

Constitution of Law Council of Australia Limited

ABN 85 005 260 622

Corporations Act 2001

Adopted on 16 April 2003

As amended:

- 20 March 2004: Clauses 1.1, 2.1, 21.1-21.5, 30.3(b), 30.5, 30.13, 38.1, 38.3, 50.5
- 20 March 2005: Clauses 29.2(b), 30.10-30.20, 32.1(e)
- 3 September 2005: Clauses 1.1, 30.3(b)
- 24 June 2006: Clauses 29.1(a), 29.1(b), 29.1(c), 29.2, 29.3, 29.4, 30.10, 30.14(b), 30.17(a), 30.17(b), 32.1(c) and 32.1(e)
- 3 February 2007: Clauses 30.3 and 30.9
- 24 March 2007: Clauses 1.1, 1.5, 1.6, 1.7, 6.1, 6.3, 9.1, 10.1, 10.3, 21.2, 32.1(h), 38.3 and 41.7
- 14 March 2009: Clauses 1.1, 30.1(d), 30.3(c), 30.5, 30.6, 30.7, 30.9(b), 30.9(c)(ii), 30.9(d), 30.20, 30.21, 30.22 and 30.23
- At the Annual General Meeting held on 1 December 2012, pursuant to Clause 2.1(k) of the Constitution of the Law Council of Australia Limited (the Law Council), the members determined that the Law Council may carry out the following object:
 - To exercise the powers and responsibilities accorded from time to time to the Law Council and/or its President under the Legal Profession National Law [however named] or state or territory counterpart legislation.
- 28 November 2015: Clauses 1.1, 4.1(d), 6.6, 9.1(a), 9.1(b)(ii), 9.1(d)(i), 10.1, 10.2, 10.3, 10.3(d), 12.4, 21.3, 29.1, 29.4(a), 30.5, 30.7, 30.12(b), 30.21, 35.1, 35.3, 38.4, 42.9, 49.4, 49.5, 50.6, 52, 52.1, 52.2, 52.3, 52.4, 52.5, 52.6, 55.6, and 59.3(d)
- 18 June 2016: Clause 1.1, 1.5, 1.6, 1.7, 2.1(b), 2.1(e), 2.1(e)(ii), 2.1(e)(iv), 2.1(e)(v), 2.1(e)(vi), 2.1(g), 2.1(h), 2.1(i), 2.1(j), 2.1(k), 6.1, 6.3, 9.1, 10.1, 10.3, 21.2, 32.1, 38.3, 41.7 and 58.2.
- 1 December 2018: Clauses 12(c), 12(d), 12(e), 12(f) and 40.

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Constitution of Law Council of Australia Limited

Preliminary

1. Defined terms and interpretation

1.1 In this Constitution unless the contrary intention appears:

Advisory Committee means a committee established by the Directors for the purposes of clause 49.2, but does not include a Board Committee.

Alternate Director means a person appointed as an alternate director under clause 42.

Auditor means the Council's auditor.

Board Committee means a committee established by the Directors for the purposes of clause 45.2.

Chief Executive Officer means any person occupying the position of Chief Executive Officer.

Constituent Appointed Directors means the Directors appointed pursuant to clause 29 by the Constituent Members.

Constituent Bodies means:

- (a) the Incorporated Constituent Bodies; and
- (b) the Unincorporated Constituent Bodies;

Constituent Members means, subject to clause 9:

- (c) the Incorporated Constituent Bodies; and
- (d) the Representatives of the Unincorporated Constituent Bodies.

Constitution means the constitution of the Council as amended from time to time.

Council means Law Council of Australia Limited.

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

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

Executive means the Directors appointed under clause 30.

Executive Members means the persons holding the three Executive positions referred to in clause 30.1(d).

Honorary Members means, subject to clause 9:

- (a) upon their written consent, the following persons:
 - (i) The Right Honourable Sir Harry Talbot Gibbs GCMG KBE;
 - (ii) The Honourable Sir Anthony Frank Mason AC KBE;
 - (iii) The Honourable Mary Gaudron;
 - (iv) The Honourable Sir Gerard Brennan AC KBE; and
- (b) such other persons admitted to honorary membership of the Council under clause 7.1.

Incorporated Constituent Bodies means:

- (a) The New South Wales Bar Association;
- (b) The Victorian Bar Inc;
- (c) Bar Association of Queensland;
- (d) The Law Society of New South Wales;
- (e) The Law Institute of Victoria Limited;
- (f) Queensland Law Society Incorporated;
- (g) Law Society of Tasmania;
- (h) The Law Society of Western Australia Incorporated;
- (i) Law Society of South Australia;
- (j) The Law Society of the Australian Capital Territory;
- (k) The Law Society of the Northern Territory;
- (l) The Bar Association of the Australian Capital Territory;
- (m) The Western Australian Bar Association (Inc);
- (n) Northern Territory Bar Association Incorporated;
- (o) The South Australian Bar Association Inc;
- (p) LFA; and
- (q) such other incorporated bodies admitted to membership of the Council as Constituent Bodies in accordance with clause 6.

LFA means Law Firms Australia Limited (ACN 123 865 707).

LFA Member means a partnership or company of which all of the following are satisfied:

- (a) it has been admitted to membership of LFA;
- (b) it or its Parent Entity has offices in and carries on a legal practice in at least two Australian States and/or Territories; and
- (c) it or its Parent Entity has in excess of 400 LFA Practitioners.

LFA Practitioner means a Practitioner who is a partner, legal practitioner director or employee of a LFA Member or a Practitioner who is a partner, legal practitioner director or employee of a Parent Entity of an LFA Member.

Members means Constituent Members and Honorary Members.

Office means the Council's registered office.

Parent Entity means a partnership or company which carries on a legal practice in Australia which is or whose wholly owned subsidiary is the sole member of a member of LFA.

Practitioner means persons permitted to practise as a Barrister, Solicitor, Barrister and Solicitor, Legal Practitioner, Proctor or Attorney of the High Court or of a Supreme Court of an Australian State or Territory.

President means the President of the Council appointed in accordance with clause 30.

President-elect means the President-elect of the Council elected in accordance with clause 30.

Register means the register of Members of the Council.

Registered Address means the last known address of a Member as noted in the Register.

Representative means a person appointed as such under clause 10.

Seal means the Council's common seal (if any).

Secretary means any person appointed by the Directors to perform any of the duties of a company secretary of the Council.

Section means a section of the Council established by the Directors for the purposes of clause 50.2.

Small Constituent Member means a Constituent Member with less than 250 members (or in the case of a Constituent Member being a Representative of an Unincorporated Constituent Member, less than 250 members of the respective Unincorporated Constituent Body).

Treasurer means the Treasurer of the Council elected in accordance with clause 30.

Unincorporated Constituent Bodies means any unincorporated bodies admitted as Constituent Bodies in accordance with clause 6.

