

**CONSTITUTION
OF
PARRAMATTA MARIST OLD BOYS'
UNION SCHOLARSHIP FUND
INCORPORATED**

Australian Business Number (ABN) 39 739 941 600

Incorporation Number INC1600038

An incorporated association under the Associations Incorporation Act 2009 (NSW)

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Part 1 – Preliminary

1. Name of the Association

The name of the association is Parramatta Marist Old Boys' Union Scholarship Fund Incorporated (the association)

2. Definitions

(1) In this constitution:

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

Deductible Contribution means a deductible contribution of money or property as described item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fund- raising event held for the principal purpose of the association.

deductible gift recipient means an entity endorsed by the Commissioner of Taxation pursuant to Sub-division 30-BA of the ITAA97

Director-General means the Director-General of the Department of Services, Technology and Administration.

Gift means a gift of money or property as described in item 1 of the table in section 30-15 of the ITAA 97 for the principal purpose of the association.

In writing includes sending it to the intended recipient by any electronic means nominated by the intended recipient.

ITAA97 means the Income Tax Assessment Act 1997 (Cth)

ordinary committee member means a member of the committee who is not an office-bearer of the association.

registered charity means a charity that is registered under the ACNC Act (Cth)

secretary means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no such person holds that office - the public officer of the association.

special general meeting means a general meeting of the association other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*.(NSW)

the Regulation means the *Associations Incorporation Regulation 2010*. (NSW)

(2) In this constitution:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

- (4) While the association is a registered charity, the ACNC Act and the Act override any clauses in this constitution which are inconsistent with those Acts.

Part 2 - Charitable purposes and powers

3. Purposes

- (1) The association's object is to pursue the following charitable purpose(s) being the principle purposes:
- (a) To establish and maintain a public fund solely for the purpose of providing eligible scholarships (Scholarship Fund);
 - (b) To raise money from the public, including the Parramatta Marist Old Boys' community, to contribute to the Scholarship Fund;
 - (c) An eligible scholarship being one which satisfies all the criteria set out in clause 4.

4. Scholarship Rules

- (1) A scholarship may only be awarded to Australian citizens or permanent residents of Australia;
- (2) Scholarship applications are open to all individuals within Australia as defined by the Acts Interpretation Act 1901.
- (3) To avoid uncertainty, applications are not limited to students currently enrolled or have applied to enroll to attend Parramatta Marist High School
- (4) The scholarship must be to promote the recipient's education by providing funds to meet costs directly related the recipient's education at Parramatta Marist High School. Such costs include school fees, text books, school uniforms, and school excursion costs.
- (5) All costs directly related to the recipient's education is to be verified and supported by documentary evidence.
- (6) Parramatta Marist High School must continue to be an institution located in Australia that is recognised as a secondary school under the law of New South Wales being the state in which the institution is located.
- (7) The only criteria for the award of scholarships are merit, for reasons of equity, or a combination of both.
- (8) To avoid uncertainty the criteria for the award of scholarships will not include:
 - (a) Race;
 - (b) Religion,
 - (c) sporting ability where the sport in question is not part of the approved Australian courses the school delivers; or
 - (d) any direct or indirect familial connection with current or former students or staff of Parramatta Marist High School, or current or past members the Parramatta Marist Old Boys' Union.
- (9) The Committee may make such other rules that are reasonably required to facilitate the award of scholarships where such rules are not inconsistent with the above rules.

5. Powers

Subject to clause 6 the association has the powers set out in Section 19 of the Act, which may only be used to carry out its purpose(s) set out in clause 3.

6. Not-for-profit

- (1) The association must not distribute any income or assets directly or indirectly to its members, except as provided in sub-clause 6(2) .
- (2) Sub-clause 6(1) does not stop the association from doing the following things, provided they are done in good faith:
 - (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the association, or
 - (b) making a payment to a member in carrying out the association's charitable purpose(s).

