d) Amendments, alterations, interpretations or other changes to By-Laws must be advised to Members by means of notices in writing approved by the Board.

11.6 Portfolios

The Board may at its discretion assign portfolios to certain Directors.

11.7 Nominations

- (a) The Board may fix a process for nominations, determine the eligibility criteria for candidates for election and establish and supervise processes and procedures for nominations for each election. Any such determinations must be prescribed in the By-Laws.
- (b) In the event that the number of nominations received for election to the position of Director is less than the number vacant offices, the Board may seek, from amongst the Members and the public, such additional nominations as is necessary to ensure the number of nominations is equal to the number of vacant offices.

11.8 Elections

- (a) At an Annual General Meeting, Board positions will be filled on a 'first-past-the-post' basis (that is, where the candidate with the highest number of votes for each position is appointed to that position) except that:
 - (i) where the number of nominations for election to the position of Director is equal to or less than the number of vacant positions, then those persons so nominated shall be deemed to be elected to the office of Director.
 - (ii) where the number of nominations for election to the position of Director exceeds the number of vacancies, Directors will be elected by ballot with each Member present in person or by proxy who is entitled to vote in elections being entitled to cast one vote for each vacant position;
 - (iii) where an equality of votes is returned in the ballot for any position, the Chair shall have the casting vote necessary to determine which of the candidates shall be declared elected. If the Chair is unwilling to exercise a casting vote, the issue shall be determined by lot.
- (b) The returning officer for each election will be a Director nominated by the Board from time to time.

11.9 Term of Appointment

- (a) Subject to clause 11.9(b), the term of appointment of each Director appointed or elected under clause 11.8 shall be for a period until the third (3rd) Annual General Meeting after his/her appointment.
- (b) Despite clauses 11.9, 11.12(a) and 11.13(c), no more than three (3) Directors shall be obliged to retire at each Annual General Meeting determined as follows:
 - (i) First, any Director who wishes to retire and does not offer to stand for re-election;
 - (ii) Second, any Director who has been appointed without an election; and
 - (iii) Third, those directors who have been longest in office since their last election but as between directors elected on the same day those to retire shall be determined by lot.
- (c) A person is not eligible for re-appointment as a Director if that person at the time of re-appointment would have already been a Director of the Association for a continuous period of six (6) years.
- (d) The Members may by special resolution determine to waive the time restrictions set out in this clause 11.9.

11.10 Vacation of Office

- (a) Any Director may retire from office on giving written notice to the Association of his/her intention to retire and the resignation shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Association).
- (b) The office of a Director shall become a casual vacancy if the Director:
 - (i) dies;
 - (ii) becomes bankrupt or makes any arrangement or composition with creditors generally;
 - (iii) becomes prohibited from being a director of the Association by operation of law;
 - (iv) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health;
 - (v) resigns by notice in writing to the Association;
 - (vi) the Members pass a Special Resolution to remove the Director before the expiration of his/her period of office; or
 - (vii) is absent without the permission of the Board from more than two (2) meetings of the Board held during any consecutive period of six (6) months.

11.11 Resolution to remove a Director

- (a) The Members may by resolution in a general meeting remove a Director from office prior to the expiration of the Director's term.
- (b) A Director to whom a resolution under clause 11.11(a) relates may submit written representations to the Chair (or, where there is no Chair, the remainder of the Board). The representations may be sent to each Member or, if they are not sent, the Director is entitled to require that the representations are read out at the meeting at which the resolution is considered.

11.12 Casual Vacancies

- (a) Subject to the Act, the Board may at any time appoint a person to fill any casual vacancy on the Board. Any Director so appointed shall only hold office until the next annual general meeting of the Association after the appointment is made, unless formally elected in accordance with clause 11.8.
- (b) The Board may act despite any vacancy in their body, but if the number falls below the minimum required by the Act, the Board may act:
 - (i) for the purpose of increasing the number of Directors to the minimum; or
 - (ii) for the purpose of convening a general meeting; or
 - (iii) in emergencies;but for no other purpose.

