AUSTRALIAN AND NEW ZEALAND COLLEGE OF ANAESTHETISTS

A.C.N. 055 042 852

CONSTITUTION

Incorporating the amendments passed in June and November 1994
September 1998
May 1999
May 2000
December 2007
April 2012
May 2016
May 2017
May 2019
November 2021
May 2022
August 2024

CONSTITUTION
OF THE
AUSTRALIAN AND NEW ZEALAND COLLEGE OF ANAESTHETISTS
ACN 055 042 852

1A DEFINITIONS

In this Constitution:

"**Act**" means the *Corporations Act 2001* (Cth);

"**ANZCA Fellow**" means a person who for the time being holds ANZCA Fellowship pursuant to clause 2.2, and is therefore a Member of the College;

"Authority" means any medical or professional authority recognised by the Council.

"**College**" means the Australian and New Zealand College of Anaesthetists constituted as a company limited by guarantee under this Constitution;

"**Constitution**" means this constitution of the College as amended from time to time;

"**Co-opted Councillor**" means a person co-opted onto the Council pursuant to clauses 8.1.1(d) and 11.2 of this Constitution and who will be a director under the Act;

"**Co-opted Observer**" means a person who is invited to attend Council meetings under this Constitution;

"**Co-opted Representative**" means a Dean of a Faculty who will be a Councillor under clause 11.1 and a director under the Act;

"**Council**" means the Council of the College appointed under this Constitution, each member of which will be a Councillor and a director under the Act;

"**Councillor**" means a member of the Council (that is the Elected Councillors, Co-opted Representative(s), New Fellow Councillor and Co-opted Councillor(s)) under clause 8.1.1 and who will be a director under the Act;

"**Elected Councillor**" means a Councillor who is a Member elected pursuant to clauses 8.1.1(a) and 9 and who will be a director under the Act;

"**Electronic Voting**" means an electronic vote of members (including voting using electronic means, computer-mediated voting and voting via electronic mail) conducted in accordance with this Constitution and the Regulations from time to time.

"**Executive**" means the Executive of the Council established pursuant to clause 14 of this Constitution;

"**Faculty**" means a faculty or other body established by Regulations pursuant to clause 7.3 of this Constitution;

"**Faculty Fellow**" means a FPMANZCA Fellow or an Other Faculty Fellow but does not include an Honorary Fellow;

"**FPMANZCA Fellow**" means a person who for the time being holds Fellowship of the Faculty of Pain Medicine pursuant to the Regulations establishing that Faculty, and may become a Member of the College pursuant to clause 2.3;

> ***Note:*** *A FPMANZCA Fellow does not become an ANZCA Fellow unless they also meet the requirements for ANZCA Fellowship.*

"**Honorary Fellow**", means a person awarded Honorary Fellowship but who will not be a Member specified on the Register;

"**Hybrid Meeting**" means a meeting held in two or more locations where some or all of the participants' attendance is enabled by audio and video conferencing or similar technology.

"**Meeting**" means any meeting of the College, its Council or its Members, held in person, as a Hybrid Meeting, or as a Virtual Meeting including, but not limited to, meetings pursuant to clauses 5, 12, 14.9, 16 and 17.

"**Member**" means the ANZCA Fellows and the Faculty Fellows;

"**Membership Financial Year**" means the membership financial year of the College, from 1 January to 31 December;

"**New-Fellow Councillor**" means the ANZCA Fellow who is within three years of admission to ANZCA Fellowship by examination elected pursuant to clauses 8.1.1(c), 8.2.3 and 9 of this Constitution and who will be a director under the Act;

"**Office**" means the registered office for the time being of the College; "Office Bearer" means a person holding office pursuant to clause 10;

"**Other Faculty Fellow**" means a person who for the time being holds Fellowship of a Faculty (other than FPMANZCA Fellowship) pursuant to the Regulations establishing that Faculty, and may become a Member of the College pursuant to clause 2.3;

> ***Note:*** *An Other Faculty Fellow does not become an ANZCA Fellow unless they also meet the requirements for ANZCA Fellowship.*

"**President**" means the person for the time being holding that office under this Constitution;

"**President Elect**" means the person for the time being holding that office under this Constitution;

"**Region**" means New Zealand and each state or territory of Australia and any other region designated by the Council for the purposes of this Constitution, the Regulations of the College and the regulations of each Faculty;

"**Register**" means the Register of Members required to be kept under this Constitution and the Act (whether kept electronically or otherwise);

"**Regulation**" means any regulation made in accordance with clause 7.3;

"**Seal**" means the common seal of the College;

"**Secretary**" means any person appointed to perform the duties of the Secretary of the College under clause 19 for the purposes of the Act;

"**Serious Offence**" means an offence punishable by a term of imprisonment of one or more years, or other offences defined in the Regulations; and

"**Vice President**" means a person for the time being holding that office under this Constitution.

"**Virtual Meeting**" means a meeting held using virtual meeting technology only.

1 OBJECTS

1.1 The objects for which the College is established are to:

1.1.1 promote and encourage the study, research and advancement of the science and practice of anaesthesia, perioperative medicine and pain medicine;

1.1.2 promote excellence in healthcare services and cultivate and encourage high principles of practice, ethics and professional integrity in relation to medical practice, education, assessment, training and research;

1.1.3 determine and maintain professional standards for the practice of anaesthesia, perioperative medicine and pain medicine in Australia and New Zealand;

1.1.4 advocate on any issue that affects the ability of Members to meet their responsibilities to patients and to the community;

1.1.5 establish the status of Membership of the College and its Faculties and to admit appropriately qualified persons to that status;

1.1.6 conduct and support programs of training and education leading to the issue of Membership or other certification attesting to the attainment or maintenance of appropriate levels of skills, knowledge and competencies commensurate with specialist practice in anaesthesia, perioperative medicine and pain medicine in Australia and New Zealand;

1.1.7 disseminate information and advise on any course of study and training designed to promote and ensure the fitness of persons who wish to qualify for recognition by the College;

1.1.8 conduct and coordinate examinations and other assessment processes and to grant registered medical practitioners recognition in anaesthesia, perioperative medicine and pain medicine, either alone or in cooperation with other relevant bodies or institutions;

1.1.9 hold or sponsor meetings, lectures, seminars, symposia or conferences, within or outside of Australia and New Zealand, to promote understanding in medicine and related subjects and professional relations among Members of the College, members of other health professions, scientists and the wider community;

1.1.10 facilitate the advancement of specialist education and training in anaesthesia, perioperative medicine and pain medicine through the support for and conduct of projects and research;

1.1.11 ensure that Members undertake continuous professional development and participate in effective, ongoing professional activities;

1.1.12 foster and promote cooperation and association with organisations which have objectives similar to the College in Australia and New Zealand as well as in the wider international arena, particularly Asia and the Pacific region;

1.1.13 facilitate medical education, medical aid and support, cultural competence, and cultural safety to developing nations;

1.1.14 advance public education and awareness of the science and practice of anaesthesia, perioperative medicine and pain medicine;

1.1.15 contribute to achieving health equity for Aboriginal, Torres Strait Islander and Māori and Pacific Islander peoples in Australia and Aotearoa New Zealand, through a commitment to the process of reconciliation in Australia and the principles of Te Tiriti o Waitangi in Aotearoa New Zealand;

1.1.16 advance public education and awareness of health equity, cultural competence, and cultural safety of Aboriginal and Torres Strait Islander, Māori and Pacific peoples;

1.1.17 provide authoritative advice, information and opinion to other professional organisations, to governments and to the wider community;

1.1.18 work with governments and other relevant organisations to achieve the provision of adequate, well-qualified, experienced and capable workforces in Australia and New Zealand and to improve health services;

1.1.19 monitor issues affecting the interests of the College or the professional interests of its Members and to take all such actions as may be deemed necessary for the protection of those interests; and

1.1.20 provide advice and support to Members to assist them in establishing and maintaining an appropriate work/life balance and to meet effectively the challenges of professional life.