- 1.2 In this Constitution, unless the contrary intention appears:
 - (a) the singular includes the plural and vice versa and words importing a gender include other genders;
 - (b) words importing natural persons include corporations;
 - (c) headings are for ease of reference only and do not affect the construction of this Constitution; and
 - (d) a reference to the *Corporations Act 2001* is a reference to the *Corporations Act 2001* as modified or amended from time to time.
- 1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the *Corporations Act 2001* that deals with the same matter as the clause.
- 1.4 To the extent permitted by law, the replaceable rules in the *Corporations Act 2001* do not apply to the Council.
- 1.5 It is acknowledged that from time to time a LFA Member or its Parent Entity may have in place commercial arrangements with separate partnerships or companies in Australia for the conduct of a legal practice by the separate partnership or company under the same business name as the LFA Member or its Parent Entity (**Associated Offices**). The number of Practitioners who are partners, legal practitioner directors or employees of such an Associated Office are to be treated as if they are LFA Practitioners of the relevant LFA Member or its Parent Entity for the purpose of calculating the number of LFA Practitioners.
- 1.6 For the avoidance of doubt, although LFA while it is a Member is included as an Incorporated Constituent Body, Constituent Body and Constituent Member under this Constitution, it is acknowledged that it is not and does not operate as a Bar Council, Committee of Counsel, Law Institute or Law Society.
- 1.7 LFA shall, while it is a Member, encourage and recommend to the LFA Members that they or their Parent Entities will pay to Constituent Bodies who are Law Societies or Law Institutes, on behalf of the LFA Member's (or its Parent Entity's) partners, legal practitioner directors and employees who are Practitioners, the relevant Law Society or Law Institute annual membership or subscription fee for the Australian State or Territory in which the partner, legal practitioner director or employee predominantly practices.

Objects

2. Objects

- 2.1 The objects for which the Council is established are:
- (a) to promote and defend the rule of law in the public interest;
 - (b) to be the national peak body for lawyers on national and international issues in furthering the betterment of law in the public interest;
 - (c) to be a Federal body to represent the Constituent Bodies in all matters involving uniformity of State Laws, reform of Federal Law and legal practice in Federal Courts;
 - (d) to be a representative of the Constituent Bodies in dealings with the Federal Government and its Ministers;
 - (e) to develop and promote on a Federal basis in furtherance of the objects in clauses 2.1(a) and 2.1(b):
 - (i) continuing legal education programs and conferences;
 - (ii) consultation on and advancement of the professional and ethical standards of Practitioners and legal institutions;
 - (iii) insurance and assurance schemes;
 - (iv) the technical advancement of Practitioners; and
 - (v) common interest groups or sections for Practitioners.
 - (f) to promote the administration of justice and the development and improvement of law throughout the Commonwealth;
 - (g) to advance the science of jurisprudence;
 - (h) to act on behalf of any one or more of the Constituent Bodies upon request from such body or bodies; and
 - (i) to carry out such other objects as the Council in general meeting may from time to time or at any time determine.
- 2.2 The Council may only exercise the powers in section 124(1) of the *Corporations Act 2001* to:
- (a) carry out the objects in this clause 2; and
 - (b) do all things incidental or convenient in relation to the exercise of power under clause 2.2(a).
- 2.3 The Council and the Constituent Bodies acknowledge that the Australian legal profession comprises those persons defined as 'Practitioners' in clause 1.1, including persons practising as Barristers, as Solicitors, or as both Barristers and Solicitors.
- 2.4 Neither the Council nor any Director in his or her capacity as a director of the Council will:
- (a) resolve in meeting; or
 - (b) speak publicly
- on any matter affecting existing rights of a Constituent Body (including the right to practise, entitlement to admission, the internal domestic rules of any Constituent Body and the structure and organisation of the profession within the respective

State or Territory of a Constituent Body) without the concurrence of that Constituent Body.

- 2.5 Nothing shall prevent the Council or any of its committees from formulating model codes of conduct or model rules of practice to be recommended to Constituent Bodies for adoption by such bodies if they so decide.
- 2.6 Whenever any representations or recommendations are submitted to any appropriate authority by the Council, the views of any dissenting Constituent Body will also be submitted if that Constituent Body so requests.

Income and property of the Council

3. Income and property of the Council

- 3.1 The income and property of the Council will only be applied towards the promotion of the objects of the Council set out in clause 2.
- 3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Council except for payments to a Director permitted by clause 4 and payments to a Member:
 - (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Council; or
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

Payments to Directors

4. Payments to Directors

- 4.1 No payment will be made to any Director of the Council other than payment:
 - (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Council where the amount payable does not exceed an amount previously approved by the Directors of the Council;
 - (b) for any service rendered to the Council by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Council and where the amount payable is approved by the Directors of the Council and is not more than an amount which commercially would be reasonable payment for the service;
 - (c) relating to an indemnity in favour of the Director and permitted by section 199A of the *Corporations Act 2001* or a contract of insurance permitted by section 199B; and
 - (d) of a stipend to the President and the President-elect.

Membership

5. Members

- 5.1 The number of Members of the Council is unlimited.

- 5.2 The categories of Membership of the Council are:
- (a) the Constituent Members; and
 - (b) the Honorary Members (if any).
- 5.3 The rights and privileges of every Member will be personal to each Member and will not be transferable by the Member's own act or by operation of law.

6. Admission as Constituent Member

- 6.1 Bar Councils, Committees of Counsel, Law Institutes and Law Societies in Australia whose members are Practitioners, and LFA are eligible to apply for recognition as a Constituent Body of the Council.
- 6.2 Applications for recognition as a Constituent Body will be in writing, signed by the applicant, in a form approved by the Directors in their absolute discretion.
- 6.3 Upon the receipt of an application pursuant to clause 6.2, a Directors' meeting:
- (a) for an application other than from LFA, will be called with at least 40 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) given to Directors, unless shorter notice is consented to by all Constituent Appointed Directors; and
 - (b) for an application from LFA, will be called and held immediately following the general meeting of the Council held on 24 March 2007 or at such other time as the Directors resolve.
- 6.4 An application for recognition as a Constituent Body may only be accepted by a two-thirds majority of Constituent Appointed Directors in favour at a Directors' meeting called pursuant to clause 6.3.
- 6.5 If the Constituent Appointed Directors reject an application for recognition as a Constituent Body, they will not be required to give reasons for the rejection.
- 6.6 As soon as practicable following acceptance of an application for recognition as a Constituent Body, the Chief Executive Officer will send the accepted applicant written notice of the acceptance and request payment of the respective Constituent Member's entrance fee (if any) and first annual subscription.
- 6.7 Subject to clause 6.9, an incorporated applicant accepted as a Constituent Body will become a Constituent Member of the Council on payment of the amount due under clause 6.6.
- 6.8 Subject to clause 6.9, an unincorporated applicant accepted as a Constituent Body will be entitled to appoint a Representative as a Constituent Member of the Council and such Representative will become a Constituent Member of the Council on payment of the amount due under clause 6.6.
- 6.9 If an amount due under clause 6.6 is not paid within 60 days after the date the applicant is notified of acceptance, the acceptance of the applicant will be deemed to have been withdrawn.