11.13 Co-Opted Director

- (a) The Board may at any time resolve to appoint up to three (3) Co-opted Directors to the Board to:
 - (i) fill a casual vacancy;

- (ii) address a skills deficit and to bring a balance of skills and knowledge to the Board in light of the Board composition at that time; and/or
 - (iii) to ensure the Board encompasses a broad spectrum of interests.
- (b) The requirements for nomination and appointment of a Co-Opted Director under clause 11.13(a) must be prescribed in the By-Laws.
 - (c) Each Co-opted Director appointed pursuant clause 11.13, shall take office immediately and will hold office until the end of the next Annual General Meeting, unless formally elected in accordance with clause 11.8.

11.14 Chair

- (a) The Board shall elect a chair from time to time from one of its number.
- (b) A person may hold the office of Chair for a period of two (2) years and will be eligible to be re-elected to that position for a maximum of three (3) consecutive years whilst he/she is on the Board. The term of office will run from the conclusion of the Annual General Meeting at which he/she is elected and run until the conclusion of the second (2nd) or third (3rd) (as the case may be) Annual General Meeting next following.
- (c) If a Director leaves the Board for any period of time and is subsequently reappointed to the Board, that Director is, subject to clause 11.14(a), once again eligible to be elected to the position of Chair.
- (d) The Chair may resign by notice in writing to the Board.
- (e) The Chair may be removed as Chair, but not as a Director, by resolution passed by at least 75% of the Board.
- (f) The Chair shall be deemed to have vacated his/her position if he/she ceases to be a Director.

11.15 Remuneration

(a) Expenses Incurred

Each Director is entitled to reimbursement of his/her reasonable expenses incurred in performing the duties as a Director provided such expenses are approved by the Board.

(b) Special Exertions

- (i) A Director who is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Association beyond or outside of the Director's ordinary duties or is engaged to provide any other service, may be paid a reasonable sum by the Association for those services, exertions or work.
- (ii) Any amount referred to in rule 11.15(b)(i) may be paid either by fixed sum or as otherwise determined by the Board.

(c) Director's Fees

- (i) Subject to the requirements in clauses 11.15(c)(ii) through (iv), Directors shall be entitled to such fees for their services as Directors as may be determined by the Board from time to time by Special Resolution (if any).
- (ii) At least three (3) months before proposing a resolution under clause 11.15(c)(i), the Board must form a 'Nomination & Remuneration' subcommittee comprising of the Treasurer and at least two Family Members who are not Board members.

- (iii) The 'Nomination & Remuneration' subcommittee must: take detailed advice from the Association's accountant as to the Association's financial position; must consider and where appropriate take external advice as to the fees generally payable for comparable positions in the not-for-profit sector; and must prepare a written report to the Board with a recommendation as to the most appropriate course which must be made available to any member on request.
- (iv) In any Financial Year, the aggregate fees paid to all Directors may not exceed the amount (if any) determined by the members from time to time by Special Resolution.

(d) **Prior Approval by Directors**

Notwithstanding anything else in this Constitution no payment of any kind which is permitted to be paid to a Director by this Constitution (other than reimbursement of reasonable expenses) can be made by the Association to a Director until that payment is approved by a majority of the Board.

11.16 Alternate Directors

- (a) A Director may, with the approval of all other Directors, appoint a person to be his/her 'Alternate Director' for a period which the/she thinks fit.
- (b) An Alternate Director may but need not be a Member who is eligible for election as a Director or a Director in his/her own right.
- (c) One person may act as Alternate Director to more than one director.
- (d) An Alternate Director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
- (e) An Alternate Director is entitled to a separate vote for each Director he/she represents in addition to any vote to which he/she may have as a Director in his/her own right.
- (f) In the absence of the appointer, an Alternate Director may exercise any powers that the appointer may exercise and the exercise of that power by the Alternate Director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an Alternate Director is vacated if and when the appointer vacates office as a Director.
- (h) The appointment of an Alternate Director may be terminated at any time by the appointer even though the period of the appointment of the Alternate Director has not expired.
- (i) An appointment, or the termination of an appointment, of an Alternate Director must be in writing signed by the Director who makes or made the appointment and does not take effect unless and until the Board has received notice in writing of the appointment or termination.
- (j) An Alternate Director is not to be taken into account in determining the minimum or maximum number of Directors allowed under this constitution.
- (k) In determining whether a quorum is present at a Board meeting:
 - (i) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;
 - (ii) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and

- (iii) where a person is present as an Alternate Director for more than one Director that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.
- (l) An Alternate Director, while acting as a Director, is responsible to the Association for his/her own acts and defaults and is not to be taken to be the agent of the Director by whom he/she was appointed.

