

**CONSTITUTION
OF
CENTRAL COAST CAMPUS UNION
LIMITED**

Australian Business Number (ABN) 92 099 237 340

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is Central Coast Campus Union Limited.

2. Type of company

The **company** is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a **charity**.

3. Limited liability of members

The liability of **members** is limited to the amount of the guarantee in clause 4.

4. The guarantee

4.1 Each **member** must contribute an amount not more than \$1 (the guarantee) to the property of the **company** if the **company** 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 **company** incurred before the **member** stopped being a **member**; or
- (b) costs of winding up.

5. Definitions and interpretation

In this **constitution**, words and phrases have the meaning set out in clauses 74 and 76.

Charitable purposes and powers

6. Object

6.1 The **company's Object** is to promote the advancing of education, by pursuing the following charitable purpose(s):

- (a) to promote the educational and academic activities and progress of the **Central Coast Campus**, being the campuses of the **University of Newcastle (Central Coast Campus)** and **TAFE NSW (Ourimbah Campus)**

and generally to further the aims, object and interests of the **University of Newcastle (Central Coast Campus)** and **TAFE NSW (Ourimbah Campus)**;

- (b) to represent its **members** and **students** of the **Central Coast Campus** in all matters, now and in the future;
- (c) to promote the education, welfare, and social and intellectual life of its **members** and **students** of the **Central Coast Campus**;
- (d) to develop, foster, promote and encourage sport, recreation, physical health and the wellbeing of its **members** and **students** of the **Central Coast Campus**;
- (e) to encourage the co-operation of its **members** and **students** of the **Central Coast Campus** in furthering the **student** experience of the **Central Coast Campus**;
- (f) to operate a business or businesses, or conduct any other related activity; and
- (g) where ever possible, provide the premises, facilities and amenities, to support the **Object**.

6.2 The charitable purposes of the **company** must not include any **disqualifying purposes**.

7. Powers

7.1 Subject to clause 8, the **company** has the following powers, which may only be used to carry out its **Object**:

- (a) the powers of an individual; and
- (b) all the powers of a company limited by guarantee under the **Corporations Act**.

7.2 Without limiting the above, the powers of the **company** include:

- (a) to organise and direct such activities as may be deemed appropriate for giving expression to the interests of **members** and **students** of the

Central Coast Campus, or for carrying out any part of the **Object** of the **company**;

- (b) to acquire and dispose of property, to expend moneys and to invest moneys in banks, listed trusts and permanent building societies, to borrow on the assets and on the security of future revenue, to enter into contracts and generally to have the control of the affairs, concerns and property of the **company**;
- (c) to acquire, deal with, manage, lease, licence, hire and/or dispose of real and personal property and equipment for the benefit and advancement of and to, sport, recreation and welfare services for the **members** and **students** of the **Central Coast Campus**;
- (d) to appoint trustees of property of the **company** and to invest any property in such trustees or new trustees;
- (e) to affiliate with any society, association or organisation of the **Central Coast Campus**;
- (f) to enter into leases or agreements with the **University** or other bodies relating to any land or building(s) or part(s) of building(s) used by or under the management and control of the **company**; and
- (g) to promote any company or companies for the purpose of acquiring or taking over all or any of the property, rights and liabilities of the **company**, or for any other purpose which may seem directly or indirectly calculated to benefit the **company**, provided always that the constitution of such other company or companies prohibits the diversion of its property or income amongst its members and has for its objects and powers, the **Object** and powers of the **company** as set forth in the constitution.

8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its **members**, except as provided in clauses 8.2 and 72.
- 8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:
- (a) paying a **member** for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**; or
 - (b) making a payment to a **member** in carrying out the **company's** charitable purpose(s).
- 8.3 The income and capital of the **company** must only be used to pursue its **Object**.

9. Amending the constitution

- 9.1 Subject to clause 9.2, the **members** may amend the **constitution** by passing a **special resolution**.
- 9.2 The **members** must not pass a **special resolution** that amends the **constitution** if passing it causes the **company** to no longer be a **charity**.

Members

10. Membership and the register of members

- 10.1 The **members** of the **company** are:
- (a) **initial members**; and
 - (b) any other person that the **directors** allow to be a **member**, in accordance with the **constitution**.
- 10.2 The **company** must establish and maintain a **register of members**. The **register of members** must be kept by the **secretary** and must contain:
- (a) for each current **member**:
 - (i) the person's name;
 - (ii) the person's address;

- (iii) any alternative address nominated by the **member** for the service of notices;
 - (iv) category of membership; and
 - (v) date the **member** was entered on to the **register of members**.
- (b) for each person who stopped being a **member** in the last seven (7) years:
- (i) the person's name;
 - (ii) the person's address;
 - (iii) any alternative address nominated by the **member** for the service of notices; and
 - (iv) dates the membership started and ended.

10.3 The **company** must allow **members** to inspect the **register of members**.

10.4 Information that is accessed from the **register of members** must only be used in a manner consistent with the purpose for which it was collected and relevant to the interests or rights of **members**.

11. Who can be a member

11.1 A person who supports the purposes of the **company** and who satisfies the qualifications for at least one of the categories of membership set out in clause 11.4 is eligible to apply to be a **member** of the **company** under clause 12.

11.2 In this clause, 'person' means an individual.

11.3 The **directors** may determine how persons are admitted into categories of membership and the qualifications for membership, except as provided in the **constitution**.

11.4 **Members** are categorised as:

- (a) **Employee members**
- (b) **Honorary members**
- (c) **TAFE student members**

(d) **University student members**

(e) **Temporary members**

11.5 **TAFE student members** and **University student members** are **voting members**. All other **members** are **non-voting members**.

12. How to apply to become a member

12.1 A person may apply to become a **member** of the **company** by completing an application for membership in the form approved by the **directors** from time to time, stating that the person:

- (a) wants to become a **member**;
- (b) support the purpose(s) of the **company**; and
- (c) agree to comply with the **constitution**, including paying the **guarantee** and the **annual membership fee** as required:
 - (i) If an annual membership – in advance of the 1 July in each year;
or
 - (ii) If for a period not exceeding a three-year membership – in advance of the 1 July in the first year of each three-year period.

13. Directors decide whether to approve membership

13.1 The **directors** must consider an application for membership within a reasonable time after the **secretary** receives the application.

13.2 If the **directors** approve an application, the **secretary** must as soon as reasonably practicable:

- (a) enter the new **member** on the **register of members**; and
- (b) enter the date that their membership started (see clause 14).

13.3 If the **directors** reject an application, the **secretary** must write to the applicant as soon as reasonably practicable to tell them that their application has been rejected, but does not have to give reasons.