1.2 In pursuit of the achievement of those objects, the College shall have all powers and functions necessary or desirable to the maximum extent permitted by law.

2 MEMBERSHIP OF THE COLLEGE

2.1 Classes of Membership

The Membership of the College shall consist of:

2.1.1 ANZCA Fellows; and

2.1.2 Faculty Fellows,

and such other classes or subclasses as specified in any Regulations for that purpose with such rights and privileges as set out in those Regulations.

2.2 ANZCA Fellows

2.2.1 The Council may admit an eligible and qualified person to ANZCA Fellowship.

2.2.2 The admission to ANZCA Fellowship (and therefore Membership) under clause 2.2.1 is subject to payment of any fee or subscription applicable.

2.3 **Faculty Fellows**

2.3.1 The Council may admit an eligible and qualified person to Faculty Fellowship, on the admission by any Faculty of that person as a "Fellow of that Faculty" under the Regulations establishing that Faculty.

2.3.2 The admission to Faculty Fellowship (and therefore Membership) under clause 2.3.1 is subject to payment of any fee or subscription applicable.

2.4 **Eligibility**

No person shall be eligible to be an ANZCA Fellow or Faculty Fellow unless at the time of admission as an ANZCA Fellow or Faculty Fellow:

2.4.1 they are a registered medical practitioner of Australia, New Zealand or some other country or state approved by the Council for the purpose of this clause 2.4; or

2.4.2 they hold some other medical qualification regarded as acceptable to Council.

2.5 **Rights not transferable**

The rights and privileges of every Member shall be personal and shall not be transferred or transmitted.

2.6 **Honorary Fellows**

2.6.1 The Council may award from time to time as Honorary Fellows people of renown, distinguished members of the medical profession and other eminent persons, whether or not those eminent persons are members of the medical profession.

2.6.2 An Honorary Fellow shall not be a Member of the College, and shall not have any rights to attend (unless invited by the Council) or vote at a general meeting.

2.6.3 The Council may, at any time, withdraw the award of Honorary Fellowship, taking into account the relevant grounds in clause 4.2 for terminating membership generally, if that clause were to apply to Honorary Fellows.

2.7 **Names to be entered in the Register**

The Secretary shall enter the name of any person admitted to Membership in the Register.

3 MEMBERSHIP SUBSCRIPTIONS

3.1 The Council, if it believes there is a good and compelling reason for doing so, may determine different rates of annual subscription for Members within the same class of Membership. The subscriptions payable by Members shall be of such amount and at such time as the Council from time to time prescribes (and pro rata for any part of a year).

3.2 If the subscription of a Member is unpaid for a period of six months after it becomes due, the person shall cease to be a Member of the College and shall lose all rights and privileges of Membership. The Council may, if it thinks fit, reinstate the Member upon payment of all arrears (on such conditions as the Council determines, including payment of interest of arrears of unpaid subscriptions).

4 CESSATION OF MEMBERSHIP

4.1 Automatic termination of Membership

4.1.1 Subject to this Constitution and any exceptions set out in the Regulations, the Membership of any Member terminates if:

(a) the Member resigns in writing;

(b) the Member dies;

(c) the Member's name is removed from the register of or suspended from practice by an Authority for disciplinary or conduct reasons;

(d) the Member becomes a person whose estate or person is liable to be dealt with in any way under the law relating to mental health or disability; and

(e) in other circumstances for other causes as set out in the Regulations.

4.1.2 If the Membership of a person terminates pursuant to clause 4.1.1(d), the Member may be readmitted to Membership by resolution of the Council taking into account the individual circumstances of that person.

4.1.3 If the Membership of a person terminates because the person is suspended from the register of any Authority for disciplinary or conduct reasons, the Member may be readmitted to Membership by resolution of the Council if the suspension of the Authority is lifted and subject to any conditions imposed by Council with or without the payment of a further Membership fee.

4.2 Termination of Membership by resolution of Council

4.2.1 Subject to this Constitution, the Council may at any time terminate the Membership of a Member if the Member:

(a) ceases to be eligible for admission to membership of the College;

(b) refuses or neglects to comply with the provisions of this Constitution or any applicable regulation made by the Council (including any codes of conduct);

(c) engages in conduct which in the opinion of the Council is unprofessional or is prejudicial to the interests of the College;

(d) has any condition or restriction imposed on their right to practise by an Authority;

(e) is found guilty by a Court of a Serious Offence;

(f) subject to clause 3.2, fails to pay any debt due to the College for a period of six months after the due date for payment; or

(g) in other circumstances for other causes as set out in the Regulations.

4.2.2 For the purposes of clause 4.2.1, a Member shall not be deemed to have ceased to be eligible for Membership solely by reason of the fact that the Member has ceased to practise.

4.2.3 Subject to clause 4.2.5 a decision of the Council under clause 4.2.1 is not effective unless:

(a) the Secretary has given the Member concerned a notice of the resolution to be considered by the Council and a copy of any business papers circulated to the Council regarding the resolution not less than 14 days prior to the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;

(b) the Member has been invited and permitted to attend that part of the meeting of the Council at which the resolution is considered and permitted to make submissions to the meeting in writing and verbally;

(c) the Member is given an opportunity to respond to any matters raised in the meeting relating to the resolution being considered. The Council may ask the Member to leave the meeting during its deliberations once submissions from all interested parties are complete; and

(d) notice of the decision of the Council is given promptly to the Member.

4.2.4 Subject to clause 4.2.5, a decision under clause 4.2.3 may be subject to appeal under Regulations relating to appeals made for that purpose.

4.2.5 Clauses 4.2.3 and 4.2.4 do not apply to a Member whose wilful refusal or neglect to comply with the provisions of this Constitution consists solely of failing to pay their annual subscription to the College.

4.3 **Name to be removed from Register**

The name of any person ceasing to be a Member of the College shall be removed from the Register.

4.4 **Consequence of termination of membership**

4.4.1 Any person whose Membership of the College terminates for any reason in accordance with this Constitution:

(a) if the person was a Member — shall cease to be a Member or belong to any Membership, howsoever described;

(b) shall cease to be entitled to any of the rights and privileges of a Member;

(c) may be required to return their certificates of Diploma(s) of Membership to the Secretary of the College within 14 days of receiving notice of the termination of the person's Membership of the College; and

(d) must not represent that they are a Member of the College (either as an ANZCA Fellow, Faculty Fellow or Fellow of a Faculty of the College) or use the post-nominal “FANZCA” or other post-nominal or nomenclature of the College which may be applicable (e.g. FFPMANZCA).

4.5 Continuing obligations

4.5.1 Any person who ceases to be a Member of the College shall forfeit all the rights and privileges of Membership and shall have no rights in or claim upon the College for the property or funds of the College except as a creditor.