7. Amending the constitution

- (1) An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.
- (2) Subject to sub-clause 7(4), the members may amend this constitution by passing a special resolution in accordance with the requirements of the Act.
- (3) Any change in the constitution will have no effect until all the requirements set out below have been complied with:
 - (a) The amendments are registered in accordance with the Act;
 - (b) Notice in writing of the change has been given to the Commissioner of Taxation; and
 - (c) Notice in writing has been given to the ACNC.
- (4) The members must not pass a special resolution that amends this constitution if passing it causes the association to no longer be a charity or a deductible gift recipient.
- (5) Notices in writing must also be given to the Commissioner of Taxation and the ACNC if the association ceases to be entitled to be endorsed as a tax concession charity or as a deductible gift recipient as a result of a change activities or otherwise.

Part 3 – Membership

8. Membership generally

- (2) A person is eligible to be a member of the association if:
 - (a) the person is a natural person, and
 - (b) the person has been nominated and approved for membership of the association in accordance with clause 9.
- (3) A person is taken to be a member of the association if:
 - (a) the person is a natural person, and

- (b) the person was:
- (i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or
 - (ii) in the case of an association that is amalgamated to form the relevant association - a member of that other association immediately before the amalgamation, or
 - (iii) in the case of a registrable corporation that is registered as an association - a member of the registrable corporation immediately before that entity was registered as an association.
- (4) A person is taken to be a member of the association if the person was one of the individuals on whose behalf an application for registration of the association under section 6 (1) (a) of the Act was made.

9. Nomination for membership

- (1) A nomination of a person for membership of the association:
- (a) must be made by a member of the association in writing in the form set out in Appendix 1 to this constitution, and
 - (b) must be lodged with the secretary of the association.
- (2) As soon as practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee which is to determine whether to approve or to reject the nomination.
- (3) As soon as practicable after the committee makes that determination, the secretary must:
- (a) notify the nominee, in writing, that the committee approved or rejected the nomination (whichever is applicable), and
 - (b) if the committee approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (4) The secretary must, on payment by the nominee of the amounts referred to in sub-clause (3) (b) within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

10. Cessation of membership

A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to pay the annual membership fee under clause 14 or 15 within 3 months after the fee is due.

11. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

12. Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least 1 month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under sub-clause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

13. Register of members

- (1) The public officer of the association must establish and maintain a register of members of the association specifying the name and postal or residential address of each person who is a member of the association together with the date on which the person became a member.
- (2) The register of members must be kept in New South Wales:
 - (a) at the main premises of the association, or
 - (b) if the association has no premises, at the association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
 - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

14. Fees and subscriptions

- (1) A member of the association must, on admission to membership, pay to the association a fee of \$1 or, if some other amount is determined by the committee, that other amount.
- (2) In addition to any amount payable by the member under sub-clause (1), a member of the association must pay to the association an annual membership fee of \$2 or, if some other amount is determined by the committee, that other amount:
 - (a) except as provided by paragraph (b), before 1 October in each calendar year, or
 - (b) if the member becomes a member on or after 1 October in any calendar year on becoming a member and before 1 October in each succeeding calendar year.

15. Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 14.

16. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

17. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the association:
 - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 18.
- (6) The expulsion or suspension does not take effect:
 - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 18, whichever is the later.

18. Right of appeal of disciplined member

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.

- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under sub-clause (1), the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under sub-clause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

Part 4 – The committee

19. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

20. Duties of members of the Committee

The committee members must comply with their duties as committee members under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a committee member of the association;
- (b) to act in good faith in the best interests of the association and to further the charitable purpose(s) of the association set out in clause 3.
- (c) not to misuse their position as a member of the committee
- (d) not to misuse information they gain in their role as a committee member
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 21.
- (f) to ensure that the financial affairs of the association are managed responsibly, and
- (g) not to allow the association to operate while it is insolvent.

