

Constitution

Western Sydney Community Legal Centre Limited

ACN: 629118903

A Public Company Limited by Guarantee

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1 Definitions and interpretation

1.1 Definitions

In this Constitution unless a contrary intention appears:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

Annual General Meeting has the same meaning as the term “AGM” in the Corporations Act.

ASIC means the Australian Securities and Investments Commission.

Company means Western Sydney Community Legal Centre Limited being an Australian public company limited by guarantee established under the Corporations Act which bears the ACN 629 118 903.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the Company’s registered office is located.

Chair or Chairperson means a person elected by the Directors to be the Company’s chair or chairperson under clause 20.1.

Constitution means this constitution as amended from time to time.

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

Director means an individual holding office as director of the Company.

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

General Meeting means a meeting of the Members of the Company and includes an Annual General Meeting.

Insolvency Event occurs where:

- (a) an order is made or a resolution is passed by creditors for the winding up, dissolution or external administration of the Member;
- (b) the Member enters into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them; or
- (c) a controller, receiver, receiver and manager, official manager or other external administrator is appointed to the Member.

Member means a person entered on the Register of the Company as a member.

Object means the charitable purpose of the Company as set out in clause 2.

Register means the register of members under the Corporations Act and if appropriate includes a branch register.

Registered Office means the registered office for the time being of the Company.

Related Body Corporate has the same meaning it has in the Corporations Act.

Representative means an individual appointed to represent a corporate Member at a General Meeting of the Company in accordance with the Corporations Act.

Rule means a rule made by the Directors in accordance with clause 16.

Schedule means a schedule to this Constitution.

Secretary means an individual appointed as a secretary of the Company in accordance with clause 24.1.

Special Resolution takes the meaning given by Section 9 of the Corporations Act.¹

Tax Act means the *Income Tax Assessment Act 1997* (Cth).

Virtual Meeting Technology means a form of virtual technology that is reasonable and allows Members who are entitled to attend and do attend general meetings, as a whole, to vote and to exercise orally and in writing any rights of those members to ask questions and make comments.

1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) headings are inserted for convenience and are not to affect the interpretation of this Constitution;
- (b) words importing any gender include all other genders;
- (c) the singular includes the plural and vice versa;
- (d) a reference to a law includes regulations and instruments made under the law;
- (e) a reference to a clause is a reference to a clause in this Constitution unless otherwise stated;
- (f) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (g) a reference to a meeting includes a meeting by Virtual Meeting Technology where all attendees have reasonable opportunity to participate;
- (h) a reference to a person being present in person includes an individual participating in a meeting as described in clause 1.2(g);
- (i) a reference to a person includes a natural person, corporation or other body corporate;
- (j) a power, an authority or a discretion reposed in a Director, the Directors, the Company in General Meeting or a Member may be exercised at any time and from time to time;
- (k) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (l) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

1.3 Signing

Where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions, or in any other manner approved by the Directors.

1.4 Corporations Act

In this Constitution unless the contrary intention appears:

¹ At the time of registration of the Company, section 9 provides that a Special Resolution is a resolution:
(a) of which notice has been given to the Members in accordance with clause 8.3; and
(b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

- (a) while the Company is a registered charity under the ACNC Act, the provisions set out in section 111L of the Corporations Act do not apply to the Company;
- (b) the replaceable rules set out in the Corporations Act do not apply to the Company;
- (c) while the Company is registered as a charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts;
- (d) if the Company is not registered as a charity, the Corporations Act overrides any clause in this constitution which is inconsistent with the Corporations Act;
- (e) 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 this constitution; and
- (f) "section" means a section of the Corporations Act.

1.5 Name of Company

The name of the Company is Western Sydney Community Legal Centre Limited.

1.6 Type of Company

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

2 Object of the Company

The Object of the Company is to pursue the following charitable purposes:

- (a) to relieve poverty or distress of underprivileged persons in need of legal aid by providing legal aid services and improving access to justice and legal remedies;
- (b) to act as trustee and perform and discharge the duties and functions incidental thereto where this is incidental or conducive to the attainment of the Object; and
- (c) to do such other things as are incidental or ancillary to the attainment of the Object, including to act as trustee.

3 Powers

The Company has all the powers of a company limited by guarantee under the Corporations Act.

4 Application of income for Object only

4.1 Application of income and property

The income and the property of the Company, however derived:

- (a) must be applied solely towards the promotion of the Object; and
- (b) may not be paid or transferred to the Members, in whole or in part, either directly or indirectly by way of dividend, bonus or otherwise.

4.2 Payment in good faith

Clause 4.1 does not prevent payment in good faith to a Member, or to a firm of which a Member is a partner:

- (a) of reasonable remuneration for services to the Company;
- (b) for goods supplied in the ordinary course of business;

- (c) of fair and reasonable interest on money borrowed from a Member at a rate not exceeding that fixed for the purposes of this clause 4.2(c) by the Company in a General Meeting;
- (d) of reasonable rent for premises let by a Member; or
- (e) in furtherance of the Object.