4.5.2 Without limiting clause 4.5.1, termination of Membership for any reason does not affect the liabilities and obligations of a Member (whether they arise under this Constitution or otherwise), including any obligation to pay any Membership subscriptions payable on or before termination, existing at the date of termination or which arise or become known after that date out of or by reason of facts or circumstances occurring or in existence at or before that date.

4.5.3 No former Member of the College is eligible for readmission until all arrears of subscriptions and any interest imposed by Council, if any, due to the College at the date when their former Membership ceased are paid.

5 GENERAL MEETINGS OF THE COLLEGE

5.1 Annual General Meeting

5.1.1 An annual general meeting of the Members must be held before the end of May in each year, unless otherwise permitted by law.

5.1.2 Council shall determine the time and the place of the annual general meeting.

5.2 Calling and holding meetings of Members

5.2.1 The Council may call a meeting of Members.

5.2.2 The Council must call a general meeting of the College as required under the Act or if the College receives a written request from the lesser of:

(a) at least 5% of Members at the general meeting; or

(b) at least 100 Members at the general meeting, and the written request:

(c) states the resolutions to be proposed at the general meeting; and

(d) is signed by all the Members making the request.

5.2.3 If Members requisition a general meeting in accordance with clause 5.2.2,

(a) the Council must call the general meeting within 21 days after the request is given to the College; and

(b) the meeting must be held within 2 months after the request is given to the Council.

5.2.4 If the Council does not call a general meeting that was requisitioned by Members in accordance with clause 5.2.3 within 21 days after the request is given to the College, then Members with more than 50% of the votes of all the Members who made the request under clause 5.2.2 may call and arrange to hold a general meeting.

5.2.5 Subject to the Act, a meeting of Members (including an Annual General Meeting):

(a) may be held in two or more places; and may, at the election of Council, acting reasonably, be conducted as a Virtual Meeting or as a Hybrid Meeting; and

(b) be held using any technology approved by Council that gives Members as a whole (and their proxies) a reasonable opportunity to participate.

5.3 **Notice requirements**

5.3.1 At least 21 days' notice must be given of a meeting of Members unless the Act permits shorter notice.

5.3.2 Subject to clause 5.3.1, a notice of a meeting of Members must:

(a) set out the place, date and time for 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) provide instructions for Electronic Voting if applicable;

(c) state the general nature of the meeting's business; and

(d) if a special resolution is to be proposed at the meeting — set out an intention to propose the special resolution and state the resolution; and

(e) if a Member is entitled to appoint a proxy — contain:

(1) a statement setting out:

(A) that the Member has a right to appoint a proxy;

(B) that the proxy must be a voting Member, and

(2) instructions relating to technology approved by Council for the purposes of depositing instruments appointing proxies.

6 PROCEDURE AT A GENERAL MEETING

6.1 Annual General Meeting business

The business of the annual general meeting shall be:

6.1.1 to receive and consider the report of the Council;

6.1.2 to consider the annual financial reports and the auditor's report;

6.1.3 to consider any proposed alteration of the Constitution;

6.1.4 in accordance with the Constitution, to declare the result of the election of Elected Councillors and the New Fellow Councillor in place of those retiring;

6.1.5 to appoint an auditor, if necessary; and

6.1.6 to transact any other business which ought to be transacted at an annual general meeting of which notice has been given in the notice of meeting.

6.2 Quorum at a general meeting

6.2.1 Business may not be transacted at a general meeting unless a quorum of Members is present at the time when the meeting proceeds to business and while business is being conducted.

6.2.2 Except as otherwise set out in this Constitution, 25 Members present in person at a general meeting is a quorum.

6.2.3 If a quorum is not present within 15 minutes of the time appointed for a general meeting, or a longer period allowed by the Chair, the meeting shall stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Chair.

6.2.4 At an adjourned meeting, if a quorum is not present within 15 minutes of the time appointed for the meeting, the Members present shall be a quorum and may transact the business for which the meeting was called.

6.2.5 Members may participate in any meeting remotely by electronic means permitted under the Act, this Constitution, the Regulations and/or the notice of meeting.

6.3 **Chair**

6.3.1 A general meeting shall be chaired by:

(a) the President;

(b) if the President is absent or unable or unwilling to act, the Vice President; or

(c) if the Vice President is absent or unable or unwilling to act, a Member elected by the Members present.

6.3.2 Subject to this Constitution, the Chair's ruling on all matters relating to the order of business and the procedure and conduct of a general meeting (including any poll or ballot) is final and no motion of dissent from a ruling of the Chair may be moved.

6.4 **Adjournment of meetings**

6.4.1 The Chair may, with the consent of any meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting to another time and to another place.

6.4.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

6.4.3 When a meeting is adjourned, new notice of the continuation of the adjourned meeting must be given if the meeting is adjourned for 1 month or more.

6.5 **Voting**

6.5.1 At a general meeting solely in person a resolution put to the vote of the meeting is decided on a show of hands unless a ballot, which may occur via Electronic Voting, is (before or on the declaration of the result of the show of hands) demanded. Voting at a Hybrid Meeting or a Virtual Meeting will be by ballot, which may occur via Electronic Voting.

6.5.2 Resolutions are decided by a majority of votes of Members present, with abstentions not being counted in the total number of votes.

6.5.3 Subject to this Constitution, every Member present in person has one vote on a show of hands and every Member present in person or by proxy has one vote on a ballot.

6.5.4 If there is an equality of votes, whether on a show of hands or on a ballot, the Chair has a casting vote in addition to their deliberative vote.

6.5.5 An objection to the qualification of a voter must be referred to the Chair who must rule on the objection before a vote is taken.

6.5.6 If a ballot is not duly demanded, a declaration by the Chair that on a show of hands a resolution has been carried or carried unanimously or by a particular majority or lost and an entry to that effect is made in the

book containing the minutes of the general meeting of Members is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

6.6 **Conduct of a ballot**

6.6.1 A ballot may not be taken on the election of a Chair or on a question of adjournment.

6.6.2 A ballot may be demanded by:

(a) the Chair; or

(b) any five Members present in person or by proxy.

The demand for a ballot may be withdrawn.

6.6.3 The demand for a ballot does not prevent the continuance of a meeting for the transaction of business other than the question on which the ballot is demanded.

6.6.4 If a ballot is duly demanded, it must be taken in the manner and at such time as the Chair directs. The result of the ballot is the resolution of the meeting on the question concerned.

6.7 **Proxies**

6.7.1 A document appointing a proxy (which for the purposes of this Constitution includes a power of attorney of a Member appointing another Member to vote on the first mentioned Member's behalf) may be in the form issued with the notice of the meeting or in a common or usual form approved by the Council.

6.7.2 Only a Member may be appointed as a proxy.

6.7.3 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution other than as specified in the document (if any).

6.7.4 The document appointing a proxy and any power of attorney or other authority (if any) under which the proxy is signed (or a copy of that power or authority certified to be a true copy by a legal practitioner or justice of the peace) must be given (and may be given by facsimile) to the Secretary at the Office or at another place 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.

6.7.5 A vote given in accordance with the terms of a document appointing a proxy is valid despite the occurrence of any one or more of the following events if no notice in writing of any of those events has been received by the Secretary at the Office before the commencement of the meeting or adjourned meeting at which the document is used:

(a) the previous death or unsoundness of mind of the appointor;

(b) the revocation of the instrument or of the authority under which the instrument was executed; or

(c) the termination of Membership of the Member.