7. Honorary Membership

- 7.1 Distinguished persons (who may, but need not, be Practitioners) may, by resolution of the Directors, upon their consent be admitted to honorary membership of the Council.

7.2 Honorary Members:

- (a) will have the rights to attend and speak to all general meetings of the Council but will have no right to vote;
- (b) will not be required to pay entrance fees or annual subscriptions; and
- (c) are not conferred with membership of a Section by reason of honorary membership.

8. Subscriptions

- 8.1 The Directors may determine the entrance fee (if any) and annual subscription payable by each Member or each category of Member.
- 8.2 The Directors may determine different annual subscriptions payable by each Constituent Member.
- 8.3 The annual subscription period will commence on 1 July of each year, and the annual subscription will be due on a date determined by the Directors.
- 8.4 The Directors may determine that any Member admitted to membership after 1 July in any year will pay a proportional annual subscription corresponding with the remaining proportion of the annual subscription period, until that Member's next annual subscription falls due.

9. Ceasing to be a Member

- 9.1 A Member's membership of the Council will cease:
 - (a) where the Member is an Incorporated Constituent Body, if the Member resigns, provided that the Member gives at least 6 months written notice to the Chief Executive Officer;
 - (b) where the Member is a Representative of an Unincorporated Constituent Body:
 - (i) if the Member ceases to be a Representative; or
 - (ii) if the Constituent Body resigns from recognition as a Constituent Body, provided that the Constituent Body gives at least 6 months written notice to the Chief Executive Officer;
 - (c) if membership is forfeited under clause 9.2(b);
 - (d) where the Member is an individual, other than a Representative of an Unincorporated Constituent Body, if the Member:
 - (i) resigns by written notice to the Chief Executive Officer;
 - (ii) dies;
 - (iii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - (iv) is convicted of an indictable offence;
 - (e) where the Member is not an individual, if:
 - (i) a liquidator is appointed in connection with the winding up of the Member;
 - (ii) an order is made by a Court for the winding up or deregistration of the Member; or
 - (iii) the Member is otherwise wound up or deregistered; or

- (f) where the Member is LFA, if at any time the number of LFA Practitioners falls or is below 3,600 (unless the Directors in their absolute discretion determine otherwise).
- 9.2 If a Member does not pay a subscription within 30 days after it becomes due:
- (a) the Directors will give the Member notice of that fact; and
 - (b) if the subscription remains unpaid for 6 months after the date of service of the notice on that Member, the Directors may declare that Member's membership forfeited.
- 9.3 If the Member is a Representative of an Unincorporated Constituent Body and the Member's membership is forfeited pursuant to clause 9.2, the Constituent Body will forfeit recognition as a Constituent Body including its right to appoint a Representative as a Constituent Member.
- 9.4 Any Member ceasing to be a Member:
- (a) will not be entitled to any refund (or part refund) of a subscription; and
 - (b) will remain liable for and will pay to the Council all subscriptions and moneys which were due at the date of ceasing to be a Member.

10. Representatives

- 10.1 Each Constituent Body must by written notice to the Chief Executive Officer signed by the president or other duly authorised officer of that Constituent Body appoint:
- (a) in the case of a Constituent Body other than LFA, a Practitioner member of that Constituent Body; and
 - (b) in the case of LFA while it is a Member, a LFA Practitioner,
- to act as its Representative in all matters connected with the Council as permitted by the *Corporations Act 2001* (**Notice of Appointment**).
- 10.2 Any Constituent Body may at any time remove its Representative by written notice to the Chief Executive Officer signed by the President or other duly authorised officer of that Constituent Body (**Notice of Removal**). The Notice of Removal must incorporate, or be accompanied by, a Notice of Appointment of a replacement Representative.
- 10.3 Every Representative will hold office as a Representative from the date of receipt by the Chief Executive Officer of their Notice of Appointment until the conclusion of the second annual general meeting next following his or her appointment unless he or she:
- (a) ceases to be a Practitioner; or
 - (b) in the case of a Constituent Body other than LFA, ceases to be a member of the Constituent Body by which he or she was appointed; or
 - (c) in the case of LFA, ceases to be a LFA Practitioner; or
 - (d) resigns his or her office by notice in writing sent to the Chief Executive Officer; or
 - (e) is removed as Representative pursuant to clause 10.2.
- 10.4 A Representative of an Incorporated Constituent Body is entitled to:
- (a) exercise at a general meeting all the powers which the Incorporated Constituent Body which appointed him or her could exercise if it were a natural person; and

- (b) be counted towards a quorum on the basis that the Incorporated Constituent Body is to be considered personally present at a general meeting by its Representative.
- 10.5 A Representative of an Unincorporated Constituent Body is a Member of the Council pursuant to clause 6.8 and is entitled to exercise all rights of a Member.
- 10.6 If a Representative is appointed as a Director, he or she will continue to hold office as a Representative unless replaced in accordance with this clause 10 and may exercise all applicable rights in both capacities.
- 10.7 The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 10.8 The appointment of a Representative may set out restrictions on the Representative's powers.

General meetings

11. Calling a general meeting

- 11.1 Any Director may, at any time, call a general meeting.
- 11.2 Subject to clause 11.3, a Member may:
 - (a) only request the Directors to call a general meeting in accordance with section 249D of the *Corporations Act 2001*; and
 - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the *Corporations Act 2001*.
- 11.3 A general meeting will be called by the Directors if so requested by at least three Constituent Members.

12. Notice and business of general meetings

- 12.1 Subject to the provisions of the *Corporations Act 2001* allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 12.2 A notice calling a general meeting:
 - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
 - (b) must state the general nature of the business to be transacted at the meeting (including, where applicable, the business requested pursuant to a request under clause 11.2 or clause 11.3);
 - (c) must, if a special resolution is to be proposed at the meeting, state the resolution;
 - (d) must include such statements about the appointment of proxies as are required by the *Corporations Act 2001*;
 - e) must specify a place, facsimile number and electronic address for the purposes of proxy appointment; and
 - f) must comply with the *Corporations Act 2001*.

- 12.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
 - (b) the election of directors; or
 - (c) the appointment and fixing of the remuneration of the Auditor.
- 12.4 Any special business of which written notice has been given to the Chief Executive Officer by a Constituent Member or by the President prior to notice of the annual general meeting being sent must be included in the notice and included in the business considered at the annual general meeting.
- 12.5 Subject to the *Corporations Act 2001*, the Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 11.2 or clause 11.3).
- 12.6 The Directors must give notice of any postponement or cancellation to all persons referred to in clause 56.1 entitled to receive notices from the Council.
- 12.7 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

13. Technology

- 13.1 The Council may hold a meeting of Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- 13.2 A Member participating in a meeting held pursuant to clause 13.1 is taken to be present in person at that meeting.