5 Membership

5.1 Number of Members

- (a) There will be one class of Members.
- (b) The minimum number of Members of the Company will be 3.
- (c) The Members at the date of registration of the Company and any person the Directors admit to membership under clause 5.2 are the Members of the Company.

5.2 Admission as a Member

The Directors may admit any person as a Member if the person is eligible under clause 5.3 and makes an application in accordance with clause 5.4.

5.3 Membership criteria

To be eligible to be a Member, a person must:

- (a) in the case of an individual, that person is over the age of 18 years;
- (b) subscribe to the Object;
- (c) not be an employee of the Company;
- (d) be nominated by an existing Member;
- (e) consent in writing to become a Member; and
- (f) agree to be bound by this Constitution.

5.4 Membership process

- (a) The application for membership must be made:
 - i. in writing to the Secretary, signed by the applicant;
 - ii. in such form as the Directors may from time to time prescribe; and
 - iii. accompanied by the membership fee, if any, determined by the Directors.
- (b) Each application for membership must be considered by the Directors within a reasonable time after the application is made.
- (c) When an applicant has been accepted or rejected for membership the Secretary must notify the applicant of the decision of the Directors within a reasonable period.

5.5 Directors' discretion to admit or refuse admission as a Member

The Directors have the discretion to refuse any person admitted as a Member without giving any reason for refusing.

5.6 Registration as Member

- (a) If the Directors accept an application for membership, as soon as practicable, the Directors must enter that person on the Register.

- (b) An applicant will become a Member when they are entered on the Register.

5.7 Membership terms

- (a) From the date of registration of the Company, all membership of the Company will be renewable every 3 years from the date the Member's name is entered on the Register. At the end of each 3 year period, each Member may reapply for membership. The renewal process must be made in accordance with the process prescribed by the Directors at the relevant time.
- (b) The requirement in clause 5.7(a) to renew membership does not apply to a Member who is a Director.
- (c) A member can:
 - i. Attend and vote at General Meetings;
 - ii. Raise a dispute using clause 7;
 - iii. Together with other members, ask the directors to call a general meeting or put forward resolutions at general meetings;
 - iv. Be made a Director (if the member is eligible to be a Director);
 - v. Inspect the members' register free of charge under clause 5.9; and
 - vi. Inspect the company's records under clause 28.

5.8 Membership fees

The Members must pay such membership fees as prescribed from time to time by the Directors.

5.9 Register

- (a) The Company must establish and maintain a Register. The Register must be kept by the Secretary and must contain:
 - i. for each current Member:
 - (A) name;
 - (B) address;
 - (C) any electronic address;
 - (D) any alternative address nominated by the Member for the service of notice; and
 - (E) the date the Member was entered on to the Register.
 - ii. for each person who stopped being a Member in the last 7 years:
 - (A) name;
 - (B) address;
 - (C) any electronic address;
 - (D) any alternative address nominated by the Member for the service of notices; and
 - (E) the date the membership started and ended.

- (b) The Company must allow Members to inspect the Register in accordance with the Corporations Act.
- (c) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

6 Ceasing to be a Member

6.1 Cessation of membership

A Member ceases to be a Member on:

- (a) in the case of an individual, death or, in the case of a body corporate, its ceasing to exist;
- (b) resignation by written notice to the Company having immediate effect or with effect from a specified date occurring not more than 7 days after the service of the notice;
- (c) failing to pay any fee that may be prescribed by the Directors from time to time within 12 months after the fee was due and payable;
- (d) in the case of an individual, becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law related to mental health;
- (e) in the case of a body corporate, immediately before the Member becoming subject to an Insolvency Event;
- (f) in the case of an individual, becoming bankrupt or insolvent or making an arrangement or composition with creditors of a person's joint or separate estate generally;
- (g) the passing of a resolution by the Directors or Members in General Meeting pursuant to clause 6.2;
- (h) the expiry of the 3 year term of membership, unless the Member had applied for and been readmitted as a Member for the following term as contemplated in clause 5.7; or
- (i) that Member ceasing to be a Director, including termination of their appointment as a Director pursuant to clause 11.6 (in such circumstances the Member is able to make a new application for membership pursuant to clause 5.2 and 5.4).