- 13.4 For the avoidance of doubt, the **directors** may approve an application even if the application does not state the matters listed in clause 12.1. In that case, by applying to be a **member**, the applicant agrees to those three matters.

14. When a person becomes a member

Other than **initial members**, an applicant will become a **member** when they are entered on the **register of members**.

15. When a person stops being a member

A person immediately stops being a **member** if the person:

- (a) Dies;
- (b) resigns, by writing to the **secretary**;
- (c) is expelled under clause 17;
- (d) allows the membership to lapse;
- (e) has not responded within ten (10) **business days** to a written request from the **secretary** that they confirm in writing that they want to remain a **member**; or
- (f) cease to have the required qualification for membership.

Dispute resolution and disciplining members

16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes under this **constitution** between a **member** or **director** and:

- (a) one or more **members**;
- (b) one or more **directors**; or
- (c) the **company**.

- 16.2 A **member** must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.

- 16.3 Those involved in the dispute must try to resolve it between themselves within ten (10) **business days** of knowing about it.
- 16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within ten (10) **business days** following clause 16.3:
- (a) tell the **directors** about the dispute in writing;
 - (b) agree or request that a mediator be appointed; and
 - (c) attempt in good faith to settle the dispute by mediation.
- 16.5 The mediator must:
- (a) be chosen by agreement of those involved; or
 - (b) where those involved do not agree:
 - (i) for disputes between **members**, a person chosen by the **directors**;
or
 - (ii) for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the **company** has its registered office.
- 16.6 A mediator chosen by the **directors** under clause 16.5(b)(i):
- (a) may be a **member** or former **member** of the **company**;
 - (b) must not have a personal interest in the dispute; and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 16.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard;
 - (b) allow those involved a reasonable chance to review any written statements; and
 - (c) not make a decision on the dispute.

17. Disciplining members

- 17.1 The **directors** may resolve to warn, suspend or expel a **member** from the **company** if the **directors** consider that:
- (a) the **member** has breached the **constitution**; or
 - (b) the **member's** behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 17.2 At least ten (10) **business days** before the **directors'** meeting at which a resolution under clause 17.1 will be considered, the **secretary** must notify the **member** in writing:
- (a) that the **directors** are considering a resolution to warn, suspend or expel the **member**;
 - (b) that this resolution will be considered at a **directors'** meeting and the date of that meeting;
 - (c) what the **member** is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and
 - (e) that the **member** may provide an explanation to the **directors**, and details of how to do so.
- 17.3 Before the **directors** pass any resolution under clause 17.1, the **member** must be given a chance to explain or defend themselves by:
- (a) sending the **directors** a written explanation before that **directors'** meeting; and/or
 - (b) speaking at the meeting.
- 17.4 After considering any explanation under clause 17.3, the **directors** may:
- (a) take no further action;
 - (b) warn the **member**;

- (c) suspend the **member's** rights as a **member** for a period of no more than twelve (12) months;
 - (d) expel the **member**;
 - (e) refer the decision to an unbiased, independent person on conditions that the **directors** consider appropriate (however, the person can only make a decision that the **directors** could have made under this clause);
or
 - (f) require the matter to be determined at a **general meeting**.
- 17.5 The **directors** cannot fine a **member**.
- 17.6 The **secretary** must give written notice to the **member** of the decision under clause 17.4 as soon as reasonably practical.
- 17.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 17.8 There will be no liability for any loss or injury suffered by the **director** as a result of any decision made in good faith under this clause.

General meetings of voting members

18. General meetings called by directors

- 18.1 The **directors** may call a **general meeting**.
- 18.2 The **directors** must call and arrange to hold a **general meeting** on the request of **voting members** with at least 5% of the votes that may be cast at a **general meeting**.
- 18.3 Other than for an emergency meeting, a **general meeting** must be called and held on an **Academic Day**.
- 18.4 The **voting members** who make the request for a **general meeting** under clause 18.2 must:
- (a) state in the request any resolution to be proposed at the meeting;
 - (b) sign the request; and
 - (c) give the request to the **secretary** of the **company**.

- 18.5 Separate copies of a document setting out the request may be signed by **voting members** if the wording of the request is the same in each copy.
- 18.6 The percentage of votes that **voting members** have (in clause 18.2) is to be worked out as at midnight before the **voting members** request the meeting.
- 18.7 The **directors** must call the **general meeting** within fifteen (15) **business days** after the request is given to the **company**. The **general meeting** is to be held not later than forty (40) business days after the request is given to the **secretary** of the **company**, unless it is in contravention of clause 18.3 in which case, it will be held as soon as practicable after forty (40) **business days**.

19. General meeting called by voting members

- 19.1 If the **directors** do not call the **general meeting** within fifteen (15) **business days** of being requested under clause 18.2, then 50% of the **voting members** who made the request may call and arrange to hold a **general meeting**.
- 19.2 To call and hold a meeting under clause 19.1 the **voting members** must:
- (a) as far as possible, follow the procedures for **general meetings** set out in the **constitution**;
 - (b) call the **general meeting** using the list of **members** on the **company's register of members**, which the **company** must provide to the **members** making the request at no cost; and
 - (c) hold the **general meeting** within sixty (60) **business days** after the request was given to the **company**, unless it is in contravention of clause 18.3 in which case it will be held as soon as practicable after sixty (60) **business days**, which must be an **Academic Day**.
- 19.3 The **company** must pay the **voting members** who request the **general meeting** any reasonable expenses they incur because the **directors** did not call and hold the **general meeting**.

20. Annual general meeting

- 20.1 A **general meeting**, called the **annual general meeting**, must be held:
- (a) at least once in every calendar year;
 - (b) within 5 months of the end of the **company's** financial year; and
 - (c) on an **Academic Day**.
- 20.2 Even if these items are not set out in the notice of meeting, the business of an **annual general meeting** may include:
- (a) a review of the **company's** activities;
 - (b) a review of the **company's** finances;
 - (c) any **auditor's** report; and
 - (d) the appointment of **auditors**.
- 20.3 Before or at the **annual general meeting**, the **directors** must give information to the **members** on the **company's** activities and finances during the period since the last **annual general meeting**.
- 20.4 The chairperson of the **annual general meeting** must give **members** as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

21. Notice of general meetings

- 21.1 Notice of a **general meeting** must be given to:
- (a) each **voting member**;
 - (b) each **director**; and
 - (c) the **auditor**.
- 21.2 Notice of a **general meeting** must be provided in writing at least fifteen (15) **business days** before the meeting.
- 21.3 Subject to clause 21.4, notice of a **general meeting** may be provided less than fifteen (15) **business days** before the meeting if:
- (a) for an **annual general meeting**, all the **voting members** agree beforehand; or

- (b) for any other **general meeting**, 95% of the **voting members** agree beforehand.