11.17 Interested Directors

- (a) This clause 11.17 at all times operates subject to clauses 2, 5 and 6.
- (b) A Director may hold any other office, other than auditor, in the Association or a related body corporate in conjunction with his/her directorship. A Director may be appointed to that office on the terms as he/she deems fit.
- (c) A Director of the Association may be a director or other officer of:
 - (i) a related body corporate;
 - (ii) a body corporate promoted by the Association; or
 - (iii) a body corporate in which the Association is interested, as shareholder, lender or otherwise,

or be otherwise interested in any of those bodies corporate. A Director is not accountable to the Association for any remuneration or other benefits received by him/her as a Director or officer of that body corporate or from having an interest in that body corporate.
- (d) The Board may exercise the voting rights conferred by shares in any body corporate held or owned by the Association as they think fit. This includes voting in favour of any resolution appointing a Director as a Director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A Director may, if permitted by law, vote in favour of the exercise of those voting rights even if he/she is, or may be about to be appointed, a Director or other officer of that other body corporate.
- (e) A Director is not disqualified merely because of being a Director from contracting with the Association in any respect including, without limitation acting in any professional capacity, other than auditor, on behalf of the Association.
- (f) No contract made by a Director with the Association and no contract or arrangement entered into by or on behalf of the Association in which any Director may be in any way interested is avoided or rendered voidable merely because the Director holds office as a director or because of the fiduciary obligations arising out of that office.
- (g) No Director contracting with the Association or being interested in any arrangement involving the Association is liable to account to the Association for any profit realised by or under a contract or arrangement of that kind merely because he/she holds office as a Director or because of the fiduciary obligations arising out of that office.
- (h) Where a Director has a material personal interest in a matter to be considered at a meeting, that Director must not be present while the matter is being considered at the meeting or vote on the matter, unless the Directors who do not have a material personal interest pass a resolution, or another exception applies under this Constitution or the Act, which permits that Director to do so.
- (i) Subject to clauses 11.17(j) and 11.17(k), a Director who is in any way interested in a contract or arrangement or proposed contract or arrangement (other than by having a material personal interest) may, despite that interest:

- (i) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
 - (iii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things.
- (j) Clause 11.17(i) does not apply if, and to the extent that, it would be contrary to the Act.
- (k) The Board may make By-Laws requiring the disclosure of interests that a Director, and any person deemed by the Board to be related to or associated with the Director, may have in any matter concerning the Association or a related body corporate. Any By-Laws made under this clause bind all Directors and apply in addition to any obligations imposed on a Director by this constitution or at law to disclose interests to the Association.

12. PROCEDURE AT BOARD MEETINGS

12.1 Convening Board meetings

The Board will meet together at least quarterly for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

12.2 Decisions resolved by vote

At any meeting of the Board:

- (a) matters are to be decided by the Directors present and eligible to vote at the Board meeting and each Director present has one vote;
- (b) decisions and resolutions relating directly to the Association's Objects must be decided and passed by unanimous resolution of the Board; and
- (c) any other resolution of the Board or at a meeting of a Committee must be passed by a majority of votes of the Directors or Committee members present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.

12.3 Chairperson – Board Meetings

- (a) Subject to clause 12.3(b), the Chair shall preside as chairperson at each Board meeting.
- (b) Where a general meeting is held and there is no Chair, or the Chair is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting the other Directors present at the meeting must elect one of their number to chair the general meeting.
- (c) In the case of an equality of votes, the chairperson of a general meeting does not have a casting vote in addition to any vote her/she may have as a Director.

12.4 Quorum

- (a) A quorum for a meeting of the Board is more than 50% of the Directors (whether in person or as contemplated by clause 12.5).
- (b) A Director who is disqualified from voting on a matter shall be counted in the quorum despite that disqualification.

- (c) If a quorum is not present within half an hour from the time appointed for a meeting of the Board:
 - (i) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the next Business Day at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting is dissolved.
- (d) No business may be transacted at any meeting of the Board, except an adjournment, unless a quorum is present.