6.8 **Only financial Members to vote**

No Member is entitled to:

6.8.1 be present;

6.8.2 vote on any question either personally or by proxy;

6.8.3 vote as a proxy for another Member; or

6.8.4 be reckoned in a quorum,

at any general meeting of the College if their annual Membership subscription remains unpaid beyond the due date by more than six months.

6.9 **Electronic Voting**

6.9.1 In respect of any business which may be validly considered at a general meeting (including an annual general meeting) pursuant to this Constitution, Council elections or any other business set out in the Regulations, the Council may as part of or in lieu of a meeting) conduct a vote or ballot by electronic means (in this Constitution referred to as a "**Electronic Voting**").

6.9.2 At least twenty-one days prior to the closing date of an Electronic Vote, the Secretary shall send voting instructions to all Members, giving particulars of the business in relation to which the Electronic Voting is conducted, an explanation of the method of voting and a voting form (all in a form and with such content as the Council may approve), and shall give all such Members notice of the closing date of the Electronic Voting.

6.9.3 The Secretary shall receive all votes received from such Members in respect of Electronic Voting and shall promptly advise the Council of the result of the vote. Any vote received at the Office after 5 pm on the closing date of a vote shall be deemed to be invalid and not be counted.

6.9.4 In the event of an equal number of votes in respect of any business for which an Electronic Vote is conducted, the President (or Vice President, in the President's absence) shall have a second or casting vote.

6.9.5 In all other respects, subject to this Constitution, Council shall determine any other procedures or matters in relation to the conduct of any Electronic Voting and shall have power to make Regulations for that purpose.

6.9.6 In the event of any dispute by any Member in relation to the validity or conduct of any Electronic Voting, such Member shall within 30 days of the closing date of such Electronic Voting, give notice in writing to the Council stating the grounds of their complaint. Council may thereupon either itself investigate the complaint or may appoint a committee for that

purpose. After hearing the complaint the Council shall determine the matter and its decision thereon shall be final.

7 COUNCIL OF COLLEGE

7.1 Manage general business of the College

7.1.1 The business of the College shall be managed by the Council which may exercise all powers of the College as are not, by the Act or by this Constitution, required to be exercised by the College in general meeting or prescribed by the College in general meeting. No proper resolution or Regulation made by the College in general meeting shall invalidate any prior act of the Council which would have been valid if that resolution or Regulation had not been passed or made.

7.1.2 The Council shall invest the funds of the College not immediately required for the purposes of the College in any one or more of the modes of investment from time to time authorised by law for the investment of funds held in trust.

7.1.3 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the College shall be signed, drawn, accepted, endorsed or otherwise executed as the Council from time to time determines.

7.2 Power to delegate

7.2.1 The Council may delegate any of its powers (other than that of delegation) to committees comprising persons appointed by Council.

7.2.2 The Council may revoke any delegation of its powers by ordinary resolution.

7.2.3 Any committee exercising the delegated power of Council shall comply with any conditions or limitations imposed by Council.

7.3 Regulations

7.3.1 The Council shall have power from time to time to make, amend and repeal all such Regulations as it deems necessary or desirable for the proper conduct and management of the College, the regulation of its affairs and the furtherance of its objectives.

7.3.2 Without in any way limiting the power of the Council under clause 7.3.1, the Council may make, amend and repeal Regulations in relation to:

(a) procedural matters in relation to application for all classes of Membership of the College (whether by way of assessment, election or otherwise);

(b) entrance fees, annual subscriptions and other fees payable by all classes of Membership of the College;

(c) rights and privileges to be accorded to all classes of Membership of the College;

(d) academic dress to be worn by Members of the College;

(e) the establishment, regulation, administration and dissolution of Faculties or other organisations of Members whether such organisations have a regional basis or otherwise and in relation to the office bearers of such organisations;

(f) the conduct of courses of training, study and/or examinations for admission to Membership or for other diplomas or certificates of the College or otherwise, including prescribing fees pertaining to such courses of study and/or examinations;

(g) the nomination and election of Councillors and Office Bearers of the College;

(h) the conduct of Electronic Voting of Members of the College;

(i) the Membership, purpose and proceedings of committees of the Council;

(j) the terms and conditions for renewal of Membership and re-instatement to Membership and any codes of conduct and continuing professional development requirements adopted by the Council; and

(k) the discipline of and sanctions applicable to, Members, trainees and others, including, counselling, reprimand, termination or expulsion, and any associated exceptions.

7.3.3 No Regulation shall be inconsistent with, nor shall it affect the repeal or modification of, anything contained in this Constitution.

7.3.4 All Regulations shall be binding upon all Members. A record of all Regulations shall be kept in such place as the Council shall appoint for that purpose.

7.4 Council to Establish Faculties

7.4.1 Unless otherwise determined by Council, Council shall by Regulation establish the Faculty of Pain Medicine and such other Faculties on such basis as the Council determines. The Regulations establishing a Faculty may create classes of voting or non-voting membership or fellowship of a Faculty, including associate fellowship of a Faculty. Subject to this Constitution, the classes within a Faculty are distinct from the classes within the College.

7.4.2 The Council may delegate, revoke or impose conditions on the delegation of any of its powers to the Board or any committees of a Faculty as if they were committees appointed by the Council for the purposes of clause 7.2.

7.4.3 The Council may regulate the operation of the Faculty and its Board and any committees as if they were all committees appointed by the Council for the purposes of clause 17.1.

7.4.4 Despite clauses 7.4.3 and 17.1, the Regulations may authorise the Faculty to determine the chair and members of a committee of the Faculty.

7.5 Representations by the College

7.5.1 The President or the Council may authorise any committee or individual to represent the College before any government or governmental body or committee or to make statements or express views on behalf of the College. The authority may be given generally or for a specific situation and may be given on such conditions as the President or Council thinks fit.

7.5.2 Unless duly authorised to do so under this clause 7.5, no Member may make any statement or express any view which purports to be a statement or view of the College or as having been made or expressed on behalf of or with the concurrence of the College.

8 COUNCILLORS

8.1 Composition of Council

8.1.1 The Council shall consist of the following Councillors who shall be the directors of the College under the Act:

(a) twelve Members elected in accordance with clauses 9.1 and 9.3 ("**Elected Councillors**") who shall remain in office for three years, as extended by clause 10.2**,** but subject to clauses 8.1.4 and 8.1.5 shall be eligible for re- election (which shall include the President or President Elect as the case may be);

(b) the Dean of the Faculty of Pain Medicine, and the Dean(s) of any other Faculty established under clause 7.4 ("**Co-opted Representative(s)**");

(c) one New-Fellow Councillor elected in accordance with clauses 9.1, 9.3, 9.4, 9.6 and 9.7 who shall remain in office for two years and shall not be eligible for re-election as the New Fellow Councillor; and

(d) any Co-opted Councillor pursuant to clause 11.2.

8.1.2 At least one of the Elected Councillors elected pursuant to clause 8.1.1(a) shall be resident in New Zealand.

8.1.3 The Co-opted Representative(s), New Fellow Councillor, Co-opted Councillor(s) and any person appointed to fill a vacancy on Council shall be entitled to exercise all the same rights and privileges at meetings of the Council as the Elected Councillors including the right to vote but shall not be eligible for election as an Office Bearer.