21.4 Notice of a **general meeting** cannot be provided less than fifteen (15) **business days** before the **general meeting** if a resolution will be moved to:

- (a) remove a **director**;
- (b) appoint a **director** in order to replace a **director** who was removed; or
- (c) remove an **auditor**.

21.5 Notice of a **general meeting** must include:

- (a) the place, date and time for the **general meeting** (and if the **general meeting** is to be held in two or more places, the technology that will be used to facilitate this);
- (b) the general nature of the business of the **general meeting**;
- (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed **special resolution**;
- (d) a statement that **voting members** have the right to appoint proxies and that, if a **voting member** appoints a **proxy**:
 - (i) the **proxy** does not need to be a **member** of the **company**;
 - (ii) the **proxy form** must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the **general meeting**; and
 - (iii) the **proxy form** must be delivered to the **company** at least 48 hours before the **general meeting**.

21.6 If a **general meeting** is adjourned (put off) for 20 **business days** or more, the **voting members** must be given new notice of the resumed **general meeting**.

22. Quorum at general meetings

22.1 A **quorum** for a **general meeting** to be held, is at least twelve (12) **voting members**. A **quorum** must be present (in person, or by **proxy**) for the whole meeting. When determining whether a **quorum** is present, a person may

only be counted once (even if that person is a **proxy** of more than one **member**).

- 22.2 No business may be conducted at a **general meeting** if a **quorum** is not present, except to take the steps in clause 22.3.
- 22.3 If there is no **quorum** present within fifteen (15) minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the **chairperson for general meetings** specifies. If the **chairperson for general meetings** does not specify one or more of those things, the **general meeting** is adjourned to:
- (a) if the date is not specified – the same day in the next week, provided it is an **Academic Day**;
 - (b) if the time is not specified – the same time; and
 - (c) if the place is not specified – the same place.
- 22.4 If a **quorum** is not present within fifteen (15) minutes after the time appointed for an adjourned meeting of **voting members**, then the **voting members** present will constitute a **quorum**.

23. Auditor's right to attend meetings

- 23.1 The **auditor** is entitled to attend any **general meeting** and to be heard by the **voting members** on any part of the business of the **general meeting** that concerns the **auditor** in the capacity of **auditor**.
- 23.2 The **company** must give the **auditor** any communications relating to the **general meeting** that a **voting member** of the **company** is entitled to receive.

24. Using technology to hold meetings

- 24.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the **voting members** as a whole a reasonable opportunity to participate, including to hear and be heard.
- 24.2 Anyone using this technology is taken to be present in person at the **general meeting**.

25. Chairperson for general meetings

- 25.1 The **elected chairperson, the President**, or in their absence, the **Vice-President**, is entitled to be the **chairperson of general meetings**, including the **annual general meeting**.
- 25.2 The **voting members** present at a **general meeting** may choose a **director or voting member** to be the **chairperson for the general meeting** if:
- (a) the **elected chairperson for the general meeting** is not present within fifteen (15) minutes after the starting time set for the **general meeting**;
or
 - (b) the **elected chairperson for the general meeting** is present but says they do not wish to act as **chairperson for the general meeting**.

26. Role of the chairperson

- 26.1 The **chairperson for the general meeting** is responsible for the conduct of the **general meeting**, and for this purpose must give **voting members** a reasonable opportunity to make comments and ask questions (including to the **auditor**).
- 26.2 The **chairperson for the general meeting** does not have a casting vote.

27. Adjournment of general meetings

- 27.1 If a **quorum** is present, a **general meeting** must be adjourned if a majority of **voting members** present pass a resolution directing the **chairperson for the general meeting** to adjourn it.
- 27.2 Only unfinished business may be dealt with at a **general meeting** resumed after an adjournment.

Voting members' resolutions and statements

28. Voting members' resolutions and statements

- 28.1 **Voting members** with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice to the **company** of a resolution they propose to move at a **general meeting (voting members' resolution)**; and/or
 - (b) a written request to the **company** that the **company** give all of its **voting members** a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting (voting members' statement)**.
- 28.2 A notice of a **voting members' resolution** must set out the wording of the proposed resolution and be signed by the **voting members** proposing the resolution.
- 28.3 A request to distribute a **voting members' statement** must set out the statement to be distributed and be signed by the **voting members** making the request.
- 28.4 Separate copies of a document setting out the notice or request may be signed by **voting members** if the wording is the same in each copy.
- 28.5 The percentage of votes that **voting members** have (as described in clause 28.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 28.6 If the **company** has been given notice of a **voting members' resolution** under clause 28.1(a), the resolution must be considered at the next **general meeting** held more than forty (40) **business days** after the notice is given unless it is in contravention of clause 18.3 in which case, it will be held as soon as practicable after forty (40) **business days** provided that it is held on an **Academic Day**.
- 28.7 This clause does not limit any other right that a **voting member** has to propose a resolution at a **general meeting**.

29. Company must give notice of proposed resolution or distribute statement

- 29.1 If the **company** has been given a notice or request under clause 28:
- (a) in time to send the notice of proposed **voting members' resolution** or a copy of the **voting members' statement** to **voting members** with a notice of meeting, it must do so at the **company's** cost; or

- (b) too late to send the notice of proposed **voting members' resolution** or a copy of the **voting members' statement** to **voting members** with a notice of meeting, then the **voting members** who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving **voting members** notice of the proposed **voting members' resolution** or a copy of the **voting members' statement**. However, at a **general meeting**, the **voting members** may pass a resolution that the **company** will reimburse these expenses.

29.2 The **company** does not need to send the notice of proposed **voting members' resolution** or a copy of the **voting members' statement** to **voting members** if:

- (a) it is more than 1000 words long;
- (b) the **directors** consider it may be defamatory, offensive or discriminatory;
- (c) clause 29.1(b) applies, and the **voting members** who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed **voting members' resolution** or a copy of the **voting members' statement** to **voting members**; or
- (d) in the case of a proposed **voting members' resolution**, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the **voting members**.

Voting at general meetings

30. How many votes a voting member has

Each **voting member** has one vote.

31. Challenge to voting member's right to vote

- 31.1 A **voting member** or the **chairperson for general meetings** may only challenge a person's right to vote at that **general meeting**.
- 31.2 If a challenge is made under clause 31.1, the **chairperson for general meetings** must decide whether or not the person may vote. The **chairperson for general meetings'** decision is final.