12.5 Place for Meetings

- (a) The Board may meet in person at a single location or at more than one location as provided by clause 12.5(b) or held using any technology consented to by all Directors.
- (b) Board meetings may be held by the Board communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion. The Directors need not all be physically present in the same place. A Director who participates in a meeting held in accordance with this clause is treated as being present and entitled to vote at the meeting.

12.6 Circular Resolutions of Directors

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the Board, if a document containing a statement to that effect is assented to by all of the Directors other than:
 - (i) a Director on leave of absence approved by the other Directors;
 - (ii) a Director who disqualifies himself or herself from considering the act, matter or thing in question on the grounds that he/she is not entitled at law to do so or has a conflict of interest; and
 - (iii) a Director who the other directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the Directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution.
- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a participating Director.
- (c) Two or more separate documents in identical terms each of which is assented to by one or more Directors are to be taken as constituting one document.
- (d) A Director may signify assent to a document by signing the Document or by notifying the Association of his/her assent in person or by post, facsimile, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the Director must by way of confirmation sign the document at the next meeting of the Directors attended by that Director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

12.7 Validity of Directors' actions

All acts done by any meeting of the Board or by any person acting as a Director are, despite it being later discovered that there was some defect in the appointment of a person to be a

Director, or to act as a Director, or that a person so appointed was disqualified, is valid as if the person had been duly appointed and was qualified to be a Director or to act as a Director.

13. MANAGEMENT OF THE ASSOCIATION

13.1 Day to day management

Management of the Association will be the responsibility of the Board, which may exercise all such powers of the Association as are not, by the Act or this Constitution, required to be exercised by the Association in general meeting.

13.2 Subcommittees – Generally

- (a) The Board may by unanimous resolution delegate any of its powers to a subcommittee or subcommittees consisting of such of Directors and other persons as they think fit. A delegation of a power, or a specified class of powers, may be made either generally or as otherwise provided by the terms of delegation and such delegations may be cancelled or withdrawn by resolution of the Board.
- (b) If any power is delegated to a Board Subcommittee under clause 13.2:
 - (i) the Subcommittee must exercise the powers delegated in accordance with any directions of the Board;
 - (ii) exercise by the Subcommittee of the power is taken to be exercised by the Board; and
 - (iii) the delegation does not prevent the exercise of the power by the Board.
- (c) The Board will appoint a chairperson for each Subcommittee.
- (d) Each Subcommittee will conduct their meetings according to the provisions of this Constitution relating to meetings of the Board so far as they are capable of application and altered as necessary to enable the efficient carrying out of their delegated business and the Board's directions.
- (e) If a Subcommittee cannot come to the required majority decision on any matter relevant to the exercise of the authority delegated to it by the Board, then that matter shall be promptly referred back to the Board for determination.
- (f) Once established, each Subcommittee must meet regularly and, at least once each quarter, report to the Board in writing and sufficient detail on its activities, so the Directors may properly discharge their duties as Directors of the Association according to the relevant provisions of this Constitution and the Act.
- (g) At the completion of their required activities, investigations or undertakings and in any event, not less than each three (3) months following their establishment by the Board, each Subcommittee must prepare and deliver to the Board a written report setting out matters relevant to their findings, operations and activities and such other matters as the Board from time to time may require.

13.3 Centre Director(s)

- (a) Subject to clause 11.3, the Board or the Operations Subcommittee may from time to time appoint and delegate to a person (**the Centre Director**), authority to manage and attend to matters required for the proper and efficient operation and administration of the Association and its business affairs.
- (b) The Board may appoint more than one person to the role of Centre Director at any given time.

- (c) The Centre Director's(s') role and scope of accountability is to be determined by the Board.
- (d) The Centre Director(s) must attend to the matters and discharge the responsibilities as referred by the Board and such other matters of administration as may be decided from time to time by the Board or the Operations Subcommittee.
- (e) The Centre Director(s) must regularly report to the Board and/or Operations Subcommittee (as the case may be) in writing and sufficient detail regarding his/her activities, so the Directors may properly discharge their duties as directors of the Association according to applicable law and the relevant provisions of this Constitution.
- (f) The Board may, but without any obligation to do so and without derogating from the responsibility imposed by clause 13.3(e), from time to time determine the form of the report to be provided by the Centre Director(s) to the Board.
- (g) Any person is ineligible to be elected to the Board while serving as Centre Director.