6.2 Termination of membership in General Meeting

- (a) Subject to this Constitution, the Directors or Members must only terminate the membership of a Member in General Meeting if the Member:
 - i. refuses or neglects to comply with this Constitution or any applicable Rules made by the Directors;
 - ii. engages in conduct which in the opinion of the Directors is unbecoming of the Member or prejudicial to the interests of the Company; or
 - iii. fails to pay any debt due to the Company within a period of 3 months after the date for payment (such debt not including a fee referred to in clause 6.1(c)).
- (b) For a decision of the Directors or the Members in General Meeting under clause 6.2(a) to be effective, the general nature of the allegations made against the Member must be notified to the Member in writing and the Member must be given a reasonable opportunity to respond.
- (c) If a dispute arises regarding the termination of a Member's membership under this clause 6.2, the dispute resolution procedure contained in clause 7 must be followed

and, for the purposes of clause 7.1, written notification under clause 6.2(b) will be the notice of the dispute (as defined in clause 7.1).

6.3 Transfer of Membership

Membership of the Company and any associated rights cannot be transferred or sold.

6.4 Limited liability

The Members have no liability as Members except as set out in clause 32.1.

7 Dispute resolution for Members

7.1 Handling a dispute

Where there is a dispute, grievance or other disagreement between a Member and the Company, or between a Member and another Member (in their capacity as Members), whether arising out of the application of these rules or otherwise (Dispute), then either party must, prior to the commencement of any proceedings in a Court or Tribunal or before any authority or board, notify the other in writing of the nature of the Dispute, and the following must occur:

- (a) the Member and the Company, or the Member and the Member, must in the period of 14 days from the service of the notice of the Dispute (Initial Period) use their best endeavours to resolve the Dispute;
- (b) if the Member and the Company, or the Member and the Member, are unable to resolve the Dispute within the Initial Period, then the Dispute must be referred for mediation to a mediator agreed by the Member and the Company, or the Member and the Member;
- (c) if the disputants are unable to agree on a mediator within 7 days of the expiration of the Initial Period, the Member or the Company, or the Member and the Member, may request the chairperson of a Resolution Institute² to nominate a mediator to whom the Dispute will be referred;
- (d) the costs of the mediation must be shared equally between the Member and the Company, or the Member and the Member; and
- (e) where:
 - i. the party receiving the notice of the Dispute fails to attend the mediation required by clause 7.1(b);
 - ii. the mediation has not occurred within 6 weeks of the date of the notice of the Dispute; or
 - iii. the mediation fails to resolve the Dispute;

then the party serving the notice of Dispute will be entitled to commence any proceedings in a Court or Tribunal or before any authority or board in respect of the Dispute.

7.2 Urgent interlocutory relief

The procedure in clause 7.1 will not apply in respect of proceedings for urgent or interlocutory relief.

² Resolution Institute is a not-for-profit organisation facilitating dispute resolution - further information can be found at www.resolution.institute.

8 General Meetings

8.1 Annual General Meetings

- (a) The Annual General Meeting must be held:
 - i. within 18 months after registration of the Company; and
 - ii. after the first Annual General Meeting, at least once in every calendar year.
- (b) The business of an Annual General Meeting must include all activities as required by the Corporations Act.
- (c) The chair 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.

8.2 Convening a General Meeting

The Directors may convene and arrange to hold a General Meeting when they think fit and must do so if required to do so under the Corporations Act.

8.3 Notice of a General Meeting

- (a) Notice of a General Meeting must be given to:
 - i. each Member entitled to vote at the meeting;
 - ii. each Director; and
 - iii. the auditor (if any).
- (b) Notice of a General Meeting must be given in writing at least 21 days before the General Meeting.
- (c) A Director is entitled to attend all General Meetings and is entitled to speak at those meetings.
- (d) Subject to clause 8.3(e), notice of a General Meeting may be provided less than 21 days before the meeting if:
 - i. for an Annual General Meeting, all the Members entitled to attend and vote at the Annual General Meeting agree beforehand; or
 - ii. for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (e) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - i. remove a Director;
 - ii. appoint a Director in order to replace a Director who was removed; or
 - iii. remove an auditor.
- (f) Notice of a General Meeting must include:
 - i. the place, date and time for the meeting (and if the meeting is to be held in one or more places, or held using Virtual Meeting Technology only, the technology that will be used to facilitate this);
 - ii. the general nature of the meeting's business;

- iii. a statement regarding members' rights to request documents be sent in electronic or physical form;
- iv. if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and
- v. a statement that members have the right to appoint proxies and that, if a Member appoints a proxy:
 - (A) the proxy does not need to be a Member of the Company; and
 - (B) the appointment of a proxy must be in accordance with clause 9.16.
- (g) If a General Meeting is adjourned for one month or more, the Members must be given new notice of the resumed meeting.

8.4 Calculation of period of notice

In computing the period of notice under clause 8.3, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

8.5 Cancellation or postponement of General Meeting

- (a) Where a General Meeting is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them.
- (b) This clause 8.5 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a Court.

8.6 Notice of cancellation or postponement of a meeting

Notice of cancellation, postponement or change of place of a General Meeting must state the reason for cancellation or postponement and be given to each person entitled to be given notice of a General Meeting under clause 8.3(a).