32. How voting is carried out

- 32.1 Voting must be conducted and decided by:
- (a) a show of hands;
 - (b) a vote in writing; or
 - (c) another method chosen by the **chairperson for general meetings** that is fair and reasonable in the circumstances.
- 32.2 Before a vote is taken, the **chairperson for general meetings** must state whether any **proxy** votes have been received and, if so, how the **proxy** votes will be cast.
- 32.3 On a show of hands, the **chairperson for general meetings'** decision is conclusive evidence of the result of the vote.
- 32.4 The **chairperson for general meetings** 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.

33. When and how a vote in writing must be held

- 33.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five **voting members present**;
 - (b) **voting members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
 - (c) the **chairperson for general meetings**.

- 33.2 A vote in writing must be taken when and how the **chairperson for general meetings** directs, unless clause 33.3 applies.
- 33.3 A vote in writing must be held immediately if it is demanded under clause 33.1:
- (a) for the election of a **chairperson for general meetings** under clause 25.2; or
 - (b) to decide whether to adjourn the meeting.
- 33.4 A demand for a vote in writing may be withdrawn.

34. Appointment of proxy

- 34.1 A **voting member** may appoint a **proxy** to attend and vote at a **general meeting** on the **voting member's** behalf.
- 34.2 A **proxy** must be a **voting member**.
- 34.3 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 in a vote in writing (but only to the extent allowed by the appointment); and
 - (c) join in to demand a vote in writing under clause 33.1.
- 34.4 An appointment of **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 **company's** name;
 - (c) the **proxy's** name; and
 - (d) the meeting(s) at which the appointment may be used.
- 34.5 **Proxy forms** must be received by the **company** at the address stated in the notice under clause 21.5(d) or at the **company's** registered address at least 48 hours before a meeting.
- 34.6 A **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.

34.7 Unless the **company** receives written notice 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; or
- (c) revokes the **proxy's** appointment.
- (d) revokes the authority of a representative or agent who appointed the **proxy**.

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

35. Voting by proxy

35.1 A **proxy** is not entitled to vote on a show of hands (but this does not prevent a **voting member** appointed as a **proxy** from voting as a **voting member** on a show of hands).

35.2 When a vote in writing is held, a **proxy**:

- (a) does not need to vote, unless the **proxy** appointment specifies the way they must vote;
- (b) if the way they must vote is specified on the **proxy form**, must vote that way; and
- (c) if the **proxy** is also a **voting member** or holds more than one **proxy**, may cast the votes held in different ways.

Directors

36. Number of directors

36.1 The **company** will have a maximum of nine **directors**, comprised of:

- (a) five (5) **University student elected directors** (elected by **University student members**);
- (b) one (1) **TAFE student elected director** (elected by **TAFE student members**);

- (c) the **University Dean, Central Coast**, or a person appointed by the **University Dean, Central Coast**; and
- (d) two (2) **independent directors** appointed by the **directors** of the **company** under clause 39.2.

36.2 If the number of **directors** is below the number specified in clause 36.1 but not less than three, the **directors** may continue to act.

37. Elected directors

37.1 An **annual election** (or by-election as the case may be) must be held no later than 30 June each year for those positions among the **elected directors** which have become vacant.

37.2 The **Chief Executive Officer** is the **Returning Officer** for the election of **elected directors**. The **Chief Executive Officer** may at their discretion assign such others as considered necessary to assist in these duties.

37.3 A person is eligible for election as a **director** of the **company** if the person:

- (a) is the type of **voting member** of the **company** relevant for the position sought;
- (b) are nominated by two **voting members** entitled to vote in that membership category;
- (c) gives the person's written consent to act as a **director** to the **secretary**; and
- (d) is eligible to be a **director** under the **Corporations Act** or the **ACNC Act**.

37.4 In the event of a vacancy occurring amongst the **elected directors**, the **directors** may fill such vacancy by a by-election if it is more than 60 **business days** from the end of the **director's** term. If it is less than 60 **business days** from the end of the **director's** term, then no by-election is required.

38. The University Dean, Central Coast appointed director

- 38.1 The **University Dean, Central Coast appointed director** will be a **director**, by reason of their office. Or if the **University Dean, Central Coast**, is unwilling to act as a **director**, then the **University Dean, Central Coast** may appoint a person to be the **University Dean, Central Coast appointed director**. Any appointee shall only hold office for three (3) years.
- 38.2 The **University Dean, Central Coast appointed director** must in the reasonable opinion of the **University Dean, Central Coast** have an appropriate set of skills, knowledge and experience that align with the **Object** of the **company**.
- 38.3 In the event of a vacancy for the **University Dean, Central Coast appointed director**:
- (a) the **University Dean, Central Coast** can appoint another person to hold office for the unexpired portion of the predecessor's term of office.
- 38.4 A person appointed by the **University Dean, Central Coast**, must first consent in writing to the **secretary** of the **company** to become a **director**.
- 38.5 If, for the purposes of the **constitution**, there is any vacancy in the position of the **University Dean, Central Coast**, then the powers of this person may be exercised by the **Vice-Chancellor**.
- 38.6 If a person ceases to be the **University Dean, Central Coast**, then any appointment made of the **University Dean, Central Coast appointed director**, also comes to an end.

39. Independent directors

- 39.1 The **independent directors** must:
- (a) be members of the community who are not students or employees of either the **University** or **TAFE NSW**, and who are not employees of the **company**; and

- (b) in the reasonable opinion of the **directors** making the appointment, have an appropriate set of skills, knowledge and experience that align with the **Object** of the **company**.
- 39.2
- (a) The **directors** at the first **directors'** meeting after 1 July which follows the election of **elected directors**, will consider suitable candidates to become the **independent directors**;
 - (b) The **directors** may make **rules** concerning the procedures to be followed for the appointment of **independent directors**. In the absence of any **rules**, the appointment of **independent directors** shall be as the **directors** agree;
 - (c) A person can be appointed as an **independent director**, for a period up to three (3) years, as the **directors** decide, for that person;
 - (d) No person can become an **independent director**, until the person has given the **secretary** a written consent to become an **independent director**.
- 39.3 In the event of a vacancy for an **independent director**:
- (a) the **directors** can appoint another person to hold office for the unexpired portion of the predecessor's term of office, if it is greater than 60 **business days**; or
 - (b) if the vacancy is less than 60 **business days**, then the **directors** of the **company** may lapse the appointment until the end of the term of office.

40. Election of executive and the elected chairperson

- 40.1 The **directors** at the first **directors'** meeting after 1 July which follows the election of **elected directors**, must elect the **Executive**, comprising a **President, Vice-President and Treasurer** from among the **University student elected directors**. If there are insufficient **University student elected directors** to stand for election to any of these positions, then the required

positions(s) will be filled by **TAFE student elected director**. The **President**, **Vice-President** and **Treasurer** must be elected annually.

40.2 The **President** shall be the **elected chairperson**.

41. Term of office

41.1 A **director** holds office as follows:

- (a) in the case of a **University student elected director**, for a two (2) year rotating period commencing 1 July following the election of the **elected directors**;
- (b) in the case of an elected **TAFE student elected director**, for a one (1) year period commencing 1 July following the election of **elected directors**;
- (c) in the case of the **University Dean, Central Coast**, by reason of their office;
- (d) in the case of the **University Dean, Central Coast appointed director**, for three (3) years; and
- (e) in the case of an **independent director**, for such term (not exceeding three (3) years) as may be decided by the **directors**.

41.2 In order to first establish or re-establish, which **University student elected directors** hold office for one (1) or two (2) years, the **secretary** shall conduct a lottery. Two (2) of the **University student elected directors** shall only hold office for one (1) year. If the lottery determines that a **University student elected director's** term is only for one (1) year, then that person's office shall be taken to be vacated at the end of that year.

41.3 Subject to clause 41.2, a **director** may nominate for re-election or re-appointment.

- 41.4 An **elected director** who has held office for a continuous period of nine (9) years or more may only be re-elected by a **special resolution** passed by the category of **voting members** entitled to vote for the type of **elected director**.

42. When a director stops being a director

A **director** stops being a **director** if the person:

- (a) Gives the **secretary** written notice of resignation as a **director** to the **company**;
- (b) Dies;
- (c) in the case of an **elected director**, is removed as an **elected director**, pursuant to clause 43.6;
- (d) also in the case of an **elected director**, the person stops being a **voting member**;
- (e) in the case of the **University Dean, Central Coast appointed director**, the appointment is terminated by the **University Dean, Central Coast** by providing a written notice to the **secretary**;
- (f) In the case of the **University Dean, Central Coast**, the person ceases to hold this office;
- (g) in the case of an **independent director**, by a resolution passed by at least a two-thirds majority of the other **directors** to terminate their appointment;
- (h) are removed from office in accordance to clause 43.6;
 - (i) are absent for three consecutive **directors'** meetings without an approved **leave of absence** from the **directors**;
 - (j) reach the end of their **director's** term of appointment; or
 - (k) become ineligible to be a **director** of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

43. Powers of directors

43.1 The **directors** are responsible for managing and directing the activities of the **company** to achieve the **Object** set out in clause 6.

43.2 The **directors** may use all the powers of the **company** except for powers that, under the **Corporations Act** or the **constitution**, may only be used by **members**.

43.3 The **directors** must decide on the responsible financial management of the **company** including:

- (a) any suitable written delegations of authority under clause 44; and
- (b) how money will be managed, such as how electronic transfers; negotiable instruments or cheques must be authorised and signed or otherwise approved; and
- (c) determining an **annual membership fee**, including no membership fee for some or all classes of members.

43.4 Apart from the initial **directors**, no person shall take office as a **director** unless that person has completed a **Director's Induction Course**. For the purposes of this clause the initial **directors** are those **directors** who hold office on incorporation of the **company**.

43.5 The **directors** cannot remove an **auditor**. **Auditors** may only be removed by a members' resolution at a **general meeting**.

43.6 Removal by voting members

- (a) Resolution for removal of a **director**:

The **voting members** may by resolution remove a **director** from office despite anything in:

- (i) the **constitution**; or
- (ii) an agreement between the **company** and the **director**; or

- (iii) an agreement between any or all **voting members** of the **company** and the **director**.
- (b) If the **director** was appointed to represent the interests of a particular type of **member** (such as **University student members** or **TAFE student members**), the resolution to remove the **director** does not take effect until a replacement to represent the interests of the particular type of **member** has been elected.
- (c) A notice of intention to move the resolution must be given to the **company** at least 40 **business days** before the **general meeting** is to be held. However, if the **company** calls a **general meeting** after the notice of intention is given under this clause, the **general meeting** may pass the resolution even though the **general meeting** is held less than 40 **business days** after the notice of intention is given.
- (d) The **secretary** must give the **director** concerned, a copy of the notice, as soon as practicable after it is received.
- (e) The **director** concerned is entitled to put their case to **voting members** by:
 - (i) giving the **company** a written statement for circulation to **voting members**; and
 - (ii) speaking to the motion at the **general meeting** (whether or not the **director** is a **voting member**).
- (f) The **director's** written statement is to be circulated by the **company** to **voting members** by:
 - (i) sending a copy to every **voting member** to whom notice of the **general meeting** is sent if there is time to do so; or
 - (ii) if there is not time to comply with sub-paragraph (i) by having the statement distributed to **voting members** attending the **general**

meeting and read out at the **general meeting** before the resolution is voted on.

(g) The **director's** statement does not have to be circulated to **voting members** if it is more than one thousand (1,000) words long or defamatory.

(h) If a person is appointed to replace a **director** removed under clause 44.6, the time at which:

(i) the replacement **director**; or

(ii) any other **director**

is to retire is to be worked out as if the replacement **director** has become a **director** on the day on which the replacement **director** was last appointed a **director**.

44. Delegation of directors' powers

44.1 The **directors** may delegate any of their powers and functions to a committee, a **director**, an employee of the **company** (such as a **Chief Executive Officer**) or any other person, as they consider appropriate.

44.2 The delegation must be recorded in the **company's** minute book.

45. Payments to directors

45.1 The **company** must not pay fees to a **director** for acting as a **director**.

45.2 The **company** may:

(a) pay a **director** for work they do for the **company**, other than as a **director**, if the amount is no more than a reasonable fee for the work done; or

(b) reimburse a **director** for expenses properly incurred by the **director** in connection with the affairs of the **company**.

45.3 Any payment made under clause 45.2 must first be approved by the **directors**.

- 45.4 The **company** may pay premiums for insurance indemnifying **directors**, as allowed for by law (including the **Corporations Act**) and the **constitution**.

46. Execution of documents

The **company** may execute a document without using a common seal if the **directors** resolve that the document be so executed and document is signed by:

- (a) two **directors** of the **company**, or
- (b) a **director** and one (1) of the **secretaries**.

Duties of directors

47. Duties of directors

- 47.1 The **directors** must comply with their duties as **directors** under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a **director** of the **company**;
 - (b) to act in good faith in the best interests of the **company** and to further the charitable **Object** of the **company** set out in clause 6;
 - (c) not to misuse their position as a **director**;
 - (d) not to misuse information they gain in their role as a **director**;
 - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 48;
 - (f) to ensure that the financial affairs of the **company** are managed responsibly, and
 - (g) not to allow the **company** to operate while it is insolvent.