21. Conflicts of interest

- (1) A committee member must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a committee meeting (or that is proposed in a circular resolution):
 - (a) to the other committee members, or
 - (b) if all of the committee members have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.
- (2) The disclosure of a conflict of interest by a committee member must be recorded in the minutes of the meeting.
- (3) Each committee member who has a material personal interest in a matter that is being considered at a committee meeting (or that is proposed in a circular resolution) must not, except as provided under this clause:
 - (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- (4) A committee member may still be present and vote if:
 - (a) their interest arises because they are a member of the association, and the other members have the same interest
 - (b) their interest relates to an insurance contract that insures, or would insure, the committee member against liabilities that the committee member incurs as a committee member (
 - (c) their interest relates to a payment by the association under as an indemnity, or any contract relating to an indemnity that is allowed under the Act or the Corporations Act

22. Composition and membership of committee

- (1) The committee is to consist of:
 - (a) the office-bearers of the association, and
 - (b) at least three ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clauses 32 and 33.
- (2) The total number of committee members is to be eight.
- (3) The office-bearers of the association are as follows:
 - (a) the president,
 - (b) the vice-president,
 - (c) the treasurer,
 - (d) the secretary;
- (4) A committee member may hold up to two offices (other than both the president and vice-president offices).
- (5) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

23. Eligible for Nomination as office-bearers of the association or as ordinary committee members

A person is eligible for election as a member of the committee if they:

- (1) are a member of the association,
- (2) give the association their signed consent to act as a member of the committee of the association,
- (3) are not ineligible to be a director under the Corporations Act or the ACNC Act.
- (4) is not an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth; and
- (5) have not been convicted of an offence involving fraud or dishonest

24. Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association, or as ordinary committee members:
 - (a) must be made in writing, signed by two members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
 - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct, except as otherwise provided for in this constitution.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

25. Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
 - (a) all appointments of office-bearers and members of the committee, and
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

26. Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

27. Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy, and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the committee occurs if the member:
 - (a) dies, or
 - (b) ceases to be a member of the association, or
 - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (d) resigns office by notice in writing given to the secretary, or
 - (e) is removed from office under clause 28, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is absent without the consent of the committee from three consecutive meetings of the committee, or
 - (h) is convicted of an offence involving fraud or dishonesty or
 - (i) is prohibited from being a director of a association under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth; or
 - (j) becomes ineligible to be a director of a association under the ACNC Act.

28. Removal of committee members

- (1) The association in general meeting may by resolution remove any member of the committee, from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the committee to whom a proposed resolution referred to in sub-clause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

29. Committee meetings and quorum

- (1) The committee must meet at least three times in each period of 12 months at such place and time as the committee may determine.

- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under sub-clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any three members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the committee:
 - (a) the president or, in the president's absence, the vice-president is to preside, or
 - (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.
- (9) A committee or sub-committee meeting may be called or held using any technology consented to by all the members of the committee or sub-committee. The consent may be a standing one. A committee or sub-committee member may only withdraw their consent within a reasonable period before the meeting.

30. Delegation by committee to sub-committee

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

31. Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 29 (5), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.
- (5) The committee may pass a resolution without a committee meeting being held if:
 - (a) all the committee members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
 - (b) Separate copies of a document may be used for signing by committee members if the wording of the resolution and statement is identical in each copy.
 - (c) The resolution is passed when the last committee member signs.
 - (d) Passage of a resolution under this sub-clause must be recorded in the association's minute books

Part 5 – General meetings

32. Annual general meetings - holding of

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
 - (a) within 6 months after the close of the association's financial year, or
 - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

33. Annual general meetings - calling of and business

- (1) The annual general meeting of the association is, subject to the Act and to clause 23, to be convened on such date and at such place and time as the committee thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
 - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,

- (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
 - (c) to elect office-bearers of the association and ordinary committee members,
 - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
 - (e) any auditor's report
 - (f) the appointment and payment of auditors, if any.
- (3) An annual general meeting must be specified as such in the notice convening it.

34. Special general meetings - calling of

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
 - (a) must state the purpose or purposes of the meeting, and
 - (b) must be signed by the members making the requisition, and
 - (c) must be lodged with the secretary, and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in sub-clause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

35. Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under sub-clause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 33(2).

- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

36. Quorum for general meetings

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of members, is to be dissolved, and
- (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least three) are to constitute a quorum.

37. Presiding member

- (1) The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the association.
- (2) If the president and the vice-president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

38. Adjournment

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in sub-clauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

39. Making of decisions

- (1) A question arising at a general meeting of the association is to be determined by either:
- (a) a show of hands, or
- (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot - a written ballot.

- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

40. Special resolutions

A special resolution may only be passed by the association in accordance with section 39 of the Act.

41. Voting

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

42. Proxy votes permitted

Proxy voting be undertaken at or in respect of a general meeting.

43. Appointment of proxy

- (1) A member may appoint a proxy to attend and vote at a general meeting on their behalf.
- (2) A proxy does not need to be a member.
- (3) A proxy appointed to attend and vote for a member has the same rights as the member to:
 - (a) speak at the meeting
 - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
 - (c) join in to demand a vote in writing as otherwise provided for in this constitution.
- (4) An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - (a) the member's name and address
 - (b) the association's name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- (5) A proxy appointment may be standing (ongoing).
- (6) Proxy forms must be received by the association at the address stated in the notice convening the meeting or to the address of the public officer at least 48 hours before a meeting.
- (7) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

- (8) Unless the association receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) dies
 - (b) is mentally incapacitated
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- (9) A proxy appointment may specify the way the proxy must vote on a particular resolution.

44. Voting by proxy

- (1) A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- (2) When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

45. Postal ballots

- (1) The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 18).
- (2) A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation.

46. Circular resolutions of members

- (1) Subject to sub-clause 46(3) the committee may put a resolution to the members to pass a resolution without a general meeting being held (a circular resolution).
- (2) The committee must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- (3) Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a member of the committee or remove a member of the committee
 - (b) for passing a special resolution, or
 - (c) where the Act or this constitution requires a meeting to be held.
- (4) A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in sub clauses 46(5) or 46(6).
- (5) Members may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- (6) The association may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

47. Online Ballots

- (1) The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 18) and the election of committee members.
- (2) An online ballot will be conducted in accordance with Schedule 3 to the Regulations with such amendments as necessary to be applicable to online ballots instead of postal ballots.
- (3) The association must use a third party online software specifically built for conducting online ballots, by way of example only, Simplyvoting <http://www.simplyvoting.com/>.
- (4) The online software must have the following features that must be applied to any online ballot:
 - (a) The voter cannot be identified from their vote;
 - (b) The eligibility of the voter must be authenticated prior to voting;
 - (c) A voter can only vote once in a ballot;
 - (d) Cases for and against a resolution, or candidate information and statements must be included in the voting system and readily available prior to the voter exercising their vote;
 - (e) Voters must have the option of offline or postal ballots and where that option is exercised it must be able to be integrated with the online voting system;
 - (f) The third party online software provider must certify in writing the validity of the results and compliance with these requirements.
- (5) The results of an online ballot for the election of committee members will have no effect until the results are ratified by an ordinary resolution of the annual general meeting or a general meeting convened expressly for that purpose;
- (6) If the resolution for the ratification of the results is not passed the committee must immediately convene a special general meeting for the purposes of electing the committee. The existing committee will remain in office until the elections are held.

48. Auditor's right to attend meetings

- (1) The auditor (if any) is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- (2) The association must give the auditor (if any) any communications relating to the general meeting that a member of the association is entitled to receive.

49. Using technology to hold meetings

- (1) The association may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (2) Anyone using this technology is taken to be present in person at the meeting.

Part 6 - Establishment and operation of Gift Account

50. Maintaining a Gift Account

- (1) The association must maintain a management account (Gift Account):
 - (a) to identify and record Gifts and Deductible Contributions;
 - (b) to identify and record any money received by the association those Gifts and Deductible Contributions; and
 - (c) that does not identify or record any other money or property.

51. Limits on use of Gift Account

- (1) The association must use the Gift Account only for its principal purposes.

52. Cessation of deductible gift recipient endorsement

- (1) At the first occurrence of:
 - (a) the winding up of the association; or
 - (b) the association ceasing to be endorsed as a deductible gift recipient,
- (2) any surplus assets of the Gift Account must be transferred to one or more charities:
 - (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 3,
 - (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the association; and
 - (c) is a deductible gift recipient or a public fund maintained by a deductible gift recipient.
- (3) The decision as to the charity or charities to be given the surplus assets of the Gift Account must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the association may apply to the Supreme Court to make this decision.