8.1.4 At each annual general meeting all Elected Councillors of the Council who have held office as an Elected Councillor for a continuous period of

three years shall retire from office but (subject to clause 8.1.5) shall be eligible for re-election.

8.1.5 At each annual general meeting all Councillors (elected, co-opted, new fellow) who were elected and/or co-opted for a continuous or aggregate period of twelve (12) whole years shall retire from office and shall not be eligible for re-election at that or any subsequent annual general meeting.

8.2 **Term of office of Councillors**

8.2.1 The elected term of office of Elected Councillor shall be three (3) years commencing at the annual general meeting in the year of their election, unless by doing so they would exceed the provisions of 8.2.2 and/or 8.1.5, in which case it will be the shorter duration.

8.2.2 A Councillor (elected, co-opted or new fellow) shall not serve more than a continuous or aggregate period of twelve (12) whole years.

8.2.3 The New-Fellow Councillor will be eligible for election as an Elected Councillor in accordance with clause 8.1.1(a) after their term as New-Fellow Councillor is completed. The time spent on ANZCA Council as a New-Fellow will be counted towards the aggregate period that an Elected Councillor may spend on ANZCA Council in accordance with clause 8.1.5.

8.2.4 An Elected Councillor who has served their term of office as prescribed in clause 8.2.1 shall retire from office at the annual general meeting at the end of their term held after that Elected Councillor is declared elected provided that any retiring Elected Councillor shall be eligible for re-election subject to clause 8.2.2.

8.2.5 A retiring Elected Councillor shall be entitled to act as a Councillor at the meeting at which they retire.

8.3 **Removal of Councillors**

8.3.1 A Councillor may be removed from office by ordinary resolution of a general meeting of the College.

8.3.2 If a Councillor is removed from office by ordinary resolution of a general meeting of the College, that meeting may appoint another Member to fill the vacancy created for the remaining term of the Councillor who was removed from office.

8.4 **Termination of office of Councillors**

8.4.1 The office of a Councillor becomes vacant if the Councillor:

(a) resigns that office by notice in writing to the College;

(b) ceases to be a Member of the College;

(c) is absent from three consecutive meetings of the Council (other than meetings of Council called on less than 48 hours notice) without leave of absence;

(d) becomes an employee of the College;

(e) is directly or indirectly interested in any contract or proposed contract with the College and fails to declare that interest in the manner required by the Act (or at the first meeting of the Council after the relevant facts have come to the Councillor's knowledge) and the Council determines that the Councillor should no longer be a Councillor;

(f) is removed from office pursuant to clause 8.3.1;

(g) becomes bankrupt;

(h) becomes a person whose estate or person is liable to be dealt with in any way under the law relating to mental health or disability; or

(i) is removed from office by operation of the Act.

8.5 **Casual vacancies**

8.5.1 A casual vacancy shall mean any vacancy among the Councillors caused otherwise than by the retirement of a Councillor at the end of their term.

8.5.2 A casual vacancy shall not be deemed to have arisen upon a Councillor ceasing to reside in the State or Territory of Australia or in New Zealand in which that Councillor was resident at the time of their election.

8.5.3 If the office of a Councillor becomes vacant during the Councillor's term of office that position shall be filled by the Council, subject to clause 8.3.2.

8.5.4 Any Councillor appointed pursuant to this clause 8.5 shall hold office only until the next election of Councillors and shall be eligible for re-election in accordance with this Constitution.

8.5.5 For the purposes of this clause 8.2 the period of time served pursuant to clause 8.5.4 if less than one year shall not be counted as a period of office.

9 ELECTION OF COUNCIL

9.1 Nominations of candidates for election as Elected Councillors or New-Fellow Councillor shall:

9.1.1 be signed by two Members;

9.1.2 contain a consent to act as a director for the purposes of the Act if elected signed by the person nominated;

9.1.3 contain an initial declaration of the Councillor's interests (clause 12.9); and

9.1.4 be received in a manner as set out in the Regulations.

9.2 Wherever used in this clause 9 the term “candidates” shall be deemed to mean persons eligible for election as Elected Councillors or New-Fellow Councillor under the provisions of this Constitution.

9.3 If the number of nominations of candidates for election as Elected Councillors or New- Fellow Councillor does not exceed the number of vacancies the candidates so nominated shall be declared duly elected at, and effective from the end of, the annual general meeting.

9.4 If the number of candidates exceeds the vacancies, then an election will be held by post, electronically or by such other means and in such manner as the Council may, by Regulations made for that purpose, determine.

9.5 Members, if they elect to vote, including by Electronic Voting, either at or prior to the meeting pursuant to the instructions of Council shall be obliged to vote for as many candidates as there are vacancies to be filled and no more, provided that all votes not received in a manner as set out in the Regulations shall be deemed to be invalid and shall not be counted.

9.6 The New-Fellow Councillor will be elected by Fellows who are within three years of admission to ANZCA fellowship by training and examination on the date on which the ballot is sent to such Fellows.

9.7 A New-Fellow standing for election as an Elected Councillor in accordance with clause 8.1.1(a) may not also stand for election as the New-Fellow Councillor in accordance with clause 8.1.1(c).

9.8 At the annual general meeting the first candidate declared elected (assuming there is a candidate for the purpose and in order to ensure compliance as far as possible with clause 8.1.2 hereof) shall be a candidate resident in New Zealand who has received more votes than other candidates (if any) also resident in New Zealand to bring the number of Elected Councillors resident in New Zealand up to one.

9.9 Then the vacancies shall be filled by declaring elected the necessary number of the remaining candidates who received the most votes.

9.10 In the event of two or more candidates receiving an equal number of votes then priority in election as between such candidates receiving an equal number of votes shall be determined in accordance with the following provisions:

9.10.1 Any candidate who is also a retiring Councillor shall be deemed to have received more votes than any candidate who is not a retiring Councillor.

9.10.2 Any retiring Councillor who has served on the Council for a longer continuous period immediately prior to such election than another retiring Councillor shall be deemed to have received more votes than such other retiring Councillor.

9.10.3 In the event of two or more retiring Councillors who have served on Council for the same continuous period immediately prior to such election receiving an equal number of votes any of such retiring Councillors who has been a Member with the right to vote for a longer continuous period immediately prior to such election than another of

such retiring Councillors shall be deemed to have received more votes than such other retiring Councillor.

9.10.4 Any candidate who is not a retiring Councillor but who has been a Member for a longer continuous period immediately prior to such election than another candidate who is also not a retiring Councillor shall be deemed to have received more votes than such other candidate.

9.10.5 In the event of a priority in election not having been able to be determined under the foregoing provisions priority in election as between such candidates shall be determined by the President.

10 OFFICE BEARERS

10.1 The Office Bearers of the College shall be the President and Vice President.

10.2 In November each year the Council shall elect from its Elected Councillors and Office Bearers a President-Elect who will take office as President at the conclusion of the next annual general meeting. The President Elect and the President shall not be subject to the requirement to stand for re-election to Council, and in those circumstances, the provisions of clause 8.1.1(a) shall not apply to them.

10.3 At the April Council Meeting in each year, the Council shall elect from its Elected Councillors a Vice-President elect who will take office as Vice-President at the conclusion of the next annual general meeting.