48. Conflicts of interest

- 48.1 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 meeting of **directors** (or that is proposed in a circular resolution):
- (a) to the other **directors**; or
 - (b) if all of the **directors** have the same conflict of interest, to the **voting members** at the next **general meeting**, or at an earlier time if reasonable to do so.
- 48.2 The disclosure of a conflict of interest by a **director** must be recorded in the minutes of the meeting.
- 48.3 Each **director** who has a material personal interest in a matter that is being considered at a meeting of **directors** (or that is proposed in a circular resolution) must not, except as provided under clauses 48.4:
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 48.4 A **director** may still be present and vote if:
- (a) their interest arises because they are a **member** of the **company**, 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 **company** (see clause 68);
 - (c) their interest relates to a payment by the **company** under clause 68 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations 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 **company**; and
- (ii) says that those **directors** are satisfied that the interest should not stop the **director** from voting or being present.

Directors' meetings

49. When the directors meet

49.1 The **directors** may decide how often, where and when they meet, subject to clause 49.2.

49.2 The **directors** must meet at least three (3) times each **semester**, commencing from 1 July in each year, following the holding of the **annual election** for **elected directors**.

50. Calling directors' meetings

50.1 A **director** may call a **directors'** meeting by giving at least 5 **business days'** notice to all of the other **directors**. A **director** can call a **director's** meeting on shorter notice, if all of the **directors** subsequently agree.

50.2 A **director** may give notice in writing or by any other means of communication that has previously been agreed to by all of the **directors**.

51. Chairperson for directors' meetings

51.1 The **President**, or if the **President** is absent the **Vice-President**, as the **elected chairperson**, is to chair **directors'** meetings.

51.2 The **directors** at a **directors'** meeting may choose a **director** from amongst the **elected directors** to be the chairperson for that meeting if the **elected chairperson** (including the **Vice-President**) is:

- (a) not present within fifteen (15) minutes after the starting time set for the meeting; or
- (b) present but does not want to act as **elected chairperson** of the meeting.

52. Quorum at directors' meetings

- 52.1 Unless the **directors** determine otherwise, the **quorum** for a **directors'** meeting is a majority (more than 50%) of **directors**, and
- 52.2 At least one of the **Executive** must be present at the meeting.
- 52.3 A **quorum** must be present for the entire duration of the **directors'** meeting.

53. Using technology to hold directors' meetings

- 53.1 The **directors** may hold meetings by using any technology (such as video or teleconferencing) that is agreed to by a majority of the **directors**.
- 53.2 The **directors'** agreement may be a standing one.
- 53.3 A **director** may only withdraw their consent within a reasonable period before the meeting.

54. Passing directors' resolutions

- 54.1 A **directors'** resolution must be passed by a majority of the votes cast by **directors** present and entitled to vote on the resolution.
- 54.2 In the case of an equality of votes on a resolution, the **elected chairperson** has a casting vote on the resolution in addition to any vote the **elected chairperson** has as a **director**.

55. Circular resolutions of directors

- 55.1 The **directors** may pass a circular resolution without a **directors'** meeting being held.
- 55.2 A circular resolution is passed if a majority of all the **directors** entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 55.3 or clause 55.4.
- 55.3 Each **director** may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or

- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 55.4 The **company** may send a circular resolution by email to the **directors** and the majority of **directors** may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 55.5 A circular resolution is passed when the last **director** signs or otherwise agrees to the resolution in the manner set out in clause 55.3 or clause 55.4.

Committees

56. Executive Finance Committee

- 56.1 The **directors** will establish an **Executive Finance Committee** comprised of the **Executive, Chief Executive Officer** and two (2) other **directors**.
- 56.2 The **Executive Finance Committee** has the delegated authority for the day to day operational control of the financial affairs of the **company**, and is subject to the direction and control of the **directors**.
- 56.3 The **Treasurer** is the chairperson for the **Executive Finance Committee**.
- 56.4 The **directors** present at the **Executive Finance Committee** meeting may choose a **director** from amongst the **elected directors** to be the chairperson for that meeting if the **Treasurer** is:
 - (a) not present within fifteen (15) minutes after the starting time set for the meeting; or
 - (b) present but does not want to act as chairperson of the meeting.
- 56.5 Unless the **directors** determine otherwise, the **quorum** for the **Executive Finance Committee** is three **Executive Finance Committee** members, at least one of whom is from the **Executive** and **Chief Executive Officer**.

57. Student Representative Committee (SRC)

- 57.1 The **directors** will establish a **SRC**, comprised of:
 - (a) **elected directors**; and

- (b) the **Chief Executive Officer**.
- 57.2 Subject to the direction and control of the **directors**, the **SRC** has the responsibility to review and make recommendations to the **directors** on the programs and initiatives that would enhance the student experience.
- 57.3 The **directors** may approve a financial delegation or annual budget to the **SRC** in order to fund programs and initiatives for implementation by the **company** that enhances the student experience.
- 57.4 The **President** is the chairperson of the **SRC**.
- 57.5 The **directors** present at a **SRC** meeting may choose a **director** from amongst the **elected directors** to be the chairperson for that meeting if the **elected chairperson** is:
- (a) not present within fifteen (15) minutes after the starting time set for the meeting; or
 - (b) present but does not want to act as chairperson of the meeting.
- 57.6 Unless the **directors** determine otherwise, the **quorum** for a **SRC** meeting is three **SRC** members, at least one of whom is from the **Executive** and **Chief Executive Officer**.

Chief Executive Officer

58. Appointment and role of Chief Executive Officer

- 58.1 The **directors** will appoint a person to be **Chief Executive Officer** of the **company**.
- 58.2 Subject to law, the **Chief Executive Officer** holds office for such period, and on such terms and conditions, as the **directors** determine.
- 58.3 The **directors** may delegate any of their powers and functions to the **Chief Executive Officer** as they consider appropriate.

Secretary

59. Appointment and role of secretary

- 59.1 The **company** must have at least one (1) **secretary**. The **secretary** shall be the **Chief Executive Officer**, unless that person is unwilling to act in that capacity.
- 59.2 If the **Chief Executive Officer** is unwilling to act in that capacity, then another **secretary** must be appointed by the **directors** (after giving the **company** their signed consent to act as **secretary**).
- 59.3 Subject to law, the **secretary**, or if more than one (1) then the **secretaries** hold office for such period, and on such terms and conditions, as the **directors** determine, including any remuneration.
- 59.4 The role of the **secretary** includes:
- (a) maintaining a **register of members**; and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), **directors'** meetings and circular resolutions.