Proceedings at general meetings

14. Member

- 14.1 In clauses 15, 16, 18 and 21, '**Member**' includes a Member present in person or by proxy or Representative.

15. Quorum

- 15.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.
- 15.2 A quorum of Members is a majority of all Constituent Members from time to time, provided that the Constituent Members comprising the quorum are entitled to vote.
- 15.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or

- (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

16. Chairperson

16.1 The President, or in the President's absence the President-elect, will be the chairperson at every meeting of Members.

16.2 If:

- (a) there is no President or President-elect; or
- (b) neither the President nor President-elect are present within 15 minutes after the time appointed for the general meeting to begin; or
- (c) the President and President-elect are unwilling to act as chairperson of the general meeting,

the Directors present may elect a chairperson of the general meeting of the Members.

16.3 If no election is made under clause 16.2, then:

- (a) the Members may elect one of the Directors present as chairperson; or
- (b) if no Director is present or is willing to take the chair, the Members may elect one of the Representatives present as chairperson.

16.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

17. Adjournment

17.1 The chairperson of a general meeting at which a quorum is present:

- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
- (b) must adjourn the general meeting if the meeting directs him or her to do so.

17.2 An adjourned general meeting may take place at a different venue to the initial general meeting.

17.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

17.4 Notice of an adjourned general meeting must only be given in accordance with clause 12.1 if a general meeting has been adjourned for more than 21 days.

18. Decision on questions

18.1 Subject to this Constitution and the *Corporations Act 2001* in relation to special resolutions, a resolution is carried at a general meeting if a majority of the votes cast on the resolution are in favour of the resolution.

18.2 A resolution put to the vote of a general meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act 2001*.

- 18.3 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- 18.4 The demand for a poll may be withdrawn.
- 18.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

19. Taking a poll

- 19.1 A poll at a general meeting will be taken when and in the manner that the chairperson directs.
- 19.2 The result of the poll will be the resolution of the general meeting at which the poll was demanded.
- 19.3 The chairperson may determine any dispute about the admission or rejection of a vote at a general meeting.
- 19.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 19.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 19.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

20. Attendance by non-Members

- 20.1 With the consent of the Council, a Practitioner who is not a Member may attend and speak but not vote at a general meeting.
- 20.2 The President may invite the Attorney-General for the Commonwealth or (subject to any contrary direction by the Council) any other person to attend any general meeting.
- 20.3 The chairperson of a Section constituted pursuant to clause 50 (or his or her nominated representative) shall be entitled to attend and speak at meetings of the Council but may not vote.

Votes of Members

21. Entitlement to vote

- 21.1 At general meetings, on:
- (a) any resolution in respect of an application for recognition as a Constituent Body;
 - (b) any resolution in respect of any matter relating to clauses 2.3, 2.4 or 2.5;
 - (c) any resolution to amend this Constitution; and

- (d) any matter that is directly related to litigation, advocacy or the judiciary, voting entitlements are, subject to clause 21.3, as follows:
 - (e) each Constituent Member, except the Small Constituent Members, has one vote; and
 - (f) the Small Constituent Members have between them one vote, such vote to be exercised in the manner described in clause 21.5.
- 21.2 In respect of all matters other than those specified in clause 21.1, voting entitlements at general meetings shall be calculated as follows:
- (a) each Constituent Member other than LFA shall have voting entitlements at general meetings calculated according to its number of members (or in the case of Constituent Members being Representatives of Unincorporated Constituent Bodies, the number of members of the respective Unincorporated Constituent Body), as follows:
 - (i) each Constituent Member with 1,000 or more members shall have three votes;
 - (ii) each Constituent Member with 250 to 999 members (both inclusive) shall have two votes; and
 - (iii) each Small Constituent Member shall have one vote; and
 - (b) in the case of LFA while it is a Member, LFA shall have three votes.
- 21.3 A Constituent Member is not entitled to vote at a general meeting if at the date of the meeting the Constituent Member's annual subscription remains unpaid after a period of at least 30 days after written notice from the Chief Executive Officer or the Treasurer of the unpaid amount.
- 21.4 In the event of any disagreement between Constituent Members as to whether any matter is:
- (a) for the purposes of clause 21.1(b), a matter relating to clauses 2.3, 2.4 or 2.5; or
 - (b) for the purposes of clause 21.1(d), a matter that is directly related to litigation, advocacy or the judiciary
- the matter shall be referred to the chairperson of the general meeting who shall decide whether the matter is so related.
- 21.5 For the purposes of clause 21.1, the Small Constituent Members may exercise their vote as follows:
- (a) only Small Constituent Members present in person, by proxy or Representative and entitled to vote may participate in the exercise of the vote and references in this clause 21.5 to 'Small Constituent Members' must be read accordingly;
 - (b) at the time of the vote, the Small Constituent Members must decide how the vote is to be cast;
 - (c) if the Small Constituent Members agree by ordinary majority as to how the vote is to be cast, the vote shall be cast by the Small Constituent Members in that manner;
 - (d) if the Small Constituent Members are unable to agree by ordinary majority as to how the vote is to be cast, then one of the Small Constituent Members is entitled to cast the vote as it sees fit, with such right to rotate amongst the Small Constituent Members each time it is necessary to be exercised, in a sequence to operate as follows:

- (i) the sequence will commence with the Small Constituent Member that has the longest period of current membership of the Council amongst the Small Constituent Members and will then operate according to descending length of current membership of the Council; and
 - (ii) if two or more Small Constituent Members have identical periods of current membership of the Council, their order in each sequence will be in descending order of number of members of those Small Constituent Members at that time (or in the case of Small Constituent Members being Representatives of Unincorporated Constituent Members, the number of members of the respective Unincorporated Constituent Body); and
 - (iii) upon admission as a Member, a Small Constituent Member will be entitled to be included in any sequence of rotation partially completed by the other Small Constituent Members;
- (e) a rotation for the purposes of clause 38.1(f) will be regarded as a rotation for the purposes of clause 21.5(d); and
 - (f) a Small Constituent Member exercising the rotating right described in clause 21.5(d) must at that time inform the chairperson of the meeting that the right is being exercised and the exercise of the right by the Small Constituent Member must be recorded in the minutes of the meeting.

22. Casting vote of chairperson

- 22.1 In the event of an equality of votes, the chairperson of a general meeting has a casting vote in addition to the chairperson's deliberative votes (if any) as a Member, proxy or Representative.

23. Objections

- 23.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- 23.2 An objection must be referred to the chairperson of the general meeting, whose decision, if made in good faith, is final.
- 23.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

24. Votes by proxy

- 24.1 A proxy may be appointed by a Member or a Representative in accordance with clause 25 and need not be a Member.
- 24.2 A proxy may demand or join in demanding a poll.
- 24.3 A proxy may vote on a poll.
- 24.4 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If an appointment directs the way the proxy is to vote on a particular resolution:
 - (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (b) if the proxy has two or more appointments that specify different ways to vote on the resolution - the proxy must not vote on a show of hands;

- (c) if the proxy is the chair - the proxy must vote on a poll and must vote that way; and
- (d) if the proxy is not the chair - the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

24.5 A proxy may speak at a general meeting.

25. Document appointing proxy

25.1 An appointment of a proxy is valid if it is signed by the Member or Representative making the appointment and contains the information required by subsection 250A(1) of the *Corporations Act 2001*. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the *Corporations Act 2001*.