10.4 Subject to clauses 8 and 9, the Office Bearers listed in clause 10.1 shall hold office for one year but shall be eligible for re-election each year for a further period of one year and shall continue to exercise their functions until their successors have been regularly appointed. The President is not entitled to serve more than two consecutive terms of one year each.

10.5 Where an Office Bearer dies while in office or resigns or is disqualified in any way from holding office the Council shall elect a replacement for the balance of that term of office.

10.6 The term of office of an Office Bearer shall end on:

10.6.1 the end of the term provided for in clause 10.4;

10.6.2 notice of retirement from the Office Bearer being given to the College;

10.6.3 the Office Bearer ceasing to be a Councillor for any reason; or

10.6.4 removal from the office by a resolution of Council.

11 CO-OPTION TO THE COUNCIL

11.1 Co-opted Representatives

The Dean of the Faculty of Pain Medicine, and the Dean of any other Faculty established under clause 7.4 shall be the Co-opted Representative(s). The rights and privileges of Co-opted Representatives are not transferrable.

11.2 **Co-opted Members**

11.2.1 If at any time or times New Zealand or any State of Australia is not represented on the Council by an Elected Councillor resident in such region, the Council shall have the power to co-opt as a Councillor, on advice of the Regional or National Committee, a Member resident and carrying on their professional practice in that region not represented as aforesaid (in this Constitution referred to as "**Co-opted Councillors**").

11.2.2 A Co-opted Councillor shall be appointed annually by the Council for a maximum aggregate period of three years.

11.3 **Co-opted Observers**

To further the interests of anaesthesia, perioperative medicine, pain medicine and related disciplines in Australia and New Zealand, the Council shall have the power to co-opt as an observer to Council (in this Constitution referred to as "**Co-opted Observer**"):

11.3.1 the Chair of the New Zealand National Committee;

11.3.2 the Chair of the College's Trainee Committee;

11.3.3 the Presidents of the relevant specialist societies (or their nominee);

11.3.4 the President of the College of Intensive Care Medicine of Australia and New Zealand (or their nominee);

11.3.5 the President of the Royal Australasian College of Surgeons (or their nominee); and

11.3.6 such other office bearers as Council determine from time to time.

11.3.7 At the invitation of the President, a Co-opted Observer may contribute to and participate in the proceedings of the Council but shall not have a vote.

12 MEETINGS OF THE COUNCIL

12.1 **Meetings**

12.1.1 The Council may meet for the transaction of business and adjourn and otherwise regulate its meetings as it thinks fit.

12.1.2 The Secretary must convene a meeting of the Council on the requisition of the President or any two Councillors.

12.1.3 Subject to the Act, a meeting of Council may be held in two or more places and conducted as a Virtual Meeting or as a Hybrid Meeting.

12.2 **Notice of Council meetings**

12.2.1 At least 24 hours notice of a meeting of the Council must be given to each Councillor specifying the place, time and date of the meeting and the general nature of items to be discussed.

12.2.2 Shorter notice may be given if at least 75% of the Councillors agree or if the President considers that the business of the meeting is urgent.

12.3 **Quorum**

12.3.1 The quorum necessary for the transaction of the business of the Council is a majority of Councillors unless the Council resolves that a greater number shall constitute a quorum.

12.3.2 If at any time the number of Councillors is less than a quorum the Council may meet only for the purpose of filling any casual vacancies or for calling a general meeting of Members.

12.3.3 The Council may act notwithstanding any vacancy on the Council.

12.4 **Chair**

12.4.1 The President shall take the Chair at all meetings of the Council (or in the absence of the President, the Vice President shall Chair).

12.4.2 If the President or Vice President are not present at any meeting of Council within 15 minutes after the time appointed for holding the meeting the Councillors present shall elect a Councillor present to be Chair of the meeting.

12.5 **Voting**

12.5.1 Questions arising at a meeting of the Council shall be decided by a majority of votes of Councillors present and voting with abstentions not being counted in the total number of votes. A decision by a majority of the Councillors present and voting is for all purposes a decision of the Council.

12.5.2 The Chair of the meeting has a casting vote in addition to a deliberative vote where there is an equality of votes.

12.6 **Written resolution**

12.6.1 A written resolution signed or approved by electronic mail by 75% of all Councillors (other than any Councillor on leave of absence or abstaining in writing) is taken to be a decision of the Councillors passed at a meeting of the Councillors duly convened and held.

12.6.2 The written resolution may consist of:

(a) several documents in like form, each signed by one or more Councillors and, if so signed, takes effect on the last date on which a Councillor signs one of the documents; or

(b) the printed record of several electronic mail messages each indicating the identity of the sender, the text of the resolution and the sender's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect on the date on which the last Councillor sends such a message.

12.7 **[NOT USED]**

12.8 **Defects in appointment or qualification of a Councillor**

All acts done in good faith by a meeting of the Council or of a committee of Council or by any person acting as an Office Bearer, Councillor or committee member of the College will be valid and effective notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person or that the person was disqualified from acting for any reason.

12.9 **Councillor's interest**

12.9.1 This clause 12.9 applies if:

(a) a Councillor has an interest or duty in relation to a matter that is not a material personal interest; or

(b) a Councillor with a material personal interest in relation to the College's affairs:

(1) complies with the requirements of the Act in relation to disclosure of the nature and extent of the interest and its relation to the College's affairs before acting in a matter that relates to the interest; or

(2) does not have to disclose their material personal interest to the other Councillors under the Act.

12.9.2 Subject to clause 12.10, the Councillor is not in breach of their duties to the College merely because they act in matters that relate to the Councillor's interest.

12.9.3 In relation to any transactions that relate to the Councillor's interest:

(a) the transactions may proceed;

(b) the College cannot avoid the transactions merely because of the Councillor's interest; and

(c) the Councillor may retain benefits under the transactions despite the Councillor's interest.

12.10 **Participation by interested Councillor**

12.10.1 This clause 12.10 applies to a Councillor who has a material personal interest in a matter that is being considered at a Council meeting.

12.10.2 Subject to clause 12.10.5, the Councillor must not:

(a) be present while the matter is being considered at the meeting; or

(b) vote on the matter.

12.10.3 The Councillor is not in breach of duty to the College merely because they do not act in relation to the matter.

12.10.4 The Council may vote on matters that relate to the Councillor's material personal interest in the Councillor's absence.

12.10.5 The prohibition in clause 12.10.2 does not apply if:

(a) the Councillor does not have to disclose their material personal interest to the other Councillors under the Act; or

(b) Councillors who do not have a material personal interest in the matter have passed a resolution that:

(1) identifies the Councillor, the nature and extent of the Councillor's material personal interest in the matter and its relation to the affairs of the College; and

(2) states that those Councillors are satisfied that the material personal interest should not disqualify the Councillor from voting or being present.

12.11 **Attendance by interested parties at Council**

Co-opted Observers, guests and staff shall absent themselves from the Council chamber when they have a material personal interest in a matter that is being considered at a Council meeting.

13 REMUNERATION

13.1 **Remuneration of Councillors**

13.1.1 The income and property of the College must be applied solely towards the promotion of the objects of the College as set out in this Constitution. Subject to this clause 13.1, no income or property of the College may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to any Member or Councillor.