Minutes and records

60. Minutes and records

- 60.1 The **company** must make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**;
 - (b) minutes of circular resolutions of **voting members**;
 - (c) a copy of a notice of each **general meeting**; and
 - (d) a copy of a **voting members'** statement distributed to **voting members** under clause 29.
- 60.2 The **company** must make and keep the following records:
- (a) minutes of proceedings and resolutions of **directors'** meetings (including meetings of any committees); and
 - (b) minutes of circular resolutions of **directors**.

- 60.3 To allow **members** to inspect the **company's** records:
- (a) the **company** must give a **member** access to the records set out in clause 61.1; and
 - (b) the **directors** may authorise a **member** to inspect other records of the **company**, including records referred to in clause 60.1 and clause 61.1.
- 60.4 The **directors** must ensure that minutes of a **general meeting** or a **directors' meeting** are signed within a reasonable time after the meeting by:
- (a) the **elected chairperson** of the meeting; or
 - (b) the **elected chairperson** of the next meeting.
- 60.5 The **directors** must ensure that minutes of the passing of a circular resolution (of **directors**) are signed by a **director** within a reasonable time after the resolution is passed.

61. Financial and related records and auditors

- 61.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 61.2 The **company** must also keep written records that correctly record its operations.
- 61.3 The **company** must retain its records for at least 7 years.
- 61.4 The **directors** must take reasonable steps to ensure that the **company's** records are kept safe.
- 61.5 The **directors** must appoint an **auditor** of the **company** within 30 **business days** after the day on which the **company** is registered, as a company, unless the **voting members** at a **general meeting** have already appointed an **auditor**.
- 61.6 The **voting members** at each **annual general meeting** must appoint or reappoint, an **auditor** of the **company**.

- 61.7 If under the **Corporations Act**, the **company** in any financial year is a **small company limited by guarantee**, then there is no need for the **company** to have an **auditor**.

Rules and regulations

62. Rules and regulations

- 62.1 The **directors** may pass a resolution to make **rules and regulations**, including **standing orders** and election procedures, to give effect to the **constitution**. If there is any inconsistency between the **rules and regulations** and the **constitution**, then the **constitution** shall prevail.
- 62.2 **Members** and **directors** must comply with **rules and regulations**.

Notice

63. What is notice

- 63.1 Anything written to or from the **company** under any clause in the **constitution** is written notice and is subject to clauses 64 to 66, unless specified otherwise.
- 63.2 Clauses 64 to 66 do not apply to a notice of **proxy** under clause 34.6.

64. Notice to the company

- 64.1 Written notice or any communication under the **constitution** may be given to the **company**, the **directors** or the **secretary** by:
- (a) delivering it to the **company's** registered office;
 - (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided;
 - (c) sending it to an email address or other electronic address notified by the **company** to the **members** as the **company's** email address or other electronic address; or
 - (d) sending it to the fax number notified by the **company** to the **members** as the **company's** fax number.

65. Notice to members

65.1 Written notice or any communication under the constitution may be given to a **member**:

- (a) in person;
- (b) by posting it to, or leaving it at the address of the **member** in the **register of members** or an alternative address (if any) nominated by the **member** for service of notices;
- (c) sending it to the email or other electronic address nominated by the **member** as an alternative address for service of notices (if any);
- (d) sending it to the fax number nominated by the **member** as an alternative address for service of notices (if any); or
- (e) if agreed to by the **member**, by notifying the **member** at an email or other electronic address nominated by the **member**, that the notice is available at a specified place or address (including an electronic address).

65.2 If the **company** does not have an address for the **member**, the **company** is not required to give notice in person.

66. When notice is taken to be given

66.1 A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
- (d) given under clause 65.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

67. Company's financial year

The **company's** financial year is from 1 January to 31 December, unless the **directors** pass a resolution to change the financial year.

Indemnity, insurance and access

68. Indemnity

68.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.

68.2 In this clause and clause 69, 'officer' means a **director**, the **Chief Executive Officer** or **secretary** and includes a **director**, **Chief Executive Officer** or **secretary** after they have ceased to hold that office.

68.3 In this clause, 'to the relevant extent' means:

- (a) to the extent that the **company** is not precluded by law (including the **Corporations 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).

68.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

69. Insurance

69.1 To the extent permitted by law (including the **Corporations Act**), and if the **directors** consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

69.2 To the extent permitted by law and the terms of the insurance policy, the **company** may make payment (advanced, loan or otherwise), to an officer of the **company** in respect to the reasonable legal costs of that person.

70. Directors' access to documents

70.1 A **director** has a right of access to the financial records of the **company** at all reasonable times.

70.2 If the **directors** agree, the **company** must give a **director** or former **director** access to:

- (a) certain documents, including documents provided for or available to the **directors**, and
- (b) any other documents referred to in those documents.

Winding up

71. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a **member** or a former **member** of the **company**, unless that **member** or former **member** is a charity described in clause 72.1.

72. Distribution of surplus assets

72.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:

- (a) with the **Object** similar to, or inclusive of, the **Object** in clause 6; and
- (b) which also prohibit the distribution of any **surplus assets** to its **members** to at least the same extent as the **company**.

72.2 The decision as to the **charity** or charities to be given the **surplus assets** must be made by a **special resolution** of **members** at or before the time of winding up. If the **members** do not make this decision, the **company** may apply to the Supreme Court to make this decision.

73. Transitional clause

- 73.1 The purpose of this transitional clause is to preserve and give effect to, things done before the (new) **constitution** was formally adopted by the **voting members** and approved by the **University**.
- 73.2 Anything lawfully done in accordance with the **former constitution**, before the (new) **constitution** was adopted and approved, shall continue to have force and effect despite anything to the contrary in the (new) **constitution**.
- 73.3 Any appointment made or term of office held under the **former constitution**, shall end as provided by the (new) **constitution**.
- 73.4 For the purposes of counting time, the period of any appointment made or term of office held under the **former constitution**, shall be calculated from the time the actual appointment or election to office, as the case may be.
- 73.5 Where possible, anything done under the **former constitution** shall be taken to have been done under the (new) **constitution**.

Definitions and interpretation

74. Definitions

In the **constitution**:

Academic Day means a day during the week, Monday to Friday, that is not within a **University student members** and **TAFE student members** examination period, **University student members** and **TAFE student members** recess period or **University student members** and **TAFE student members** vacation period.