25.2 For the purposes of clause 25.1, an appointment received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Council to the Member has been input into the appointment; or
- (b) the appointment has been verified in another manner approved by the Directors.

25.3 A proxy's appointment is valid at an adjourned general meeting.

25.4 A proxy may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

25.5 Unless otherwise provided for in the proxy's appointment, the appointment of the proxy will be taken to confer authority:

- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,

even though the appointment may specify the way the proxy is to vote on a particular resolution; and

- (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

25.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors.

26. Lodgment of proxy

26.1 The written appointment of a proxy must be received by the Council (unless otherwise specified in the notice of meeting to which the proxy relates) before the holding of a vote on which the appointee proposes to vote as proxy.

26.2 The Council receives an appointment of a proxy or other authority under which it was executed when they are received at:

- (a) the Office;
- (b) a facsimile number at the Office;

- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting; or
- (d) a general meeting.

27. Validity

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

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

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

Appointment and removal of Directors

28. Directors

28.1 The Directors of the Council will be:

- (a) the Constituent Appointed Directors; and
- (b) the members of the Executive appointed pursuant to clause 30 by the Constituent Appointed Directors.

29. Constituent Appointed Directors

29.1 Each Constituent Member may, by written notice to the Chief Executive Officer signed by the president or other duly authorised officer of the respective Constituent Body:

- (a) subject to clause 29.2, appoint one person as a Director;
- (b) subject to clause 29.3, remove any person it has appointed as a Director; and
- (c) subject to clauses 29.2 and 29.3, appoint another person to replace a person it has appointed as a Director.

29.2 After 24 June 2006, if a Constituent Member appoints a Constituent Appointed Director under clause 29.1 the Constituent Member shall appoint the Constituent Appointed Director for a term of not less than 24 months, unless the Constituent Member at its sole and absolute discretion determines that exceptional circumstances apply.

29.3 A Constituent Member who appoints a Constituent Appointed Director, under clause 29.1, after 24 June 2006 may not remove the Constituent Appointed Director within 24 months of his or her appointment, unless the Constituent Member at its sole and absolute discretion determines that exceptional circumstances apply.

29.4 Each Constituent Appointed Director will hold office as a Constituent Appointed Director:

- (a) from the date of receipt by the Chief Executive Officer of both the notice of appointment and a consent to act from the Director;

- (b) until:
 - (i) subject to clauses 29.2 and 29.3, removed or replaced by his or her appointing Constituent Member in accordance with clause 29.1; or
 - (ii) otherwise removed under clauses 30.18, 31 or 32.

30. Executive

- 30.1 The Executive will be:
 - (a) the President;
 - (b) the President-elect;
 - (c) the Treasurer; and
 - (d) three other positions to be known as 'Executive Members'.
- 30.2 The Executive will be appointed by the Constituent Appointed Directors in accordance with this clause 30.
- 30.3 At a Directors' meeting to be held immediately after each annual general meeting of the Council, elections will be held for the following positions in the following order:
 - (a) President-elect;
 - (b) Treasurer; and
 - (c) three Executive Members.
- 30.4 In accordance with clause 38.1, only Constituent Appointed Directors may vote in the election for the appointment of the members of the Executive.
- 30.5 Nominations for election to the positions of President-elect, Treasurer and the three Executive Members (other than for the first election of the Executive Member to fill the Executive Member position pursuant to clause 30.20 as to which clause 30.21 shall apply) must be received by the Chief Executive Officer not less than 30 days before the respective annual general meeting preceding the election (**Nomination Date**). Candidates must be nominated by a Constituent Member.
- 30.6 Only current Representatives or Directors as at the Nomination Date, or Practitioners who have been Representatives or Directors at any time during the two years immediately prior to the Nomination Date, (other than for the first election of the Executive Member to fill the Executive Member position pursuant to clause 30.20 as to which clause 30.22 shall apply) are eligible to stand for election to the positions of President-elect, Treasurer and the three Executive Members.
- 30.7 Immediately after the close of nominations, the Chief Executive Officer shall cause a list of candidates for the five positions referred to in clause 30.3 to be sent to all Directors and Constituent Members.
- 30.8 The elections will be conducted at the Directors' meeting in the sequence specified at clause 30.3.
- 30.9 Subject to clauses 30.12, 30.13, 31 and 32, every member of the Executive who:
 - (a) prior to 31 December 2006, is elected at the Directors' meeting referred to in clause 30.3 or becomes President pursuant to clause 30.10, shall hold office as a Director until the conclusion of the annual general meeting of the Council next following his or her appointment;

- (b) after 31 December 2006 but before 31 December 2007, is elected at the Directors' meeting referred to in clause 30.3 or becomes President pursuant to clause 30.10, shall hold office as a Director until 31 December 2008;
 - (c) after 31 December 2007, is elected at the Directors' meeting referred to in clause 30.3 or becomes President pursuant to clause 30.10, shall hold office as a Director for 1 calendar year commencing:
 - (i) in the case of members of the Executive elected at the Directors' meeting referred to in clause 30.3, on 1 January of the year next following his or her election and terminating on 31 December of that calendar year; and
 - (ii) in the case of a member becoming the President pursuant to clause 30.10, on 1 January following the end of the term of office of the President-elect under that clause and terminating on 31 December of that calendar year; and
 - (d) is elected at the Directors' meeting referred to in clause 30.20, shall hold office as a Director until 31 December 2009.
- 30.10 At the end of the term of office of the President-elect, other than a President-elect who fills a casual vacancy in that position (including pursuant to clause 30.14(a)), the President-elect becomes the President.
- 30.11 The Directors may, in accordance with clause 61, make by-laws from time to time governing the voting procedure for the elections required under this clause 30.
- 30.12 If:
- (a) a casual vacancy in the office of President arises; and
 - (b) within 14 days of the President-elect being notified by the Chief Executive Officer of the casual vacancy, the President-elect consents in writing to fill that position,
- the President-elect shall become the President.
- 30.13 If the President-elect consents to fill the casual vacancy in accordance with clause 30.12, he or she becomes the President, subject to clauses 31 and 32:
- (a) for the balance of the term of office of his or her predecessor; and
 - (b) if the end of the balance of the term of office of his or her predecessor is:
 - (i) prior to 31 December 2006, then until the conclusion of the annual general meeting of the Council following the next annual general meeting; or
 - (ii) after 31 December 2006, then until 31 December of the calendar year next following,
 provided:
 - (iii) he or she consents; and
 - (iv) in the case of clause 30.13(b)(i), prior to the next annual general meeting or, in the case of clause 30.13(b)(ii), prior to the commencement of the calendar year next following, the Constituent Appointed Directors resolve to appoint him or her.
- 30.14 Upon the President-elect becoming the President under clause 30.12:
- (a) the Treasurer becomes the President-elect; and
 - (b) the Executive Member longer continuously in office as an Executive Member becomes the Treasurer.