13.1.2 Nothing in this clause 13.1 prevents:

(a) the payment in good faith of:

(1) remuneration to any Member or Councillor for services actually rendered to the College;

(2) an amount to any Member or Councillor in return for any services actually rendered to the College or for goods supplied in the ordinary course of business;

(3) interest (at a rate not exceeding any rate which may at any time be fixed for the purpose of this clause 13.1.2(a)(3) by Regulation but not exceeding the highest rate charged by trading banks carrying on business in Australia on overdraft accounts of less than $100,000) on money borrowed from any Member or Councillor; or

(4) reasonable rent for premises let by any Member or Councillor; or

(b) the College from providing services or information to Members on terms which are different from the terms under which services or information are provided to persons who are not Members.

13.1.3 No remuneration or other benefit in money or money's worth shall be paid or given by the College to any Councillor except:

(a) for the payment of out-of-pocket expenses incurred by the Councillor in the performance of any duty as Councillor, where the amount payable does not exceed any amount previously approved by the Council; or

(b) for payment for any service rendered to the College by the Councillor in a professional or technical capacity, other than in the capacity of Councillor, where the provision of the service has the prior approval of the Council and where the amount payable is approved by the Council and commercially would be reasonable payment for the service.

13.1.4 No Councillor may be appointed to any salaried office of the College unless that Councillor relinquishes their position on Council prior to appointment.

14 EXECUTIVE

14.1 Executive

The Executive of the College shall comprise:

14.1.1 President;

14.1.2 Vice President;

14.1.3 the Dean;

14.1.4 Executive Director of Professional Affairs;

14.1.5 Chief Executive Officer; and

14.1.6 such other Councillors as Council may appoint at its first meeting held after each annual general meeting.

14.2 The Executive shall be chaired by the President (or in their absence, the Vice-President).

14.3 The members of the Executive shall hold office until the first meeting of Council to be held after the succeeding annual general meeting but they shall be eligible for re-election.

14.4 Council may at any time and from time to time remove any member of the Executive and may fill any vacancy which occurs among the members of the Executive.

14.5 Three members present personally or participating with the assistance of technology (in the manner set out in clause 12.7) shall constitute a quorum of the Executive.

14.6 **Casual vacancy**

14.6.1 Any casual vacancy in any of the positions on the Executive (other than the Chief Executive Officer and Executive Director of Professional Affairs) shall be filled by election from and by the remaining Councillors on the Council.

14.6.2 Any Executive member appointed pursuant to this clause 14.7 shall hold office only until the next election of Executive members but shall be eligible for re-election in accordance with this Constitution.

14.7 **Delegation**

The Council may delegate to the Executive the supervision of the day to day business of the College and such other functions as the Council may in its discretion think fit.

14.8 **Powers**

The Executive shall during intervals between meetings of the Council have power to act in accordance with the power delegated to it. In addition, in cases of emergency, the Executive shall have the absolute discretion to exercise such powers and functions as it deems necessary.

14.9 **Meetings**

The Executive may meet, convene and adjourn its meetings and otherwise regulate its proceedings in such manner as it thinks fit.

14.10 **Records**

The Executive shall keep a record of its meetings and forward copies of the minutes of each meeting to each member of Council promptly.

15 MINUTES OF MEETINGS

15.1 **Secretary to attend meetings**

Unless directed otherwise by the Council, the Secretary must attend all meetings of the Council, the Executive and all general meetings of the College and must keep a record of the proceedings of those meetings.

15.2 **Preparation, circulation and approval of minutes**

15.2.1 The Secretary must cause draft minutes of all meetings to be promptly circulated to all Councillors for information and approval.

15.2.2 Subject to any objection, the Chairperson of the meeting or the next such meeting must sign the minutes to certify that they are a true and correct record of the proceedings of the meeting.

16 NATIONAL AND REGIONAL COMMITTEES

The Council may appoint a Committee for each state and territory of the Commonwealth of Australia and for New Zealand, elected by those Members in each state, territory or New

Zealand to carry out such duties within such state, territory or New Zealand as may be delegated to it by the Council and to be regulated in accordance with Regulations made by Council for that purpose.

17 COMMITTEES

17.1 Operation of Committees

17.1.1 The Council may otherwise delegate all or any of its functions, powers or discretions to committees comprising such persons as the Council determines subject to clause 7.2.

17.1.2 Committees of the Council may be either standing committees or ad hoc committees.

17.1.3 The Council shall determine the powers and duties of each Council committee and each committee shall in the exercise of its powers conform to any Regulations imposed on it by the Council.

17.1.4 Unless specifically provided in the Regulations, a Council committee may not make any determination of policy for the College but may provide advice to the Council on any area falling within its jurisdiction to assist the Council or the Executive.

17.1.5 Each committee shall make such reports and recommendations to the Council as the Council reasonably requires.

17.1.6 Subject to any Regulation made pursuant to clause 17.1.3, each committee may meet, convene its meetings, adjourn and otherwise regulate its proceedings as it thinks fit.

17.1.7 The Council shall review the continuing need for each committee of Council and the membership of each such committee at least every two years.

17.1.8 The Chairs and members of Council committees shall be appointed by the Council, subject to clause 7.4.4.

18 CHIEF EXECUTIVE OFFICER

18.1 The Council shall appoint a Chief Executive Officer (or acting Chief Executive Officer) for such term and at such remuneration and upon such conditions as it may think fit. The Chief Executive Officer may be removed by the Council.

18.2 Subject to such rules as may from time to time be imposed on them by Council, the Chief Executive Officer shall be entitled to attend and speak at all meetings of the College, the Council and all other committees and bodies of the College but shall not have the right to vote at meetings.

19 SECRETARY

19.1 The Council shall appoint a Secretary for the purposes of the Act who shall be:

19.1.1 the Chief Executive Officer (or acting Chief Executive); or

19.1.2 a Member or employee of the College appointed by the Council.

19.2 The duties of the Secretary shall include:

19.2.1 ensure that due notice is given, agendas prepared and accurate minutes kept of all meetings of the College, its Council and committees;

19.2.2 cause copies of the minutes of all meetings to be forwarded to all members entitled to receive such minutes;

19.2.3 ensure the sending, receipt and proper filing of all correspondence;

19.2.4 issue notices of all resolutions, decisions and amendments to the Constitution;

19.2.5 notify the Councillors and all members of committees of their election or appointment and issue notices of all meetings;

19.2.6 maintain all statutory registers including the Register which shall record each Member's name, home address, the date on which their Membership commenced and the date on which Membership ceased and any other information specified by the Council from time to time; and

19.2.7 file all statutory notices and returns.

20 THE SEAL

20.1 Custody of seal

The Secretary must provide for the safe custody of the seal.

20.2 Affixing the seal

20.2.1 The College may, but is not obliged to use the seal to execute documents.

20.2.2 The seal may be used only by the authority of the Council or a duly authorised committee of the Council.

20.2.3 Every document to which the seal is affixed must be signed by two Councillors and witnessed by the Secretary or some other person appointed by Council.

20.3 Seal register

20.3.1 The Secretary must maintain a seal register. The seal register may be maintained in electronic form.

20.3.2 Before affixing the seal to a document, the Secretary must enter in the seal register:

(a) a short title and description of the document; and

(b) the date of the resolution authorising the seal to be affixed.

20.3.3 Within 7 days of the affixing of the seal to a document, the Secretary must enter in the seal register:

(a) the date of the affixing of the seal;

(b) the names of the two Councillors who signed the document; and

(c) the name of the person who witnessed those signatures.