8.7 Contents of notice of postponement of meeting

A notice of postponement of a General Meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in 2 or more places, the Virtual Meeting Technology that will be used to facilitate the holding of the meeting in that manner.

8.8 Number of clear days for postponement of meeting

The number of clear days from the giving of a notice postponing the holding of a General Meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of the General Meeting required to be given under clause 8.3.

8.9 Business at postponed meeting

The only business that may be transacted at a General Meeting the holding of which is postponed is the business specified in the original notice convening the meeting.

8.10 Proxy at postponed meeting

Where by the terms of an instrument appointing a proxy:

- (a) the proxy is authorised to attend and vote at one or more General Meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy;

then, by force of this clause 8.10, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, unless the Member appointing the proxy gives to the Company at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

8.11 Non-receipt of notice

The non-receipt of notice of a General Meeting or the convening, cancellation or postponement of a General Meeting by, or the accidental omission to give notice of a General Meeting or the convening, cancellation or postponement of a General Meeting to, a person entitled to receive notice does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the convening, cancellation or postponement of a meeting.

9 Proceedings at General Meetings

9.1 Number of a quorum

- (a) A majority or 10 Members, whichever is the lesser number, present in person or by proxy are a quorum at a General Meeting.
- (b) In determining whether a quorum is present, each individual attending as a proxy is to be counted, except that:
 - i. where a Member has appointed more than one proxy, only one is to be counted; and
 - ii. where an individual (whether a Member or not) is attending holding more than one proxy, that individual is to be counted only once.

9.2 Requirement for a quorum

- (a) An item of business may not be transacted at a General Meeting unless a quorum is present when the meeting proceeds to consider it.
- (b) If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chair of the meeting (on the chair's own motion or at the request of a Member or proxy who is present) declares otherwise.
- (c) No business may be conducted at a General Meeting if a quorum is not present.

9.3 If quorum not present

If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

- (c) At a meeting adjourned under clause 9.3(b), 2 Members present in person or by proxy at the meeting are a quorum. If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.
- (d) If no quorum is present at the resumed meeting within 30 minutes after the appointed time, the meeting shall be cancelled.

9.4 Using technology to hold meetings

- (a) The Company may hold a General Meeting:
 - i. at one or more physical venues; or
 - ii. at one or more physical venues and using Virtual Meeting Technology; or
 - iii. using Virtual Meeting Technology only.
- (b) A General Meeting held in accordance with a method set out in clause 9.4(a) must comply with any requirements set out in the Corporations Act and give the Members entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting, including to hear or be heard.
- (c) A Member who attends the meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending.
- (d) If the General Meeting is held at more than one physical venue (whether or not it is also held using Virtual Meeting Technology), then:
 - i. The place of the meeting is taken to be the main physical venue of the meeting as set out in the notice of meeting; and
 - ii. The time of the meeting is taken to be the time at the main physical venue of the meeting as set out in the notice of meeting.

9.5 Appointment and Powers of Chair of General Meeting

If the Directors have elected one of their number as chair of their meetings under clause **Error! Reference source not found.**, that person is also entitled to preside as chair at a General Meeting.

9.6 Rights of Non-Members to attend a General Meeting

- (a) The chair of a General Meeting may invite any person to attend and address the meeting.
- (b) Any auditor and any director of the Company is entitled to attend and address the General Meeting.
- (c) The Company must give the auditor any communications relating to the General Meeting that a member of the Company is entitled to receive.

9.7 Absence of Chair at General Meeting

If a General Meeting is held and:

- (a) a chair has not been elected by the Directors; or
- (b) the elected chair is not present within 30 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act; or

- (c) the chair is present but says they do not wish to act as chairperson of the General Meeting;

then the following persons may preside as chair of the meeting (in order of precedence):

- (d) the deputy chair if a Director has been so elected by the Directors under clause 19; or
- (e) a Director or Member elected by the Members present in person to preside as chair of the meeting.

9.8 Conduct of General Meetings

- (a) The chair of a General Meeting:
 - i. has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
 - ii. may require the adoption of any procedure which is, in the chair's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the General Meeting; and
 - iii. may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chair considers it necessary or desirable for the proper conduct of the meeting.
 - iv. must give members a reasonable opportunity to make comments and ask questions (including to the auditors).
- (b) A decision by the chair under this clause 9.8 is final.

9.9 Adjournment of General Meeting

- (a) The chair of a General Meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:
 - i. in exercising the discretion to do so, the chair may, but need not, seek the approval of the Members present in person or by proxy; and
 - ii. only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) If a quorum is present, a General Meeting must be adjourned if a majority of members present direct the chair to adjourn it.

9.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 1 month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

9.11 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

9.12 Votes of Members

- (a) Every Member has one vote.
- (b) Subject to this Constitution:

- i. on a show of hands, each Member present in person and each other person present as a proxy of a Member has one vote; and
- ii. on a poll, each Member present in person has one vote and each person present as proxy of a Member has one vote for each Member that the person represents.

9.13 General Meeting - no casting vote for chair

If there is an equality of votes, either on a show of hands or on a poll, then the chair of the meeting is not entitled to an additional casting vote.

9.14 Voting on show of hands

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) A declaration by the chair that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, is conclusive evidence of the fact.
- (c) Neither the chair nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

9.15 Voting by Poll

If a poll is demanded:

- (a) it must be taken in the manner and at the date and time directed by the chair and the result of the poll is the resolution of the meeting at which the poll was demanded;
- (b) on the election of a chair or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

9.16 Resolutions with General Meetings

- (a) Subject to clause 9.16(c), the Directors may put a resolution to the members to pass a resolution without a General Meeting being held.
- (b) The Directors must notify the auditor as soon as possible that a resolution has or will be put to members, and set out the wording of the resolution.
- (c) The Company cannot pass resolutions for the below without holding a meeting:
 - i. For a resolution to remove an auditor or remove a director;
 - ii. For passing a special resolution; or
 - iii. Where the Corporation Act or this Constitution requires a meeting to be held.
- (d) A resolution is passed if all the members entitled to vote on the resolution sign or agree to the resolution, in the manner set out in clause 8.16(e).
- (e) Members may sign:
 - i. A single document setting out the resolution and containing a statement that they agree to the resolution; or

- ii. Separate copies of that document, as long as the wording is the same in each copy.
- (f) The Company may send a resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

9.17 Proxy Appointment

- (a) Subject to the Corporations Act, a Member entitled to attend a meeting of the Company is entitled to appoint another person (whether a Member or not) as proxy to attend in the Member's place at the meeting. A proxy has the same right as the Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.
- (b) A proxy does not have authority to speak and vote for a Member at a meeting while the member is at the meeting.
- (c) The instrument appointing a proxy must be in writing under the hand of the appointor or of their attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised, and include:
 - i. The member's name and address;
 - ii. The Company's name;
 - iii. the prox's name or the name of the office held by the proxy; and
 - iv. the meeting(s) at which the appointment may be used.
- (d) A proxy appointment may be standing.
- (e) The instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a poll.
- (f) A Member is entitled to instruct their proxy to vote in favour of or against any proposed resolutions. The proxy may vote as they think fit unless otherwise instructed.
- (g) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notorially certified copy of that power or authority must be received at the Registered Office, or at such other place within the State, or to an email address, as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy will not be treated as valid.

9.18 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member revokes the appointment or authority; or
- (c) the Member is mentally incapacitated.

9.19 Objection to voting qualification

- (a) An objection to the right of a person to attend or vote at the meeting or adjourned meeting:
 - i. may not be raised except at that meeting or adjourned meeting; and
 - ii. must be referred to the chair of that meeting, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

10 Members' resolutions and statements

10.1 Members' resolutions and statements

- (a) Members with at least 5% of the votes that may be cast on a resolution may give:
 - i. written notice to the Company of a resolution they propose to move at a General Meeting (**Members' Resolution**); and/or
 - ii. a written request to the Company that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (**Members' Statement**).
- (b) A notice of a Members' Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- (c) A request to distribute a Members' Statement must set out the statement to be distributed and be signed, either physically or electronically, by all the Members making the request.
- (d) Separate copies of a document setting out a notice or request may be signed by Members if the wording is the same in each copy.
- (e) The percentage of votes that Members have (as described in clause 10.1(a)) is to be calculated as at midnight before the request or notice is given to the Company.
- (f) If the Company has been given notice of a Members' Resolution under clause 10.1(a) the resolution must be considered at the next General Meeting held no more than two months after the notice is given.
- (g) This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.

10.2 Company to distribute Members' Resolution or Members' Statement

- (a) If the Company has been given a notice or request:
 - i. in time to send the notice of Members' Resolution or a copy of the Members' Statement to Members with a notice of General Meeting, it must do so at the Company's cost; or
 - ii. too late to send the notice of Members' Resolution or a copy of the Members' Statement to Members with a notice of General Meeting, then the Members that proposed the Members' Resolution or made the Members' Statement must pay the expenses reasonably incurred by the Company in giving the Members notice of the Members' Resolution or a copy of the Members' Statement. However, the Members may subsequently pass a resolution at a General Meeting for the Company to pay these expenses.

- (b) The Company does not need to send the notice of Members' Resolution or a copy of the Members' Statement to Members if:
 - i. it is more than 1,000 words long;
 - ii. the Directors consider it may be defamatory;
 - iii. clause 10.2(a)ii applies, and the Members that proposed the Members' Resolution or made the Members' Statement have not paid the Company enough money to cover the expenses reasonably incurred by the Company in giving Members notice of the Members' Resolution or a copy of the Members' Statement; or
 - iv. in the case of a 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 Members.