- 30.15 If the President-elect does not consent to fill the casual vacancy in the office of President pursuant to clause 30.12, the Constituent Appointed Directors may, by resolution, appoint a person to fill the office of President for the balance of the term of the preceding President.
- 30.16 If:
- (a) the President-elect filling the casual vacancy in the office of President does not consent to an additional term under clause 30.13(b)(iii); or
 - (b) the Constituent Appointed Directors do not resolve to appoint him or her for an additional term under clause 30.13(b)(iv),
- the Constituent Appointed Directors may, by resolution, appoint a person to fill that casual vacancy.
- 30.17 In accordance with clause 38.1, any casual vacancy in the Executive (other than the office of President filled pursuant to clause 30.12) may be filled by resolution of the Constituent Appointed Directors. Any person so appointed as a member of the Executive shall hold office, subject to clauses 31 and 32, for the balance of the term of office of his or her predecessor.
- 30.18 If a Constituent Appointed Director is elected as a member of the Executive, he or she will cease to hold office as a Constituent Appointed Director and his or her appointing Constituent Member may appoint a replacement Director under clause 29.
- 30.19 Notwithstanding any other clause, other than clauses 31 and 32, the person filling the office of President as at 29 January 2005 shall hold office as President until the conclusion of the annual general meeting of the Council held in 2006.
- 30.20 At a Directors' meeting to be held immediately after the general meeting held in March 2009, an election will be held for the third Executive Member position established by the general meeting.
- 30.21 Nominations for election to the position of Executive Member at the Directors' meeting referred to in clause 30.20 must be received by the Chief Executive Officer on or before 27 February 2009 (**Third Executive Member Nomination Date**). Candidates must be nominated by a Constituent Member.
- 30.22 In respect of the Executive Member to be elected to fill the third Executive Member position pursuant to clause 30.20, only current Representatives or Directors as at the Third Executive Member Nomination Date, or Practitioners who have been Representatives or Directors at any time during the two years immediately prior to the Third Executive Member Nomination Date, are eligible to stand for election to the third Executive Member position.
- 30.23 Clauses 30.20, 30.21 and 30.22 only apply to the first election to fill the third Executive Member position established and not subsequent elections to fill that position.

31. Removal of Directors

- 31.1 In accordance with section 203D of the *Corporations Act 2001*, the Council may, by resolution passed in general meeting, remove any Director before the end of the Director's period of office.
- 31.2 If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Council, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.

- 31.3 Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 31.1 or annul the suspension and reinstate the Director.

32. Vacation of office

- 32.1 The office of a Director immediately becomes vacant if the Director:
- (a) is prohibited by the *Corporations Act 2001* from holding office or continuing as a Director;
 - (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
 - (c) resigns by notice in writing to the Council;
 - (d) is removed by a resolution of the Council in accordance with clause 31;
 - (e) where the Director is a Constituent Appointed Director, is subject to clause 29.3 removed or replaced by his or her appointing Constituent Member in accordance with clause 29.1 or ceases to hold office pursuant to clause 30.18;
 - (f) is absent from Directors' meetings for three consecutive Directors' meetings without leave of absence from the Directors;
 - (g) is directly or indirectly interested in any contract or proposed contract with the Council and fails to declare the nature of the interest as required by the *Corporations Act 2001*;
 - (h) ceases to be a member of a Constituent Body (except for a Director appointed by LFA, in which case if the Director appointed by LFA ceases to be a LFA Practitioner);
 - (i) ceases to be a Practitioner; or
 - (j) dies.

Powers and duties of Directors

33. Powers and duties of Directors

- 33.1 The business of the Council is managed by the Directors who may exercise all powers of the Council that this Constitution and the *Corporations Act 2001* do not require to be exercised by the Council in general meeting.
- 33.2 Without limiting the generality of clause 33.1, the Directors may exercise all the powers of the Council to:
- (a) borrow money;
 - (b) charge any property or business of the Council;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Council or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

34. Delegation to Executive

- 34.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to the Executive.
- 34.2 The Directors may at any time revoke any delegation of power to the Executive.
- 34.3 The Executive must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 34.4 The Executive may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 34.5 Meetings of the Executive will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

Proceedings of Directors

35. Directors' meetings

- 35.1 A Director may at any time, and the Chief Executive Officer must on the request of a Director, call a Directors' meeting.
- 35.2 A Directors' meeting must be called on at least 48 hours written notice of the meeting to each Director and each Alternate Director.
- 35.3 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Chief Executive Officer, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.
- 35.4 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.
- 35.5 Subject to the *Corporations Act 2001*, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 35.6 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 35.7 Subject to clauses 38 and 41, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 35.8 Clauses 35.5 to 35.7 apply to meetings of Board Committees and Advisory Committees as if all committee members were Directors.
- 35.9 Subject to clause 35.10, the Directors may meet together, adjourn and regulate their meetings as they think fit.
- 35.10 The Directors must meet at least quarterly, including one meeting immediately following the annual general meeting of the Council.

36. Quorum

- 36.1 A quorum for a meeting of Directors is a majority of all Directors from time to time, which must also include a majority of all Constituent Appointed Directors at the time, provided that the Directors comprising the quorum are entitled to vote.
- 36.2 A quorum for a meeting of the Executive is a majority of members of the Executive from time to time, provided that the members of the Executive comprising the quorum are entitled to vote.
- 36.3 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting of Members to deal with the matter.

37. Decision on questions

- 37.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting.

38. Entitlement to vote

- 38.1 At Directors' meetings, on:

- (a) any resolution in respect of an application for recognition as a Constituent Body;
- (b) any resolution in respect of any matter relating to clauses 2.3, 2.4 or 2.5;
- (c) any matter that is directly related to litigation, advocacy or the judiciary; and
- (d) any election of members of the Executive or any resolution to fill a casual vacancy in the Executive,

voting entitlements are, subject to clause 38.4, as follows:

- (e) each Constituent Appointed Director, except a Constituent Appointed Director appointed by a Small Constituent Member, has one vote;
- (f) the Constituent Appointed Directors appointed by the Small Constituent Members have between them one vote, where:
 - (i) such vote is to be exercised by those Constituent Appointed Directors in a manner corresponding with the manner described in clause 21.5;
 - (ii) for such purpose, references to Small Constituent Members in clause 21.5 are to be read as references to the respective Constituent Appointed Directors appointed by the Small Constituent Members; and
 - (iii) a rotation for the purposes of clause 21.5(d) will be regarded as a rotation for the purposes of this clause 38.1(f); and
- (g) each member of the Executive is not entitled to vote.