13.4 **Executive Officers**

- (a) The Board may appoint any number of executive officers for a term and at remuneration and on conditions determined by them.
- (b) Executive officers are entitled to attend and be heard on any matter at all Board and general meetings.
- (c) The Board may, subject to the terms of the executive officers' employment contract, suspend, remove or dismiss an executive officer.

13.5 **Appointment of attorneys**

- (a) The Board may, by power of attorney, appoint any person to be an attorney of the Association for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as the Board thinks fit.
- (b) Any power of attorney under paragraph 13.5(a) may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

13.6 **Execution of cheques and negotiable instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, must be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) in such manner as the Board determines.

13.7 **Execution of documents**

- (a) It is not necessary for the Association to have a common seal.
- (b) The Association may execute a document with or without using a common seal, if the document is signed by:
 - (i) two (2) Directors of the Association; or
 - (ii) one (1) Director and any agent or authorised representative duly appointed and acting on the express authority of the Board; or
- (c) The Association may also execute a document by any attorney appointed in accordance with clause 13.5, subject to the terms of the attorney's appointment.

- (d) Any document required to be signed by the Association may also be signed electronically via the Adobe Sign™ platform, DocuSign™ platform or any other digital signing service and/or electronic method from time to time prescribed by the Board in the By-Laws.

13.8 Minutes of meetings

- (a) The Board must cause minutes containing the following information to be entered into the Association's minute books within one month after the event whose proceedings are recorded in the minutes:
 - (i) the names of the Directors present at the relevant Board meeting or Board committee meeting;
 - (ii) all resolutions and proceedings of each general meeting;
 - (iii) all resolutions and proceedings of Board meetings and Board committee meetings;
 - (iv) all resolutions passed by the Association or the Board without a meeting; and
 - (v) such matters as are required by the Act to be recorded in the record books of the Association including without limitation all declarations made or notices given by any Director of his/her interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes shall be signed by the Chair of the meeting, or the Chair of the next succeeding meeting and minutes which purport to be signed accordingly shall be received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

13.9 Inspection of records

Subject to the Act, the Board may determine whether and to what extent, and at what time and place and under what conditions, the accounting records and other documents of the Association or any of them will be open to the inspection of Members, and a Member does not have the right to inspect any document of the Association except as expressly provided in this constitution, as provided by law or as authorised by the Board or by the Association in general meeting.

14. DISPUTE RESOLUTION

- 14.1 A Member claiming a Dispute has arisen with either the Association or another Member (in their capacity as a Member) must give written notice to the Board specifying in reasonable detail the nature of the Dispute and the points of the disputing Member or Director's arguments.
- 14.2 On receipt of a notice of Dispute, the Board must endeavour in good faith to resolve the dispute expeditiously by first discussing and negotiating the matter in dispute directly with the affected Member(s).
- 14.3 If the Dispute is not resolved within twenty (20) Business Days of receipt of the notice of Dispute (or any further period agreed in writing by the parties in dispute), then the Board or any affected Member may refer the Dispute to mediation to a mediator affiliated with the Resolution Institute ABN 69 008 651 232 in accordance with the mediation rules from time to time approved by that organisation for that purpose.

15. NOTICES

15.1 Electronic Address

All Members are required to provide the Board with an email address that can be used for all purposes associated with this Constitution.

15.2 Giving of notices by the Association

A notice which must be given under this constitution or the Act may be given by:

- (a) personal delivery;
- (b) prepaid post;
- (c) distributing the notice electronically to the email address nominated by the Member under clause 15.1;
- (d) utilising email or other electronic means to notify the Member that the notice of meeting is available and direct them where to access it; or
- (e) by any other means from time to time prescribed by the Board in the By-Laws.

15.3 Giving notice to the Association

A person may give notice to the Association:

- (a) by leaving it at the principal place of business of the Association;
- (b) by sending it by post to the principal place of business of the Association;
- (c) by sending it to the electronic address (if any) nominated by the Association for that purpose;
- (d) by any other means permitted by the Act; or
- (e) by any other means from time to time prescribed by the Board in the By-Laws.

15.4 Time of Service

The By-Laws may prescribe the time at which notice is taken to be served when served by any particular permitted method, in default of which:

- (a) where a notice is sent by post, the notice is to be taken as served if the notice is properly addressed and placed in the post with postage paid and to have been served on the three (3) Business Days after the date it is posted; and
- (b) where clause 15.2(c), 15.2(d) or 15.3(c) applies, the notice is to be taken as served when the electronic transmission is confirmed as sent.