11 Directors

11.1 Number of Directors

The Company must have at least three (3) and no more than nine (9) Directors.

11.2 Appointment of Directors

- (a) The Members are responsible for electing a Director by a resolution passed in a General Meeting.
- (b) Each Director must be appointed by a separate resolution, unless:
 - i. the Members present have first passed a resolution that the appointments may be voted on together; and
 - ii. no votes were cast against that resolution.

11.3 Directors elected at General Meeting

The Company may, at a General Meeting at which:

- (a) A Director retires or otherwise vacates office; or
- (b) A Director vacancy exists by operation of clause 11.1 or otherwise, by resolution fill the vacated office by electing an individual to that office.

11.4 Qualification and Eligibility of Directors

To qualify and be eligible to be a Director, a person must:

- (i) give WSCLC their signed consent to act as a Director of the company;
- (ii) have a director identification number;
- (iii) **not be ineligible** to be a Director under any legislation or the WSCLC Constitution including being 18 years of age or older;
- (iv) become a member of WSCLC; and
- (v) have a demonstrated understanding of the issues in Western Sydney.

11.5 Nomination of Directors

- (a) The Directors may seek nominations for elections as a Director in any manner they determine, and may approve or reject such nominations in their discretion without giving reasons.

- (b) In considering whether to approve or reject a nomination, the Board should have regard to relevant factors, including the expertise and qualifications of the persons nominated and the need for the Board to include persons with experience in relevant areas.

11.6 Terms and retirement of Directors

- (a) Subject to clause 11.77, Directors are elected for terms of 3 years.
- (b) At each Annual General Meeting, any Director who has held office for 3 years or more since last being elected, must retire from office but subject to clause 11.7 is eligible for reappointment. A retiring Director holds office until the conclusion of the meeting at which that Director retires.
- (c) The Members may by ordinary resolution increase or decrease the period of time for which a Director holds office under clause 11.6(a).
- (d) The Members may by ordinary resolution remove any Director before the expiration of that Director's period of office, and may by an ordinary resolution appoint another person in the place of that Director.

11.7 Reappointment of Directors

Directors are entitled to seek reappointment as Directors on 3 occasions provided that a Director's period of continuous service to the Company does not exceed a period of 12 years.

11.8 Casual vacancy or additional Director

- (a) The Directors may at any time appoint any person meeting the relevant eligibility in clause 11.4 to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with clause 11.1 .
- (b) A Director appointed under clause 11.8(a) holds office until the conclusion of the next Annual General Meeting of the Company but is eligible for election at that meeting.
- (c) If the number of Directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act but only:
 - i. In an emergency;
 - ii. For the purpose of increasing the numbers of directors to three (or higher if required for a quorum); or
 - iii. To call a General Meeting.

12 Remuneration of Directors

The Directors must not be paid any remuneration for their services as Directors.

13 Expenses of Directors

- (a) A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a committee of Directors or when otherwise engaged on the business of the Company.
- (b) Any payment to a Director must be approved by the Board.

14 Vacation of office of Director

The office of a Director becomes vacant if the Director:

- (a) ceases to be eligible under clause 11.4;
- (b) resigns from the office by notice in writing to the Company;
- (c) is not present at 3 successive meetings of the Directors without leave of absence from the Board;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) becomes insolvent or bankrupt, compounds with their creditors, or assigns their estate for the benefit of their creditors;
- (f) becomes prohibited, disqualified or removed from being a Director by reason of any order of any court of competent jurisdiction or regulator;
- (g) becomes ineligible under the Corporations Act or ACNC Act; or
- (h) dies.

15 Powers and duties of Directors

15.1 Directors to manage the Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the members in a General Meeting.

15.2 Specific powers of Directors

- (a) Without limiting the generality of clause 15.1, and subject to any trusts relating to the assets of the Company, the Directors may exercise all the powers of the Company to:
 - i. borrow or raise money;
 - ii. charge any property or business of the Company; and
 - iii. give any security for a debt, liability or obligation of the Company or of any other person.
- (b) Directors and auditors may only be removed by a member's resolution at a General Meeting. The Directors cannot remove a Director or auditor.

15.3 Delegation

- (a) The Directors may resolve to delegate any of their powers to:
 - i. a committee in accordance with clause 211;
 - ii. a Director;
 - iii. an employee of the Company; or
 - iv. any other person.
- (b) The power may be delegated for such time as determined by the Directors and the Directors may at any time revoke or vary the delegation.
- (c) The delegation must be recorded in the Company's minute book.
- (d) The Directors may continue to exercise any power they have delegated.

16 Rules

Subject to this Constitution, the Directors may from time to time by resolution make and rescind or alter Rules which are binding on Members for the management and conduct of the business of the Company.