- 38.2 In respect of all matters other than those specified in clause 38.1, members of the Executive shall each have one vote at Directors' meetings.

- 38.3 In respect of all matters other than those specified in clause 38.1, Constituent Appointed Directors shall have voting entitlements at Directors' meetings calculated as follows:

- (a) in the case of each Constituent Appointed Director of a Constituent Member other than LFA, according to the number of members of his or her appointing Constituent Member (or in the case of Constituent Members being

Representatives of Unincorporated Constituent Bodies, the number of members of the respective Unincorporated Constituent Body), as follows:

- (i) each Constituent Appointed Director whose appointing Constituent Member has 1,000 or more members shall have three votes;
 - (ii) each Constituent Appointed Director whose appointing Constituent Member has 250 to 999 members (both inclusive) shall have two votes; and
 - (iii) each Constituent Appointed Director whose appointing Constituent Member is a Small Constituent Member shall have one vote; and
- (b) in the case of a Constituent Appointed Director appointed by LFA, that Constituent Appointed Director shall have three votes.

38.4 A Constituent Appointed Director is not entitled to vote at a Directors' meeting if at the date of the meeting the annual subscription of his or her appointing Constituent Member remains unpaid after a period of at least 30 days after written notice from the Chief Executive Officer or the Treasurer of the unpaid amount.

38.5 In the event of any disagreement between Directors as to whether any matter is:

- (a) for the purposes of clause 38.1(b), a matter relating to clauses 2.3, 2.4 or 2.5; or
- (b) for the purposes of clause 38.1(c), a matter that is directly related to litigation, advocacy or the judiciary

the matter shall be referred to the chairperson of the Directors' meeting who shall decide whether the matter is so related.

39. Casting vote of chairperson

39.1 In the event of an equality of votes, the chairperson of a Directors' meeting has a casting vote in addition to his or her deliberative vote (if any).

40. Written resolutions

40.1 If 75% or more of all the Directors who are eligible in accordance with clause 38 to vote on a resolution, sign, consent, or agree to a resolution set out or identified in a document, then a resolution in those terms is taken to have been passed by the Directors without a meeting. The resolution is passed when the last Director signs or provides their consent or agreement.

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

40.3 Any document referred to in this clause may be a document in the form of a facsimile transmission, electronic notification, or produced by other electronic or mechanical means.

40.4 A Director may consent or agree to a resolution by

- (a) signing the document containing the resolution (or a copy of the document);
- (b) sending the consent or agreement in any document produced under the name of the Director with the Director's authority;

- (c) delivering to the Company's registered office a written document addressed to the Secretary or the President, signifying assent to the resolution and either setting out its terms or otherwise clearly identifying the resolution;
 - (d) telephoning the Secretary or the President and signifying assent to the resolution and clearly identifying its terms; or
 - (e) any other means approved from time to time by the Directors.
- 40.5 If a resolution is taken to have been passed in accordance with this clause 40, the minutes must record that fact.
- 40.6 This clause 40 applies to meetings of Board Committees, the Executive, and Advisory Committees as if all members of the committee or Executive were Directors.
- 40.7 Any document referred to in this clause 40 must be sent to every Director who is entitled to vote on the resolution.

41. Directors' interests

- 41.1 No contract made by a Director with the Council and no contract or arrangement entered into by or on behalf of the Council in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 41.2 No Director contracting with or being interested in any arrangement involving the Council is liable to account to the Council for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 41.3 A Director is not disqualified merely because of being a Director from contracting with the Council in any respect.
- 41.4 Subject to clauses 4.1 and 32.1(g), a Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Council;
 - (b) hold any office or place of profit other than as auditor in the Council; and
 - (c) act in a professional capacity other than as auditor for the Council,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Council or from holding an office or place of profit in or acting in a professional capacity with the Council.
- 41.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter,
- unless permitted by the *Corporations Act 2001* to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;

- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

- 41.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Council or in which the Council may be interested as a vendor, shareholder or otherwise and is not accountable to the Council for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- 41.7 Membership by a Director of a Constituent Body or the governing body of a Constituent Body or being a LFA Practitioner will not in itself be regarded as a material personal interest for the purposes of clause 41.5.

42. Alternate Directors

- 42.1 A Director may, with the approval of the Directors, appoint any person as his or her alternate for a period determined by that Director.
- 42.2 An Alternate Director is entitled to notice of Directors' meetings and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director to the extent of the voting entitlement of the appointor.
- 42.3 A person may be appointed as an Alternate Director for more than one Director and is entitled to vote for each Director for whom he or she is an alternate, but for the purpose of forming a quorum counts as only one Director.
- 42.4 If an Alternate Director is a Director, he or she is also entitled to vote as a Director in his or her own right, but for the purpose of forming a quorum counts as only one Director.
- 42.5 An Alternate Director is an officer of the Company and is not an agent of the appointor.
- 42.6 The provisions of this Constitution which apply to Directors also apply to Alternate Directors.
- 42.7 The appointment of an Alternate Director may be revoked at any time by the appointor or by the other Directors.
- 42.8 An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- 42.9 Any appointment or revocation under this clause 42 must be effected by written notice delivered to the Chief Executive Officer.

43. Remaining Directors

- 43.1 The Directors may act even if there are vacancies on the board.
- 43.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
 - (b) call a general meeting.

44. Chairperson

44.1 The President for the time being or, in the President's absence, the President-elect, shall be the chairperson of Directors' meetings.

44.2 If:

- (a) there is no President or President-elect; or
- (b) neither the President nor President-elect are present within 15 minutes after the time appointed for the Directors' meeting to begin; or
- (c) the President and President-elect are unwilling to act as chairperson of the Directors' meeting,

the Directors present may elect a chairperson of the Directors' meeting.

45. Delegation to Board Committees

45.1 The Directors may establish Board Committees as they shall see fit.

45.2 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to one or more Board Committees.

45.3 The Directors may at any time revoke any delegation of power to a Board Committee.

45.4 At least one member of each Board Committee must be a Director.

45.5 A Board Committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

45.6 A Board Committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.

45.7 Meetings of any Board Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

46. Validity of acts of Directors

46.1 If it is discovered that:

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

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

47. Minutes and registers

47.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Directors' meetings and meetings of Board Committees;
- (b) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Board Committees;

- (c) all resolutions passed by Directors in accordance with clause 40;
 - (d) all appointments of officers;
 - (e) all orders made by the Directors and Board Committees; and
 - (f) all disclosures of interests made under clause 41.
- 47.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 47.3 The Council must keep all registers required by this Constitution and the *Corporations Act 2001*.

48. Management

- 48.1 The Directors may provide for the management and transaction of the affairs of the Council in any places and in such manner as they think fit.