15.5 Digital Signing Services

Any notice required to be signed for any purpose relating to this Constitution may be signed electronically via the Adobe Sign™ platform, DocuSign™ platform or any other digital signing service and/or electronic method from time to time prescribed by the Board in the By-Laws.

16. WINDING-UP

16.1 No Right to Surplus Assets

No Member has any right to any surplus assets remaining after the completion of the winding up or dissolution of the Association.

16.2 Transfer of Surplus Assets

For the purpose of section 92(1)(a) of the Act, on the dissolution or the completion of a winding up of the Association, any surplus must be given or transferred to a company, association or authority which:

- (a) has objects substantially the same as the objects of the Association; and
- (b) is not carried on for the object of trading or securing pecuniary gain for its members; and
- (c) which has a constitution requiring any surplus property to be passed, on dissolution or winding-up of the association, to another association that: has objects substantially the same as the Association; and is not carried on for the object of trading or securing pecuniary gain for its members.

17. INDEMNITY AND INSURANCE

17.1 Indemnity

To the extent permitted by law, the Association must indemnify each person who is, or has been, an officer, auditor or Director of the Association against any liability which results from facts or circumstances relating to the person serving or having served as an officer, auditor or Director of the Association:

- (a) other than (except in relation to a liability for legal costs):
 - (i) a liability owed to the Association;
 - (ii) liability for civil penalty or compensation; or
 - (iii) a liability that is owed to someone other than the Association or its Related Bodies Corporate and did not arise out of conduct in good faith; or
- (b) other than for legal costs incurred in defending an action for liability if the costs are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under clause 17.1(a);
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty;
 - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (except costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or
 - (iv) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.

17.2 Insurance

To the extent permitted by law, the Association may pay or agree to pay a premium in respect of a contract insuring a person who is, or has been, an officer, auditor or Director of the Association against any liability incurred by the person as an officer, auditor or Director of the Association, which indemnity or insurance policy may be on such terms as the Board approves.

17.3 Continued benefit

The benefit of each indemnity given in this clause 17 continues, even after its terms or the terms of this clause 17 are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modifications or deletion.

18. DEFINITIONS AND INTERPRETATION

18.1 Application of the Act

This Constitution is to be interpreted subject to the Act. Unless the contrary intention appears words and/or expressions that are defined in the Act have the same meaning in this Constitution:

18.2 Definitions

Subject to clause 18.1, in this constitution the following definitions apply:

Act means the *Associations Incorporation Act 1991* (ACT).

Annual General Meeting means the annual general meeting of the Members of the Association.

Association means Baringa Child-Care Centre Association Incorporated ABN 42 028 145 288

Board means the Board of Directors.

Business Day means any day on which trading banks are open for general banking business in the place where the action is to occur or notice is to be served.

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

Co-opted Director means a Director appointed to the Board by the Board pursuant to clause 11.13.

Director means any person holding the position of a director of the Association (including the Office Bearers, Ordinary Directors and Co-opted Directors)

Financial Year means the period commencing on 1 July in any calendar year to 30 June in the following calendar year (both inclusive).

Member means a member of the Association pursuant to clause 7.1 (and Membership has the corresponding meaning)

Membership Fee means the annual fees to be paid by the Members to the Association.

Objects means the objects of the Association as set out in clause 2.1.

Office Bearer means the Chair, Secretary and Treasurer of the Association.

Ordinary Director means a Director who is not an Office Bearer, and may include a reference to a Co-opted Director.

Chair means the person holding that office under this Constitution and includes any assistant or acting Chair.

Register means the register of Members to be kept pursuant to the Act and clause 7.13.

Regulations means the *Associations Incorporation Regulation 1991* (ACT)

Representative means a person as described in clause 7.4.

Special Resolution means, in relation to a resolution of Voting Members, a resolution approved by at least seventy-five per cent (75%) of the Voting Members Present entitled to vote on the resolution.

Subcommittee means a committee established in accordance with clauses 11.7(a) (Nomination Subcommittee), 13.2 (Operations Subcommittee) or clause 13 (Subcommittees, generally).