17 Conflicts of interest

17.1 Disclosure of conflict of interest

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

17.2 Disclosure recorded in minutes

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

17.3 Material personal interest

Each Director who has a material personal interest in a matter that is being considered at a meeting of the Directors (or that is proposed in a circular resolution) must not, except as provided under clause 17.4:

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

17.4 Present and voting

A Director with a material personal interest in a matter 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 31.2);
- (c) their interest relates to a payment by the Company under clause 31.1, or any contract relating to an indemnity that is allowed under the Corporations Act;
- (d) ASIC makes an order allowing the Director to vote on the matter; or
- (e) the Directors who do not have 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 related to the affairs of the Company; and
 - ii. states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

18 Proceedings of Directors

18.1 Directors' meetings

- (a) The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time convene a meeting of the Directors by giving reasonable notice to all of the other Directors.
- (c) 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.

18.2 Using technology to hold Directors' meetings

- (a) The Directors may hold their meetings using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.
- (b) The Directors' agreement may be a standing one.
- (c) A Director may only withdraw their consent within a reasonable period before a meeting.

18.3 Passing Director Resolutions

A decision arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote. The Chair does not have a casting vote.

19 Chair and deputy chair of Directors

The Directors may elect from their number a chair and a deputy chair of their meetings and may also determine the period for which the persons elected as chair and deputy chair are to hold office.

20 Quorum for Directors' meeting

- (a) Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors.
- (b) A quorum must be present when a vote is taken.
- (c) The Directors may act despite a vacancy in their number. If their number is reduced below the quorum in clause 11.1, the Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a General Meeting.

21 Committees

21.1 Delegation to committees

- (a) The Directors may delegate any of their powers to a committee consisting of one or more of their number as they think fit.
- (b) A committee to which any powers have been delegated under clause 21.1(a) must exercise those powers in accordance with any directions of the Directors. A power so exercised is taken to have been exercised by the Directors.
- (c) The delegation must be recorded in the Company's minute book.

21.2 Meetings of committees

A committee may meet and adjourn according to its Charter.

21.3 Chair of a committee

The Board may elect a member of a Committee as chair of their meetings. If a meeting of a committee is held and:

- (a) a chair has not been elected; or
- (b) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act;

then the committee members involved may elect one of their number to be chair of the meeting.

22 Circular resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect.
- (d) The resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clauses 22(a), 22(b) or 22(d).

23 Validity of acts of Directors

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director, are taken as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote.

24 Secretary

24.1 Appointment of Secretary

There must be at least one Secretary who is to be appointed by the Directors (after giving the Company their signed consent to act as a Secretary of the Company), who may also be a Director.

24.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

24.3 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary are subject at all times to the control of the Directors.

24.4 Role of the Secretary

The role of the Secretary includes (but is not limited to):

- (a) maintaining a register of the Company's Members; and
- (b) maintaining the minutes and other records of General Meetings (including notices of meetings), Directors' meetings and circular resolutions.

25 Execution of documents

The Company may execute a document if the document is signed by:

- i. 2 Directors;
- ii. a Director and the Secretary; or
- iii. such other persons as the Directors by resolution appoint from time to time.

26 Financial and Related Records

- (a) The Company must make and keep written financial records that:
 - i. Correctly record and explain its transactions and financial position and performance; and
 - ii. Enable true and fair financial statements to be prepared and to be audited.
- (b) The Company must distribute to the Members copies of the annual financial reports of the Company accompanied by a copy of the report of the auditor or reviewer (as required) and report of Directors in accordance with the requirements of relevant legislation.
- (c) The Company must also keep written records that correctly record its operations.
- (d) The Company must retain its records for at least seven (7) years.
- (e) The Directors must take all reasonable steps to ensure that the Company's records are kept safe.

27 Minutes and Records

- (a) The Company must, within one month, make and keep the following records:
 - i. minutes of proceedings and resolutions of General Meetings;
 - ii. minutes of any other resolutions of members;
 - iii. a copy of a notice of each General Meeting; and
 - iv. a copy of a members' statement distributed to members under clause 35.
- (b) The company must, within one month, make and keep the following records:
 - v. minutes of proceedings and resolutions of directors' meetings (including meetings of any committees); and
 - vi. minutes of any other resolutions of directors.
- (c) The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:
 - vii. the chairperson of the meeting, or
 - viii. the chairperson of the next meeting.

(d) The directors must ensure that minutes of the passing of a resolution passed without a meeting (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

28 Inspection of records

28.1 Inspection by Members

Subject to the Corporations Act: members are allowed to inspect the company's records when:

- (a) the company must give a member access to the records set out in clause 26, and
- (b) the directors may authorise a member to inspect other records of the company, including records referred to in clause 26 and clause 27(a).

28.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in General Meeting.

29 Financial year

The Company's financial year is from 1 July to 30 June, unless the Directors pass a resolution to change the financial year.