ACNC Act means the Australian Charities and Not-for-profits Commission Act 2012 (Cth), as amended, including any guidelines issued under that Act.

annual election means the annual election of the **elected directors** held in accordance with the **election regulations**.

annual general meeting means the annual general meeting of the **company**.

annual membership fee has the meaning given in clause 44.3

appointed directors means the two (2) **independent directors** and the **University Dean, Central Coast appointed director**.

auditor means the person or firm appointed under the **Corporations Act**, if required under the **ACNC Act**.

business day means a day except a Saturday, Sunday or public holiday in NSW.

Central Coast Campus means the **University of Newcastle (Central Coast Campus)** and **TAFE NSW (Ourimbah Campus)**.

chairperson for general meetings has the meaning given in clause 25.

charity has the meaning given in the **Charities Act**.

Charities Act means the Charities Act 2013 (Cth), as amended.

Chief Executive Officer means the person appointed pursuant to clause 58.

company means the company referred to in clause 1

constitution means this document, as modified or repealed from time to time in accordance with the **constitution** and where necessary, includes the **former constitution**.

Corporations Act means the Corporations Act 2001 (Cth), as amended.

directors mean the directors of the **company** in office.

directors' induction course means the training course for **directors** conducted by, or on behalf of, the **secretary**.

disqualifying purpose has the meaning given in the **Charities Act**.

elected directors means the **University student elected director** and **TAFE student elected director**, elected in accordance with the **election regulations**.

elected chairperson has the meaning given in clause 40.3 and in clause 51.1.

election regulations mean the regulations for the conduct of the election of the **elected directors**, adopted from time to time by the **directors**.

Employee members mean employees of (or persons contracted for employment) the University of Newcastle, or TAFE NSW employed primarily at the Central Coast Campus, other organisations affiliated with and operating on the Central Coast Campus, the **company** or employees of any wholly owned subsidiary of the **company** and are the persons admitted to membership under clause 11.4.

Executive means the **President, Vice-President** and **Treasurer**.

former constitution means the constitution of the **company**, in existence before this (new) **constitution** was adopted by the **voting members** and approved by the **University**.

general meeting means a meeting of **voting members** and includes the **annual general meeting**, under clause 20.1 and is a meeting held in accordance with clause 18 and 19.

guarantees has the meaning given in clause 4

Honorary member means persons who have honorary membership conferred upon them by the **directors**.

independent directors has the meaning given in clause 36.1.

initial member means a person who is named in the application for registration of the **company**, with their consent, as a proposed member of the **company**

leave of absence means the permission for **directors** to be absent from a **directors'** meeting which is granted according to the provisions in clause 42(h).

legal costs of a person mean legal costs incurred by that person in defending an action for a liability of that person.

members has the meaning given in Clauses 10 and 11.

non-voting members means all members except **University student members** and **TAFE student members**.

Object has the meaning given in Clause 6.

Ourimbah Campus means the campus located at Ourimbah of the **University of Newcastle** and **TAFE NSW**.

President means the person elected by the **directors** as President according to the provisions in clause 40.1.

proxy means a person duly appointed through use of a **proxy form** by a **voting member** who is entitled to attend and vote at a meeting of **voting members**, to attend and vote at the meeting instead of the **voting member**.

proxy form means an instrument for appointing a proxy, which complies with the **constitution**.

quorum in the case of a **general meeting** has the meaning given in clause 22 and in the case of a **directors'** meeting, as given in clause 52.

register of members has the meaning given in clause 10.

registered charity means a **charity** that is registered under the **ACNC Act**.

Relevant Officers means a person who is, or has been, an officer of the **company** (including a **director** or **secretary**) or an officer of a subsidiary of the **company**.

Returning Officer has the meaning given in clause 39.2.

rules and regulations means the rules and regulations including but not limited to the governing powers of **directors**, the **Executive**, the **Chief Executive Officer**, the **Executive Finance Committee** and **Relevant Officers**, codes of conduct, and general operating procedures of the **company** made from time to time by the directors.

SRC has the meaning given in clause 57.1.

secretary means the **company secretary**, who can be the **Chief Executive Officer** or any other persons nominated by the **directors**.

semester has the meaning given in the **University** calendar, as published from time to time on the **University's** website.

small company limited by guarantee has the meaning given by the **Corporations Act**.

Special Resolution means a resolution:

- (i) of which notice has been given under clause 9, 21.5(c), 41.3 and 72.2, and
- (ii) that has been passed by at least 75% of the votes cast by **voting members present**.

standing orders means the orders and regulations made from time to time by the **directors**, regulating any matter of procedure and protocol for **directors'** meetings and **general meetings**.

student means any student currently enrolled in a course from the **University** delivered from the **Central Coast Campus** or any student currently enrolled in a **TAFE NSW** course delivered from the **Central Coast Campus**.

surplus assets mean any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

TAFE NSW means the Technical and Further Education Commission which is a body corporate established by the Technical and Further Education Commission Act 1990, as amended.

TAFE NSW (Ourimbah Campus) means the Ourimbah Campus of the TAFE NSW.

TAFE student elected directors has the meaning given in clause 37.1

TAFE student members means students who are enrolled in a **TAFE NSW** course delivered from the **Central Coast Campus** at the commencement of

their current membership period and are persons admitted to membership under clause 14.

Temporary member means any person attending a course, conference, seminar, function, occasion, activity or event held at the **Central Coast Campus**.

Treasurer means the person elected by the **Directors** as Treasurer under clause 401.1.

University means the body corporate established as the University of Newcastle under the University of Newcastle Act 1989 (NSW).

University Dean, Central Coast appointed director has the meaning given in clause 36.1.

University Dean, Central Coast means the person responsible for the **University of Newcastle (Central Coast Campus)**.

University of Newcastle (Central Coast Campus) means the Ourimbah Campus of the University.

University student elected directors has the meaning given in clause 36.1.

University student members means **students** who are enrolled in a University course or program delivered from the **Central Coast Campus** at the commencement of their current membership period and are persons admitted to membership under clause 14.

Vice-Chancellor has the meaning given in the University of Newcastle Act 1989 (NSW).

Vice-President means the person elected by the **Directors** under clause 40.1.

voting member means a **University student member** or a **TAFE student member**.

voting members present means, in connection with a **general meeting**, a **member present** in person, by representative or by **proxy** at the venue or venues for the meeting

voting members resolution and **voting members statement** have the meaning given in clause 28.1

75. Reading the constitution with the Corporations Act

- 75.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 75.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in the **constitution** which are inconsistent with those Acts.
- 75.3 If the **company** is not a **registered charity** (even if it remains a **charity**), the **Corporations Act** overrides any clause in the **constitution** which is inconsistent with that Act.
- 75.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in the **constitution**.

76. Interpretation

In the **constitution**:

- (a) the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression;
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations); and
- (c) reference to a position includes every replacement of that position.