18.3 Interpretation

In this constitution unless the context clearly indicates otherwise:

- (a) a reference to a clause or schedule means a clause or schedule of this constitution;
- (b) a reference to a person includes a natural person, company, statutory corporation, partnership, the Crown and any other organisation or type of legal entity;
- (c) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this constitution;
- (d) 'including' 'includes', 'in particular' and words to a similar effect are not words of limitation;
- (e) the words 'at any time' mean at any time and from time to time;
- (f) clause headings and the table of contents are inserted for convenience only and must not be used when interpreting this agreement;
- (g) a word that is derived from a defined word has a corresponding meaning;
- (h) monetary amounts (\$) are expressed in Australian dollars;
- (i) the singular includes the plural and vice-versa;
- (j) words importing one gender include all other genders;
- (k) a reference to a natural person includes their personal representatives, successors and permitted assigns;
- (l) a reference to a company includes its successors and permitted assigns;
- (m) a reference to a body or authority which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority, or failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (n) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for and any subordinate legislation issued under that legislation or legislative provision; and
- (o) neither this constitution nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

SCHEDULE 1 – OBJECTS

The objects of the Association are to:

1. provide a centre-based child-care service for children 0-6 years of age on a permanent/part-time basis;
2. provide a program of activities catering for the individual development needs of these children;
3. administer and maintain and do all the things necessary in the management of the Baringa Child-Care Centre;
4. promote the involvement and participation of all members in the administration and operations of the association;
5. liaise and co-operate with individuals, groups and institutions within the community in the furtherance of the above aims;
6. undertake and pursue all such similar, related or compatible objects as the Board may from time to time consider appropriate.

SCHEDULE 2 – CLASSES OF MEMBERSHIP & MEMBERSHIP RIGHTS AND PRIVILEGES

Class of Membership	Rights & Privileges
Family Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for parents and legal guardians/carers of children enrolled at the Centre from time to time. All adults in each 'Family Unit' count as a single member. 2. Membership of this class will begin automatically when a child begins his/her enrolment at the Centre and will end automatically when a child ends his/her enrolment at the Centre. 3. Members of this class are entitled to vote at all meetings of the Association. However, only one vote may be cast per Family Unit irrespective of the number of children enrolled at the Centre. 4. Any Family Member who is also an employee of the Centre is not eligible for election to the Board. 5. For the purposes of this membership class, 'Family Unit' means in relation to each child, his/her mother, father, step-parents, adoptive parents, grand-parents, legal guardians and/or carers.
Staff Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for individuals who are employed by the Association who are not Family Members. 2. Membership of this class will begin automatically when a person becomes an employee of the Centre and will end automatically when his/her employment at the Centre ends (but will be suspended during any period where he/she is also a Family Member). 3. Members of this class are entitled to vote in relation to (a) the election of Board members; (b) any resolution to wind-up the Association; (c) any resolution to amalgamate with another Association; and (d) any resolution to alter the objects of the Association. 4. Subject to preceding paragraph 3, members of this class are not entitled to vote at general meetings. 5. Members of this class are not eligible for election to the Board. 6. Members of this class are exempt from paying any subscriptions, fees and levies under clause 7.9.
Volunteer Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for persons (other than Family Members, Staff Members, and validly elected Board members) who, at the request of the Board, volunteer their time and skills to actively further the Association's objects. 2. Membership of this class will begin when a person accepts the Board's invitation to volunteer and end automatically when the volunteer contract ends (but will be suspended during any period where he/she is also a Family Member or Staff Member). 3. Members of this class are entitled to vote in relation to (a) the election of Board members; and (b) any resolution to alter the objects of the Association. 4. Subject to preceding paragraph 3, members of this class are not entitled to vote at general meetings. 5. Members of this class are exempt from paying any subscriptions, fees and levies under clause 7.9.
Community Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for residents of the Belconnen District who are not Family, Staff or Volunteer Members and who are willing to support our community of Family, Staff and Volunteer Members to further the objects of the Association. 2. Membership of this class will begin when a person's application for membership is approved by the Board and will be automatically suspended during any period where he/she is also a Family Member, Staff Member or Volunteer. 3. Members of this class are not entitled to vote at general meetings.