Advisory Committees

49. Advisory Committees

- 49.1 The Council or the Directors may establish Advisory Committees as it or they shall see fit.
- 49.2 The objective of each Advisory Committee shall be to report on such matters as may from time to time be referred to it by the Council or the Directors and to prepare written submissions on such matters in accordance with the directions of the Council or the Directors.
- 49.3 Advisory Committees may be comprised of such persons as the Council or the Directors may think fit and may include persons other than Practitioners.
- 49.4 Each Advisory Committee may meet at such times and in such places as are agreed between members of the Advisory Committee and the Chief Executive Officer.
- 49.5 Advisory Committees may be dissolved by a resolution of the Council or the Directors, as the case may be, and the Chief Executive Officer shall thereupon write to each member of the Advisory Committee informing him or her of the dissolution of the Advisory Committee.

Sections

50. Sections

- 50.1 The Directors may constitute Sections as they see fit with such jurisdiction as the Directors determine.
- 50.2 The object of each Section shall be to further the objects of the Council on matters within the jurisdiction of the Section including;
- (a) to promote professional discussion, consultation and study of such matters; and
 - (b) to make recommendations to the Directors on such matters where appropriate.

- 50.3 Persons eligible to be a member of a Section are:
- (a) all members of Constituent Bodies, while they remain such members, upon payment of an appropriate fee; and
 - (b) such other categories of persons as the Directors may from time to time prescribe and who pay an appropriate fee.
- 50.4 Such Sections shall be constituted, organised and regulated by by-laws approved by the Directors. Such by-laws shall be made on the establishment of a Section by the Directors and thereafter may be amended by the Section subject to the approval of the Directors.
- 50.5 The following Sections were constituted as Sections of the Council with effect from 1 July 2003:
- (a) Business Law Section;
 - (b) Family Law Section;
 - (c) Federal Litigation Section;
 - (d) Legal Practice Section; and
 - (e) International Law Section.
- 50.6 Sections may be dissolved, but only after consultation with the executive of the Section, by a resolution of the Directors and the Chief Executive Officer shall thereupon write to each member of the Section informing him or her of the dissolution of the Section.

Company secretary

51. Company secretary

- 51.1 The Directors will appoint at least one company secretary of the Council for a term and at remuneration and on conditions determined by the Directors.
- 51.2 If there is more than one Secretary, the Secretaries may act severally.
- 51.3 Each Secretary is entitled to attend and be heard on any matter at all Directors' meetings and general meetings.
- 51.4 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss each Secretary.

Chief Executive Officer

52. Chief Executive Officer

- 52.1 The Chief Executive Officer will be appointed by the Directors for a term and at remuneration and on conditions determined by the Directors.
- 52.2 The Chief Executive Officer will be the chief executive officer of the Council.
- 52.3 The Chief Executive Officer will not be a Director but will be entitled to attend all meetings of Directors unless otherwise directed by the Directors.
- 52.4 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to the Chief Executive Officer, upon terms and conditions and with any restrictions they see fit. Any powers so

conferred may be concurrent with, or to the exclusion of, the powers of the Directors. The Directors may revoke or vary any powers so conferred.

- 52.5 The Directors may, subject to the terms of the Chief Executive Officer's employment contract, suspend, remove or dismiss the Chief Executive Officer.
- 52.6 The Directors may appoint an acting Chief Executive Officer to perform temporarily all or any of the duties of the Chief Executive Officer. References to the Chief Executive Officer in this Constitution will, where applicable, include such acting Chief Executive Officer.

Seal

53. Common seal

- 53.1 If the Council has a Seal:
- (a) the Directors must provide for the safe custody of the Seal; and
 - (b) the Seal must not be used without the authority of the Directors or a Board Committee authorised to use the Seal; and
 - (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign the document.

Inspection of records

54. Inspection of records

- 54.1 Except as otherwise required by the *Corporations Act 2001*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Council or any of them will be open for inspection by Members.
- 54.2 Except as otherwise required by the *Corporations Act 2001*, a Member does not have the right to inspect any financial records or other documents of the Council unless the Member is authorised to do so by a court order or a resolution of the Directors.

Notices

55. Service of notices

- 55.1 Notice may be given by the Council to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
 - (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Council for sending notices to the person.
- 55.2 A notice sent by post is taken to be served:

- (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the day after the day on which it was posted.
- 55.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
 - (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day after its despatch.
- 55.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.
- 55.5 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.
- 55.6 A certificate in writing signed by the Chief Executive Officer, other Director, or other officer of the Council that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 55.7 Subject to the *Corporations Act 2001*, the signature to a written notice given by the Council may be written or printed.
- 55.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

56. Persons entitled to notice

- 56.1 Notice of every general meeting must be given to:
 - (a) every Constituent Body;
 - (b) every Member;
 - (c) every Representative;
 - (d) every Director;
 - (e) every Alternate Director; and
 - (f) any Auditor.
- 56.2 No other person is entitled to receive notice of a general meeting.

Audit and accounts

57. Audit and accounts

- 57.1 The Directors must cause the Council to keep written financial records in relation to the business of the Council in accordance with the requirements of the *Corporations Act 2001*.
- 57.2 The Directors must cause the financial records of the Council to be audited in accordance with the requirements of the *Corporations Act 2001*.

Winding up

58. Winding up

58.1 If the Council is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Council for the:
 - (c) payment of debts and liabilities of the Council (in relation to clause 58.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$10.

58.2 In the event of the Council being wound up, the amount that remains after such winding up and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes and which has rules prohibiting the distribution of its assets and income to its members.

Indemnity

59. Indemnity

59.1 To the extent permitted by law and subject to the restrictions in section 199A of the *Corporations Act 2001* the Council indemnifies every person who is or has been an Officer of the Council against any liability (other than for legal costs) incurred by that person as such an Officer of the Council (including liabilities incurred by the Officer as an officer of a subsidiary of the Council where the Council requested the Officer to accept that appointment).

59.2 To the extent permitted by law and subject to the restrictions in section 199A of the *Corporations Act 2001*, the Council indemnifies every person who is or has been an Officer of the Council against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an Officer of the Council (including such legal costs incurred by the Officer as an officer of a subsidiary of the Council where the Council requested the Officer to accept that appointment).

59.3 For the purposes of this clause 59 only, '**Officer**' means:

- (a) a Director;
- (b) an Alternate Director;
- (c) a Secretary; or
- (d) the Chief Executive Officer.

Alterations to the Constitution

60. Alterations to the Constitution

60.1 This Constitution may only be amended by the Council in general meeting:

- (a) in the case of a resolution to amend clause 2.3, clause 2.4 or the definition of 'Practitioner' in clause 1.1, by a unanimous vote of all Constituent Members;
 - (b) in any other case, by 75% majority resolution of all Constituent Members;
- provided that at least 40 days written notice of the intention to propose the resolution is given to all Members.

60.2 Every amendment will take effect from the date provided in such resolution, or if no such date is resolved then on the date of the meeting.

By-laws

61. By-laws

- 61.1 The Directors may make, repeal or amend such by-laws, rules or regulations as they see fit for the management and well-being of the Council or the carrying out of the Council's objects, provided that such by-laws, rules or regulations are not inconsistent with this Constitution or with each other.