21 ACCOUNTS

21.1 The College to keep accounts

The Council must cause proper books of account to be kept in accordance with the Act.

21.2 Where accounts to be kept

The books of account must be kept at the Office or, subject to the Act, at such other place or places as the Council thinks fit.

21.3 Accounts open for inspection

The books of account must always be open for the inspection of Councillors.

Subject to the Act, the Council may from time to time determine at what times and places and under what conditions the accounts and books of the College or any of them may be open for inspection by Members.

21.4 Annual accounts

The Council must cause to be prepared, circulated to and laid before the Members in general meeting such income and expenditure accounts, balance sheets, group accounts (if any) and reports as are from time to time required by the Act.

21.5 New Zealand Account

Where required by law, donations or gifts received in New Zealand will be retained in a separate bank account in New Zealand and applied solely for the purposes for which they were intended and as permitted by law.

22 AUDIT

Auditors of the College must be appointed and removed and their duties regulated in accordance with the Act.

23 NOTICES

23.1 Means of giving notices

23.1.1 A notice pursuant to this Constitution must be given in writing and may be sent by any method as set out in the Regulations from time to time.

23.1.2 A Councillor, Secretary or other person authorised by the Council may give notices on behalf of the College. The signature on a notice given by the College may be written, photocopied, printed or stamped.

23.1.3 Notices given to the College must be marked for the attention of the Secretary.

23.2 **Address for service**

The address for service is:

23.2.1 in the case of a Member or Councillor, the home address (or postal address, electronic mail address or facsimile number in the case of postal, electronic main or facsimile dispatch) of the Member or Councillor specified in the Register; and

23.2.2 in the case of the College, the address (or any postal address, electronic mail address or facsimile number in the case of postal or electronic or facsimile dispatch) of the Office for the time being specified on the official stationery of the College.

23.3 **Notification of change of address**

23.3.1 If the home address, postal address, electronic mail address or facsimile number of a Member changes, the Member must promptly give notice of the change to the College.

23.3.2 The College must promptly notify Members of any change in its address.

23.4 **Time notices are effective**

Except if a later time is specified in a clause dealing with a notice or other communication, a notice is to be regarded as given, served, received and as having come to the attention of the address:

23.4.1 if delivered to the home address of the addressee, at the time of delivery;

23.4.2 if it is sent by post to the home address or postal address:

(a) if the notice is notice of a meeting – on the first business day after sending; or

(b) otherwise – on the third (or seventh if outside Australia) business day after sending,

unless it is actually delivered earlier; or

23.4.3 if sent by electronic mail or facsimile to the electronic mail address or facsimile number of the addressee, at the time transmission is completed.

23.5 **Proof of giving notices**

23.5.1 Proof of the sending of a notice by facsimile or electronic mail and the time of completion of transmission may be established by production of a transmission report by the machine from which the facsimile or electronic transmission was sent which indicated that the facsimile or electronic mail was sent in its entirety to the facsimile number or electronic mail address of the addressee.

23.5.2 A certificate signed by a Councillor or Secretary that a notice was delivered or posted at a particular time is conclusive evidence that the notice was delivered or posted at the time.

23.5.3 A certificate signed by a Councillor or Secretary that a notice was sent by electronic mail at a particular time and that an "undeliverable mail' message has not been received in relation to it is conclusive evidence that the notice was sent and received at that time.

24 WINDING UP

24.1 Every Member of the College undertakes to contribute to the assets of the College in the event of it being wound up while that Member is a Member, or within one year of that Member ceasing to be a Member, such amount as may be required not exceeding 50 dollars for the payment of the debts and liabilities of the College contracted before ceasing to be a Member and to the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

24.2 Subject to clause 24.5, where, on the winding-up or dissolution of the College, there is a surplus of assets after satisfying all the College's liabilities and expenses, the surplus shall not be paid to or distributed amongst the Members but shall be given or transferred to some other institution having similar objects to those described in this Constitution situate within the Commonwealth of Australia and which:

24.2.1 is required by its Constitution to apply its profits or income in promoting its objects;

24.2.2 is prohibited from paying any profits or dividends to its Members to the same extent as set out in this Constitution; and

24.2.3 is itself exempt from income tax.

24.3 That institution shall be determined by the Council prior to the dissolution of the College or failing such determination, by application to an appropriate Court.

24.4 The Council shall:

24.4.1 upon ceasing to conduct any business, operations and undertaking in or from New Zealand (whether upon the winding up or dissolution of the College or for any other reason whatsoever), ensure that any surplus property of the College used in the conduct of such business, operations or undertaking in or from New Zealand is, notwithstanding any provision in this Constitution to the contrary, given or transferred to one or more charitable objects in New Zealand; and

24.4.2 notify the New Zealand Inland Revenue Department of any proposed addition, alteration or amendment to this Constitution which may be inconsistent with the charitable nature of the business, operations or undertaking of the College conducted in or from New Zealand.

24.5 Any surplus gifts, fundraising contributions pursuant to deductible gift recipient endorsement (but not listing) under the *Income Tax Assessment Act 1997* (Cth) (**ITAA**) and money received because of those gifts or contributions, must be transferred to eligible recipients selected under clause 24.2 to 24.3 which must also receive deductible gifts under the ITAA on the earlier of:

24.5.1 the Company's deductible gift recipient endorsement (but not listing) being revoked under the ITAA; or

24.5.2 the winding up of the Company.

25 INDEMNITY

25.1 Every officer and past officer of the College must be indemnified by the College to the fullest extent permitted by law against a liability incurred by that person as an officer of the College or a subsidiary of the College including legal costs and expenses incurred in participating in, being involved in or defending any legal proceedings. This indemnity does not extend to any liability incurred by the officer arising from any claim made by that officer against the College (whether that claim is made solely by the officer or otherwise).

25.2 For the purposes of clause 25.1, "legal proceedings" means any claim, action, suit or demand, enquiry, royal commission or other regulatory investigations, whether civil or criminal, which relates to or arises in connection with the officer or agent being an officer or agent of the College.

25.3 For the purposes of clause 25.1, "officer" has the meaning given to that term by the Act.

26 LIABILITY INSURANCE

To the extent permitted by the Act, the College may enter into (and pay premiums on) a contract of insurance in relation to a person who is or has been an officer or agent of the College or any other person.

27 INTERPRETATION

27.1 References to the Act

Unless the context otherwise requires, a reference to:

27.1.1 the Act includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; and

27.1.2 a section of the Act includes any corresponding section for the time being in force.

27.2 **Presumptions of Interpretation**

Unless the context otherwise requires, a word which denotes:

27.2.1 the singular includes the plural and vice versa;

27.2.2 words importing one gender include other genders;

27.2.3 a time of day is a reference to Australian Eastern Standard Time (AEST) or Australian Eastern Daylight Time (AEDT) whichever is in force:

27.2.4 a person includes an individual, a body corporate, a partnership, a firm, unincorporated association or institution and a government body;

27.2.5 a notice includes any consent, publication or other written communication; and

27.2.6 a person present at a meeting includes a person physically present, represented by proxy, or present by electronic means such as by video conference, and/or attending a Virtual Meeting or Hybrid Meeting in the manner permitted by the notice of the meeting.

27.3 **Application of the Act**

Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

27.4 **Headings**

Headings do not affect the interpretation of this Constitution.

27.5 **Replaceable Rules**

The replaceable rules in the Act do not apply.