	<ol style="list-style-type: none"> 4. Members of this class are required to pay any Membership Fees (if any) determined under clause 7.9 in relation to this class, but are exempt from paying any other subscriptions or levies such as any Building & Administration Levy.
Industry Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for organisations who are actively involved the child-care sector in the Belconnen District who (a) do not compete with any business conducted by the Association; and (b) are willing to support our community of Family, Staff and Volunteer Members to further the objects of the Association. 2. Individuals are not eligible for this class of membership unless they are actively involved in the child-care sector as a sole trader under an ABN. 3. Membership of this class will begin when an organisation's application for membership is approved by the Board and is at all times subject to continued payment of any Membership Fees (if any) determined under clause 7.9 in relation to this class. 4. Members of this class are not entitled to vote at general meetings. 5. Members of this class are exempt from paying any subscriptions or levies determined under clause 7.9 except for Membership Fees (if any) determined for this class.
Elected Member	<ol style="list-style-type: none"> 1. This class of membership is reserved for validly elected Board Members who are not Family, Staff, Volunteer or Community Members. 2. Membership of this class will automatically begin when the Board Member is validly elected and shall automatically end when his/her Board appointment ends in accordance with law or this Constitution. 3. Members of this class are not entitled to vote at general meetings. 4. Members of this class are exempt from paying any subscriptions, fees or levies under clause 7.9.
Honorary Life Member	<ol style="list-style-type: none"> 1. Membership of this class is by the invitation of the Board only, and is reserved for those individuals who the Board in its discretion determines have made a significant contribution to furthering the objects of the Association through direct involvement with the Centre. 2. Membership of this class will begin when the Board's nominee accepts their nomination. 3. Membership of this class is subject to revocation by any further resolution of the Board with reference to unacceptable conduct for example conduct inconsistent with the Objects or a failure to uphold and comply with the Code of Conduct and Ethics (if any) approved under clause 5. 4. Members of this class are not entitled to vote at general meetings. However, are entitled to from time to time appoint one 'Representative Director' from among their number who may attend and participate in discussions at Board meetings but may not vote. 5. Members of this class are exempt from paying any subscriptions, fees or levies under clause 7.9.

SCHEDULE 3 – RESERVED MATTERS

The following decisions/types of decisions are reserved to the Board:

Banking, Tax & Finance

1. Opening and closing bank accounts.
2. Any decision to lend or borrow money.
3. Any decision to invest Association funds (or to terminate investments).
4. Setting the Association's annual budget.
5. Finalising the Association's annual financial reports and arranging annual audits/reviews in accordance with legal requirements and in consultation with the Association's auditor.
6. Complex taxation and regulatory compliance matters (routine tax and regulatory compliance matters may be delegated in consultation with the Association's accountant).
7. Determining appropriate insurances; selecting appropriate insurance providers; approving insurance policy terms; finalising insurance applications; and making insurance claims, in consultation with the Association's insurance broker.

Significant Contracts

8. Any decision to buy or sell land.
9. Any decision to lease or licence (or surrender or terminate a lease or licence of) any land.
10. Any single purchase of goods or services for a price exceeding \$5,000.00 exc. GST.
11. Any repeating purchase of goods or services for a price exceeding \$5,000.00 exc. GST in any twelve (12) month period.

Professional & Executive Appointments

12. Appointment and/or termination of the Association's bookkeeper, accountant, auditor, insurance broker and/or lawyer.
13. Appointment of any professional Secretary, Chief Executive Officer (CEO) or Chief Financial Officer (CFO).
14. Appointment of the Centre Director, Assistant Centre Director, Early Childhood Teacher and Educational Leader.

Employees

15. Appointment and/or termination of the employment of any employee with a salary package in excess of \$70,000.00 per annum exclusive of statutory superannuation.
16. Termination of employment for serious misconduct.
17. Termination of employment due to redundancy.
18. Enterprise bargaining.

Accountability, Planning & Policy

19. Development and approval of the Association's business plan.

20. Development and approval of the Association's strategic plan.
21. Approval of the Association's quality improvement plan (development of the Association's quality improvement plan is delegated to the Educational Leader).
22. Developing and approving organisational policies on complex legal/taxation/regulatory matters (routine policy development may be delegated).
23. Negotiations and/or lobbying with external stakeholders such as government authorities and industry peak bodies.

Media

24. All media enquiries about the Centre.

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