30 Notice

30.1 What is notice

- (a) Anything written to or from the **Company** under any clause in this constitution is written notice and is subject to Clause 30, unless specified otherwise.
- (b) Clause 30 do not apply to a notice of proxy under clause 9.17.

30.2 Notice to the company

Written notice or any communication under this 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; or
- (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.

30.3 Notice to members

Written notice or any communication under this 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); or

- (d) 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).

30.4 Election to Receive Documents

If a member elects to receive documents in physical form or electronic form, the company must take reasonable steps to send documents in a manner that complies with the election.

30.5 Address

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

30.6 When notice is taken to be given

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 business day after it is posted to the address notified by the recipient and payment of postage costs; and
- (c) sent by email or other electronic method: is taken to be given when it is sent, unless the sender receives an automated message that the notice has not been delivered.

30.7 Delivery of Notice

If the delivery or receipt of a notice is on a day which is not a business day or is after 5.00pm on a business day, it is deemed to be received at 9.00am on the following business day.

31 Indemnity and insurance

31.1 Indemnity

- (a) The Company must indemnify any current or former Director, Secretary or executive officer of the Company or of a Related Body Corporate of the Company out of the property of the Company against:
 - i. every liability incurred by the person in that capacity; and
 - ii. all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,except to the extent that:
 - iii. the Company is forbidden by law (including the Corporations Act) to indemnify the person against the liability or legal costs; or
 - iv. an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by any law; or
 - v. the person is entitled to be, and is actually, indemnified by another person (including an insurer under any insurance policy).
- (b) The indemnity is a continuing obligation and is enforceable by a person even though they are no longer a Director, Secretary or executive officer of the Company, or of a wholly owned subsidiary.

31.2 Insurance

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, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium in respect of the Relevant Conduct (whether or not the law applies in the particular case); or
- (b) the contract would, if the Company paid the premium, be made void by law (including the Corporations Act).

31.3 Directors' Access to Documents

- (a) A Director has a right of access to the financial records of the Company at all reasonable times.
- (b) The Directors may resolve to give a Director or former Director access to other records, including documents provided for or available to the Directors.

32 Winding up

32.1 Liability of Members limited to Guarantee

- (a) Each Member undertakes to contribute not more than \$1 to the Company's property if the Company is wound up while they are a Member, or within 1 year after they cease to be a Member.
- (b) This contribution is for:
 - i. payment of the Company's debts and liabilities contracted before they ceased to be a Member;
 - ii. the costs of winding up; and
 - iii. adjustment of the rights of the contributories among themselves.
- (c) The liability of each member is limited to the amount of the guarantee.

32.2 Winding up voluntarily

- (a) If permitted by law, the Company may be wound up voluntarily by special resolution.

32.3 Application of property

- (a) If any property remains on the winding up or dissolution of the Company and after satisfaction of all its debts and liabilities, then, subject always to clause 32.4, that property may not be paid to or distributed among the Members but must be transferred to one or more funds or institutions:
 - i. that have charitable purposes similar to, or inclusive of, the Object; and
 - ii. are not-for-profit entities whose governing documents prohibit the distribution of its income and property among its members (if it has members) to an extent at least as great as imposed on the Company under this Constitution.
- (b) The funds or institutions will be determined by a Special Resolution of the Members at or before the time of dissolution. If the Members do not make this decision, the Company may apply to the Supreme Court to make this decision.

32.4 Transfer of surplus assets - deductible gift recipients

- (a) Where the Company has been endorsed as a deductible gift recipient, either under Subdivision 30-BA of the Tax Act as an entity or in relation to a fund or an institution it operates, then where:
 - i. the Company is wound up;
 - ii. the fund or institution is wound up; or
 - iii. the endorsement under Subdivision 30-BA of the Tax Act is revoked;
any surplus:
 - iv. gifts of money or property for the principal purpose of the Company, fund or institution (whichever is relevant);
 - v. contributions described in item 7 or 8 of the table in section 30-15 of the Tax Act in relation to a fundraising event held for that purpose; and
 - vi. money received by the Company because of such gifts or contributions,
remaining after payment of all liabilities must be transferred to one or more funds or institutions with similar objects, which are charitable at law and are deductible gift recipients.
- (b) Where the Company operates more than one fund or institution for which it is a deductible gift recipient and its endorsement under Subdivision 30-BA of the Tax Act is revoked only in relation to one of those funds, or institutions then it may transfer any surplus assets of that fund or institution after payment of all liabilities to any other fund or institution for which it is endorsed as a deductible gift recipient.

33 Amendment to Constitution

- (a) Subject to clause 33(c), this Constitution may only be amended by Special Resolution of the Members of the Company.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity.
- (c) Any modification of this Constitution takes effect on the date the Special Resolution is passed or any later date specified, or provided for, in the resolution.