53. Receipts

- (1) Receipts for Gifts or Deductible Contributions must state the information required in the applicable provisions of section 30-228 of the ITAA 97, being the name and ABN of the association, the date and amount and the fact that the payment was a gift.

Part 7 - Winding-up of the Association

54. Application if the Act

The association shall be wound up in accordance with the Act.

55. Surplus assets not to be distributed to members

If the association is wound up, any surplus assets must not be distributed to a member or a former member of the association.

56. Distribution of surplus assets

- (1) Subject to the Act and any other applicable Act, and any court order, any surplus assets that remain after the association is wound up must be distributed to one or more charities:
 - (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 3,
 - (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the association; and
 - (c) is a deductible gift recipient or a public fund maintained by a deductible gift recipient.
- (2) The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the association may apply to the Supreme Court to make this decision.
- (3) The distribution of any surplus assets must be approved by the Director General.

Part 8 – Financial Management

57. Funds - source

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, such other sources as the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

58. Funds - management

- (1) the funds of the association are to be used only in pursuance of the objects of the association
- (2) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.
- (3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two members of the committee or employees of the association, being members or employees authorised to do so by the committee.

59. Maintenance of books of account and record

The committee shall ensure appropriate books of account and record are maintained, including those required to be maintained under the Charitable Fundraising Act 1991 (NSW).

60. Authorisation of accounts

All accounts shall be presented to and passed for payment at a committee meeting and full details of all such approvals shall be entered in the record of minutes.

61. Financial year

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 30 September, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 October and ending on the following 30 September.

62. Fundraising Appeals

Funds raised by means of a fundraising appeal within the meaning of the Charitable Fundraising Act 1991 (NSW) must be maintained in accordance with that Act.

63. Audit

- (1) The accounts of the association must be audited annually by a person qualified to audit accounts for the purposes of the Corporations Act 2001 (Cth) or having other qualifications or experience approved by the Minister as defined under the Charitable Fundraising Act 1991 (NSW);
- (2) The audit shall comply with the Australian Auditing Standards to the extent applicable as set down by Auditing and Assurance Standards Board;
- (3) The auditor shall also report on the matters required by the Charitable Fundraising Act 1991 (NSW)
- (4) An auditor shall not be a member or closely related to a member, or living with a member of the Management Committee.
- (5) Subject to sub-clause (6) hereof notice of the intention to nominate an auditor to replace the current auditor shall be given to the Secretary at least twenty -one days before the Annual General Meeting. The Secretary shall send a copy of the nomination to the current auditor at least seven (7) days before the Annual General Meeting. The current auditor shall be entitled to attend the Annual General Meeting and if that person so wishes to be heard at such Annual General Meeting.
- (6) Where the current auditor submits a resignation, or notifies the Secretary of the intention not to seek re-election as auditor, sub-clause (5) hereof shall not apply.

Part 9 – Miscellaneous

64. Insurance

The association may effect and maintain insurance.

65. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

66. Inspection of books etc

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
 - (a) records, books and other financial documents of the association,
 - (b) this constitution,
 - (c) minutes of all committee meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in sub-clause (1) on payment of a fee of not more than \$1 for each page copied.

67. Service of notices

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
 - (a) by delivering it to the person personally, or
 - (b) by sending it by pre-paid post to the address of the person, or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

Appendix 1

(Clause 9(1))

APPLICATION FOR MEMBERSHIP OF ASSOCIATION
 Parramatta Marist Old Boys' Union Scholarship Fund

 [name of association]

Incorporated

(incorporated under the *Associations Incorporation Act 2009*)

I, _____
 [full name of applicant]

of _____
 [address]

 [occupation]

hereby apply to become a member of the abovenamed incorporated association. In the event of my admission as a member, I agree to be bound by the constitution of the association for the time being in force.

 Signature of applicant

 Date:

I, _____
 [full name]

a member of the association, nominate the applicant for membership of the association.

 Signature of proposer

 Date:

I, _____
 [full name]

a member of the association, second the nomination of the applicant for membership of the association.

 Signature of seconder

 Date: