

Winston Mall Children's Centre INC

Constitution 2018

Under the Associations Incorporation
Act 2009

August 2018

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Part 1 Introduction

1.1 Definitions

ACECQA means the Australian Children's Education and Care Quality Authority, the independent national authority that assists governments in implementing the National Quality Framework (NQF) for children's education and care.

Annual General Meeting is the meeting held annually for all General Members to vote on the election / re-election of the Executive Committee Members.

Approved Provider means an education and care service provider registered with ACECQA as an 'approved provider'.

Association means Winston Mall Children's Centre (WMCC).

Association Business Plan means the business plan for the Association which is established, reviewed and updated from time to time by the Executive Committee.

Association Fee Agreement Policy means the fee agreement policy reviewed and approved by the Executive Committee from time to time and made available to the General Members.

Association Membership Fee means the annual membership fee payable by each Family Unit in accordance with clause 2.1(b).

Association Policy and Procedures means policies and procedures published, reviewed and maintained by the Association from time to time.

Attendee/s means the child or children that attend(s) the Association.

Chairperson is the presiding officer of the Association.

Compliance Officer performs an internal compliance function to the Association.

Executive Committee positions are the Executive Committee Members including the Chairperson, Vice Chairperson, Treasurer, Secretary, Liaison/Public Officer, Fundraising Officer, Compliance Officer and Nominated Supervisor.

Executive Committee Member is:

- a) a General Member that holds a position on the Executive Committee; and
- b) the Nominated Supervisor.

Family Unit refers to the parents, guardians, or carers of all Attendees they represent. This could include, but is not restricted, to a grandparent, aunt / uncle, step-parents or god-parents.

Fundraising Officer is responsible for managing the raising of funds to the Association.

General Meeting means a meeting held approximately every two months (and at least every quarter) with the Executive Committee. All General Members are welcome to attend.

General Member means a member of the Association, being the person that is one of the maximum of two people from a Family Unit registered in writing on the enrolment forms of an Attendee as a parent, guardian or carer in accordance with clause 2.1 of this Constitution.

Liaison/Public Officer is the advocate and intermediary to external regulatory bodies and the Association.

Nominated Supervisor is the management representative to the Association with voting rights.

Secretary is the Secretary of the Association.

Special General Meeting is a meeting held at the discretion of the Chairperson called for all General Members when an issue arises.

Special Resolutions are required for:

- a) changing the Association's name;
- b) changing the Association's objects;
- c) changing this Constitution;
- d) amalgamating with another registered association;
- e) applying to transfer incorporation; and
- f) voluntarily winding up or cancelling the Association and distributing property.

The Act means the *Associations Incorporation Act 2009*.

The Regulation means the *Associations Incorporation Regulation 2016*.

Treasurer is the treasurer of the Association.

Vice Chairperson is the presiding officer in the absence of the Chairperson of the Association.

1.2 Purpose

- a) The purpose of the Association is to provide affordable, flexible and quality childcare services to the local community.
- b) The Association is a non-profit, independent incorporated association registered with ACECQA as a long day care centre. The Association offers services that promote the intellectual, social, emotional and physical needs of children aged between 0 – 6 years.
- c) The Association is approved and registered as an Approved Provider.
- d) Eligible General Members may receive benefits via Child Care Subsidy payments made directly to the Association by the Australian government.

1.3 Governance Structure Overview

1.3.1 Executive Committee

- a) The Association is controlled by an Executive Committee with voting rights. Each Executive Committee Member (other than the Nominated Supervisor) must:
 - 1) represent a child / children currently attending the Association (in a primary or secondary caregiver capacity such as a parent, grandparent, uncle or aunt); and
 - 2) have paid the Annual Membership Fee to the Association for the then current financial year.
- b) All Executive Committee Members provide their services voluntarily except the Nominated Supervisor. All reasonable out of pocket expenses for the Executive Committee will be reimbursed.

1.3.2 Executive Committee Members in paid positions

- a) Executive Committee Members and General Members are eligible to be appointed to a paid position within the Association however this should be considered only after the market has been reasonably "tested" by external candidates (and no reasonable external candidates have been found) and should be kept to a minimum where possible.
- b) If an Executive Committee Member is to be considered eligible for appointment to a paid position within the Association, a full and documented disclosure of all conflict of interest situations and scenarios must be presented to the Executive Committee for review. Appointment of Executive Committee Members to a paid position within the Association remains at the final approval of the Chairperson and/or the Nominated Supervisor and will always be based 'on merit' principles.
- c) As Executive Committee Members appointed to a paid position may be perceived to have a familial conflict of interest from time to time, these staff members will be required to regularly disclose all potential conflict of interests, absent themselves from discussions of matters relating to this potential conflict of interest and are not entitled to vote in respect of that particular matter at any time. In the event of familial relationships (being a potential source of conflict of interest), the relevant Executive Committee Member is not eligible to move motions, discuss motions or vote on motions that relate to that relationship.

1.3.3 Nominated Supervisor

- a) The Association is managed day-to-day by a paid Nominated Supervisor who has voting rights as an Executive Committee Member.
- b) Subject to the Act, the Regulation, this Constitution, Association Policies and Procedures, any directive from the Executive Committee and the approved position description, the Nominated Supervisor has power to perform all things that appear necessary or desirable for the proper day-to-day management and administration of the Association, including (but not limited to):
 - 1) Manage all day-to-day operations and running of the Association;
 - 2) Lead and guide all staff (permanent and casuals);

- 3) Perform all Association administrative and financial management tasks (including the management of fees and subscriptions by General Members and the collection of debts owed to the Association by General Members when/if they arise);
- 4) Perform all relevant requirements to ensure Child Care Subsidies can be received;
- 5) Take responsibility for all rostering, banking and wages;
- 6) Undertake all purchasing and budgeting tasks;
- 7) Work with room leaders and educators for the purpose of planning and programming;
- 8) Issue regular Association updates;
- 9) Provide teaching services as required;
- 10) Liaise and work with parents, contractors, Winston Mall Centre Management, Council and other external regulatory stakeholders as required;
- 11) Develop, implement and monitor compliance with the Association Policy and Procedures;
- 12) Manage the recruitment, short list selection and ongoing employment relationship of all staff;
- 13) Communicate and work effectively with the Executive Committee;
- 14) Develop, lead and maintain the professional development and training program of staff;
- 15) Facilitate the successful implementation of the National Quality Standards;

- 16) Lodge this Constitution and any amendments to, or replacements of, it with the NSW Dept. Fair Trading Office.

Part 2 Membership

2.1 General Membership

- a) Membership to the Association is, subject to the provisions of this Constitution, granted to the Parents / Guardians / Carers that represent the Attendee/s as registered in writing on the enrolment forms that are lodged with the Association, restricted to a maximum of two General Members per Family Unit.
- b) Each Family Unit is required to pay a set annual membership fee to the Association in accordance with the Association Fee Agreement Policy (as updated from time to time)) to keep General Membership current. The annual membership fee is payable by each Family Unit, regardless of the number of Attendees from that Family Unit.
- c) General Members have no requirement to formally meet, however, they are invited to and encouraged to attend the Annual General Meetings and each General Meeting, where they are welcome to contribute and vote.
- d) There is an expectation that at least one of the General Members from each Family Unit will provide support to the running of the Association (by way of participation in 'working bees' and the like) and to assist with fundraising as a **not for profit** community association.

2.2 Cessation of General Membership

A person ceases to be a General Member of the Association if they:

- a) no longer have any children attending the Association;
- b) have not paid the Annual Membership Fee when due and payable; or
- c) have been expelled from the Association (as a result of extended non-payment of fees or for another reason as deemed by the Executive Committee).

2.3 Register of Members

A soft and hard copy register of the General Members (e.g. enrolment forms accepted by the Association) must be kept at the Association premises (within NSW) and maintained by the Nominated Supervisor and overseen by the Secretary. The register will specify the name, date of commencement and postal or residential address of each General Member.

Part 3 Fees and subscriptions

3.1 Annual Membership Fee

- a) As outlined within clause 2.1, each Family Unit is required to pay an Annual Membership Fee in accordance with the Association Fee Agreement Policy.
- b) All fees are published in the Association Fee Agreement Policy and reviewed regularly.

3.2 General Members Liabilities

In the event of the Association having debts and liabilities, including (but not limited to) costs, charges and expenses or the cessation or winding up of the Association, the liability of any General Member is limited to any due and payable but unpaid debt by the General Member for outstanding fees.

Part 4 Dispute Resolution

4.1 Resolution of disputes

- a) Disputes between General Members (including any Executive Committee Member) or disputes between a General Member (or Executive Committee Member) and the Association are to be resolved in-house (via the Liaison/Public Officer) or, in the event that resolution cannot be reached, in the hands of a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- b) 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 (the *Commercial Arbitration Act 2010* applies to any such dispute referred to arbitration) by the NSW Ombudsmen Office.

4.2 Disciplining of General Members

4.2.1 Management of Complaints

- a) Complaints may be made to the Liaison/Public Officer about any General Member (including an Executive Committee Member) that:
 - 1) has refused or neglected to comply with a provision or provisions of this Constitution, or
 - 2) has wilfully acted in a manner prejudicial to the interests of the Association or any Attendee.
- b) A complaint must be made in writing to the Liaison/Public Officer.
- c) The Executive Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

- d) If the Executive Committee decides to deal with the complaint/dispute, the Executive Committee:
 - 1) must cause notice of the complaint to be served on the General Member concerned;
 - 2) must give the General Member at least 14 days from the time the notice is served within which to make submissions to the Executive Committee in connection with the complaint; and
 - 3) must take into consideration any submissions made by the General Member in connection with the complaint.
- e) Executive Committee Members that currently hold paid positions facing expulsion as a result of complaint shall be dealt with via the processes listed above, however all relevant industrial relations and employee regulations will also apply.

4.2.2 Expulsion of General Members

- a) The Executive Committee may, by a special resolution, expel the General Member from the Association (and in doing so, expel the children who are in receipt of Association childcare services) or suspend the General Member from 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 proven and the expulsion or suspension is warranted in the circumstances.
- b) If the Committee expels or suspends a General Member, the Secretary must within 7 days after the action is taken provide a written notice to the General Member of the action taken, of the reasons given by the Committee for having taken that action and of the General Member's right of appeal.
- c) The expulsion or suspension does not take effect until the expiration of the period within which the General Member is entitled to appeal (by way of Special

General Meeting). During this period, a General Member's child may continue to receive childcare services in their usual way by the Association staff.

- d) General Members that currently hold paid positions facing expulsion as a result of a complaint shall be dealt with via the processes listed above, however all relevant industrial relations and employee regulations will also apply

4.2.3 Expulsion of Executive Committee Members

- a) In the event that a complaint relates to an Executive Committee Member, the same procedure (to be handled personally by the Chairperson) for the management of complaints and the expulsion of General Members applies.
- b) In the event that a complaint relates to the current Chairperson, another nominated and responsible Executive Committee Member (preferably the Liaison/Public Officer) is to take responsibility for the internal management of the complaint and for the subsequent action taken, until such time that an arbitrated solution is required.

4.3 *Right of appeal of disciplined General Member*

- a) Any General Member or Executive Committee Member may appeal to the Executive Committee within 7 days after notice of the resolution is served on him or her in accordance with clause 4.2.2(b), by lodging with the Secretary a notice to that effect.
- b) The appeal is to be considered by all General Members and Executive Committee Members by way of Special General Meeting (which must be held within 28 days after the date on which the Secretary received the appeal notice).
- c) At the Special General Meeting:
 - 1) no business other than the question of the appeal is to be transacted;

- 2) the Executive Committee and the General Member (or Executive Committee Member) the subject of the appeal must be given the opportunity to state their respective cases orally or in writing, or both; and
- 3) the General Members present are to vote by secret ballot on the question of whether the appeal should be confirmed or dismissed. The appeal is to be determined by a simple majority of votes cast by the General Members.

Part 5 Governance Structure

5.1 Composition and Membership of Committee

- a) The Executive Committee is to consist of:
 - 1) 7 General Members of the Association, each of whom is to be elected to be an Executive Committee Member at the Annual General Meeting of the Association; and
 - 2) the Nominated Supervisor (who holds voting rights).
- b) The total number of Executive Committee Members must comprise at least 7 General Members. The Executive Committee Member positions of the Association are as follows:
 - 1) the Chairperson;
 - 2) the Vice-Chairperson;
 - 3) the Treasurer;
 - 4) the Secretary;
 - 5) the Public / Liaison Officer;
 - 6) the Compliance Officer; and
 - 7) the Fundraising Officer.
- c) All Executive Committee Members are entitled to vote at all General Meetings, Special General Meetings and Annual General Meetings.
- d) An Executive Committee Member may hold up to 2 offices (other than both the offices of Chairperson and Vice-Chairperson).

- e) There is no maximum number of consecutive terms for which an Executive Committee Member may hold office.
- f) Each Executive Committee Member may, subject to each other provision of this Constitution, hold office from the date of his or her election until the Annual General Meeting which falls on or about 2 years following its election at which point that Executive Committee Member must be re-elected to the Executive Committee.
- g) In order to ensure a level of consistency of the Executive Committee, it desirable that only half of the Executive Committee Members depart the Executive Committee at any one time.

5.2 Function of the Executive Committee

- a) The broad function of the Executive Committee is to oversee the work of the Association. In consultation with the Nominated Supervisor, the Executive Committee is responsible for and has power to control and manage legal, financial, employment, planning, regulatory compliance and policy making decisions as well as liaising with key stakeholders.
- b) More specifically they are responsible for:
 - 1) Establishing the Association Business Plan and the overall aims and objectives of the centre;
 - 2) Ratifying Association Policy and Procedures;
 - 3) Overall financial governance of the Association;
 - 4) Overall regulatory compliance of the Association;
 - 5) The overall public relations and reputation of the Association; and
 - 6) The employment and maintenance of the professional working relationship and wellbeing of the Nominated Supervisor.

- c) The Executive Committee additionally has the power to perform all tasks that appear necessary or desirable for the proper management of the Association (subject to the Act, the Regulation, and this Constitution and to any resolution passed by the Association in an Annual General Meeting or a Special General Meeting.)

5.4 Casual Vacancies

- a) In the event of a casual vacancy occurring in the Executive Committee, a General Member may be appointed to fill the vacancy, from the date of the occurrence of the vacancy until the date of the next Annual General Meeting (at which time they may be nominated for election by the General Members to that position).
- b) A casual vacancy may occur if an Executive Committee Member:
 - 1) dies;
 - 2) ceases to be a General Member of the Association;
 - 3) is absent without the consent of the Executive Committee for 3 consecutive meetings of the Executive Committee;
 - 4) is removed from office under clause 4.2.3 or clause 5.5;
 - 5) becomes a mentally incapacitated person;
 - 6) is convicted of an offence involving children, fraud or dishonesty; or
 - 7) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 (Cth).

5.5 Cessation of Executive Committee Membership

A parent or guardian ceases to be an Executive Committee Member of the Executive Committee if they:

- a) no longer have any children attending the Association;
- b) have not paid the Annual Membership Fee when due and payable;
- c) have been expelled from the Association (as a result of extended non-payment of fees or for another reason deemed by the Executive Committee); or
- d) resign from their position by first giving the Secretary written notice of at least one month (or another period as the Executive Committee may determine).

5.6 Election of Executive Committee Members

- a) A nomination of a person for all vacant Executive Committee Members of the Executive Committee can be made by General Members of the Association in writing, be signed by two General Members and lodged with the Secretary prior to the Annual General Meeting.
- b) If insufficient nominations are received to fill all vacancies on the Executive Committee, the candidates nominated are taken to be elected and further nominations are to be received at the Annual General Meeting. If insufficient further nominations are received, any vacant positions remaining on the Committee are taken to be casual vacancies. If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken as elected.
- c) If the number of nominations received exceeds the number of vacancies to be filled, a secret (written) ballot is to be held.
- d) The ballot for the election of Executive Committee Members is to be conducted at the Annual General Meeting in a proper manner as the Executive Committee may direct. All General Members are eligible and should be encouraged to formally vote (no proxy voting however). General Members interested in

becoming Executive Committee Members ideally should notify of this intent up to one month prior to the Annual General Meeting.

- e) Prior to confirmation of all Executive Committee Members, an approved police and Working with Children (WWC) check must be received by the Nominated Supervisor.

5.7 Role of Executive Committee Members

5.7.1 Role of Chairperson

The Chairperson has the task of making sure the Executive Committee and the Association are performing their functions and achieving the objectives of the Association Business Plan. More specifically they will:

- a) Develop and monitor the Association Business Plan;
- b) Convene and chair all General Meetings, the Annual General Meeting (once yearly) and Special General Meetings (if and when required);
- c) Prepare and present the Annual General Meeting report;
- d) In consultation with the Secretary, prepare all meeting agendas;
- e) In consultation with the Secretary, ensure that accurate meeting minutes are kept and that correct procedures for storing and actioning items are followed;
- f) In consultation with the Liaison/Public Officer and the Nominated Supervisor, act as advocate for the Association and effectively liaise with all external regulatory bodies and other stakeholders;
- g) In consultation with the Treasurer and the Nominated Supervisor, ensure that the Association is being suitably financially governed and that the Nominated Supervisor is managing the day-to-day operation of the Association in accordance with their financial delegation;

- h) Act as the principal support person for the Nominated Supervisor and ensure that adequate resources, support and guidance is made available (by all Executive Committee Members) to the Nominated Supervisor at all times;
- i) Delegate tasks to Executive Committee Members and General Members;
- j) Communicate with and act on behalf of Executive Committee Members at all times. In the event of emergencies, the Chairperson should make decisions of behalf of the Executive Committee; and
- k) Act as lead (or delegate the lead) in the event of complaints and disputes between General Members, Executive Committee Members and the Nominated Supervisor. In the event that a decision around complaints and disputes is 'locked', the vote/decision of the Chairperson is to be the final and casting vote.

5.7.2 Role of the Vice Chairperson

The Vice Chairperson will fulfil the roles and responsibilities of the Chairperson in their absence.

5.7.3 Role of the Secretary

The Secretary will:

- a) In consultation with the Chairperson, prepare all meeting agendas;
- b) In consultation with the Chairperson, ensure that accurate minutes of each General Meeting, Special General Meeting and Annual General Meeting are kept, that all meeting minutes and correspondence is suitably stored (soft and hard copy) and that results of meetings are suitably distributed within 14 days of that meeting;
- c) In consultation with the Chairperson, ensure that action items are followed;

- d) In consultation with the Nominated Supervisor, oversee all relevant correspondence and report on relevant correspondence at Executive Committee Meetings;
- e) In consultation with the Liaison/Public Officer, notify all relevant external stakeholders of the names and contact details of Executive Committee Members;
- f) In consultation with the Nominated Supervisor, maintain the soft and hard copy list of all Executive Committee Members and General Members with their name, postal/ email address and date of appointment, and notify all relevant external stakeholders of the names and contact details;
- g) In consultation with the Nominated Supervisor, act as custodian of all Association records, books and other documents related to the Association and be available during General Member inspection of any/all Association records, books and other documents related to the Association; and
- h) In consultation with the Chairperson, ensure the smooth running of meetings and make arrangements for all meetings as required (including but not limited to sending out notices, organising the reports of Executive Committee Members and arranging guest speakers etc.).

5.7.4 Role of the Treasurer

The Treasurer will:

- a) In consultation with the Nominated Supervisor, ensure that all monies due to the Association are collected and received and that all payments are made;
- b) In consultation with the Nominated Supervisor, ensure that correct books and accounts are kept showing the Association financial affairs (including full details of all receipts and expenditure connected with the Association activities);
- c) In consultation with the Nominated Supervisor, oversee the regular and accurate payment of staff and contractors;

- d) In consultation with the Nominated Supervisor, ensure the activities of the Association book-keeper are not fraudulent at any time;
- e) In consultation with the Nominated Supervisor, organise all required financial and financially related audits with competent and experienced audit teams;
- f) Be responsible for ensuring that the Nominated Supervisor is provided with adequate financial resources and is acting in accordance with their financial delegation at all times;
- g) Prepare and present the Annual General Meeting financial statements and financial report;
- h) Ensure that all requested and required accurate Association financial statements and reports are distributed to external stakeholders on a quarterly basis or as otherwise required by their due date; and
- i) In consultation with the Nominated Supervisor, prepare and distribute the Association's annual budget.

5.7.5 Role of the Liaison/Public Officer

The Liaison/Public Officer will:

- a) In consultation with the Chairperson, act as advocate for the Association and effectively liaise with all external regulatory bodies and other stakeholders;
- b) Manage all lease provisions with the Baulkham Hills Shire Council and the Winston Mall Shopping Centre;
- c) Work with the Nominated Supervisor and Compliance Officer to ensure that the Association conforms to all federal and state based regulatory requirements (eg. Department of Fair Trading etc.) and that all necessary documentation to these agencies is current at all times;

- d) Manage the application for registration of a change in the Association's name, objects or Constitution in accordance with section 10 of the Act;
- e) Act as the custodian of this Constitution, ensure that it remains current and accurate at all times and ensure that it is appropriately distributed and communicated amongst all internal and external stakeholders;
- f) Prepare and present the Annual General Meeting Public Officer report;
- g) Independently and proactively act as a liaison with the Nominated Supervisor, members of staff and General Members if required. This may include dispute resolution; and
- h) Attend staff meetings if and when required.

5.7.6 Role of the Fundraising Officer

The Fundraising Officer will:

- a) In consultation with the Nominated Supervisor and staff, plan and coordinate all fundraising events and actions;
- b) Prepare and present the Annual General Meeting Fundraising report; and
- c) In consultation with the Treasurer, ensure that raised funds are handled appropriately and either incorporated into Association financial statements or expensed as items for use within the Association.

5.7.7 Role of the Compliance Officer

The Compliance Officer will:

- a) In consultation with the Nominated Supervisor and staff, complete a twice yearly internal audit to the requirements of the NSW Children's Services Regulation;
- b) In consultation with the Nominated Supervisor, perform a twice yearly NSW Children's Services "spot check";

- c) In consultation with the Nominated Supervisor and staff (ie. WHS Representative), complete a twice yearly housekeeping and safety inspection;
- d) Support Local Government Agencies in the performance of their governance/ compliance checks (if and when required) or seek the assistance of relevant Local Government Agencies where necessary;
- e) Prepare and present the Annual General Meeting Compliance report;
- f) In consultation with the Nominated Supervisor and staff, assist with development and ongoing monitoring/review of the Association Policy and Procedures Manual and the Child Care Services Assessment and Rating Process; and
- g) In consultation with the Nominated Supervisor, ensure all staff are suitably trained and experienced to perform to their requirements of their position descriptions at all times.

Part 6 Meetings and quorum

6.1 General Meetings

- a) General Meetings are held to ensure the activities and functions of the Executive Committee and the Nominated Supervisor are transparent and that all due diligence requirements (financial, regulatory, public relations etc.) are being met.
- b) Oral or written notice of a General Meeting must be given by the Secretary to all General Members at least 48 hours (or such other period as may be unanimously agreed on by the Executive Committee) before the time appointed for the holding of the meeting.
- c) General Member attendance is encouraged and they are welcome to contribute and vote. An agenda will be provided to all General Members prior to the meeting.
- d) There is an expectation that General Meetings will occur on a quarterly basis at the time and place that the Executive Committee may determine. Additional General Meetings may be convened by the Chairperson or by any other Executive Committee Member.
- e) The regular General Meeting procedure is to be as follows:
 - 1) welcome and attendance/apologies;
 - 2) acceptance of previous meeting minutes;
 - 3) issues arising from previous meeting minutes;
 - 4) correspondence in and out;
 - 5) business arising from verbal progress reports from the Nominated Supervisor, Chairperson, Treasurer, Liaison/Public Officer, Fundraising Officer, Compliance Officer and the chair of any current sub-committees;

- 6) new business; and
 - 7) advise date and time of next General Meeting.
- f) Technology may be used at Committee meetings with these criteria:
- 1) a General Meeting may be held at two or more venues using any technology approved by the Committee that gives each of the General Members a reasonable opportunity to participate; and
 - 2) an Executive Committee Member who participates in a General Meeting using that technology is taken to be present at the meeting and, if the General Member votes at the meeting, is taken to have voted in person.
- g) General Members may present new business ideas to the Executive Committee during a General Meeting and at any time to an Executive Committee Member.
- h) If a confidential matter needs to be discussed by the Executive Committee at the General Meetings, the General Members may be excluded from that discussion.
- i) The quorum at all General Meetings is half of all Executive Committee Members plus one. If quorum is not met, then no business, voting on motions or other decision-making can be made and the meeting will be adjourned to an agreeable time within 14 days of the original date.
- j) At a General Meeting:
- 1) the Chairperson or, in the Chairperson's absence, the Vice-Chairperson is to preside, or
 - 2) if the Chairperson and the Vice-Chairperson are absent or unwilling to act, one of the remaining Executive Committee Members chosen by the General Members present at the General Meeting is to preside.
- k) A motion presented at any General Meeting is to be determined by a majority of votes of General Members present at the meeting.

- l) Each General Member present at the General Meeting is entitled to one vote but, in the event of an equality of votes on any question, the Chairperson may exercise a second or casting vote.

6.2 Annual General Meeting

- a) An Annual General Meeting must be held within six months after the end of the financial year, to be convened at the date and at the place the Executive Committee think fit (preferably during the month of September).
- b) The quorum at all Annual General Meetings shall consist of a minimum of six General Members. **There is an expectation that all General Members will attend.**
- c) The Annual General Meeting agenda must be available a minimum of 10 working days prior to the Annual General Meeting.
- d) In addition to any other business that may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
 - 1) to confirm the minutes of the last preceding Annual General Meeting and of any General Meeting or Special General Meeting held since that meeting;
 - 2) to receive reports on the activities of the Association during the last preceding financial year from the Executive Committee;
 - 3) to elect vacated position Executive Committee Members (noting that, in the absence of a resignation to an Executive Committee Member during the preceding year, Executive Committee terms are fixed at 2 years); and
 - 4) to receive and consider any financial statement or report required to be submitted to General Members under the Act.

6.3 Special General Meeting

- a) Special General Meetings are held at the discretion of the Chairperson and are generally called when an issue arises, of a serious nature, which requires the input of all General Members.
- b) The Executive Committee must, on notice to the Secretary by at least 5% of the total number of General Members, or in accordance with clause 4.3, convene a Special General Meeting within 28 days after the date on which the Secretary received the relevant notice.
- c) If the Executive Committee fails to convene a Special General Meeting in accordance with clause 6.3(b), any one or more of the General Members who gave the notice may convene a Special General Meeting to be held not later than 3 months after that date.
- d) The quorum at all Special General Meetings shall consist of a minimum of six General Members. **There is an expectation that all General Members will attend.**
- e) At a Special General Meeting no business other than the question of the appeal is to be transacted and, prior to the Special General Meeting, the Chairperson must:
 - 1) state and communicate to all General Members the purpose or purposes of the meeting;
 - 2) ensure that the General Member requesting the appeal agrees to appear in order to discuss their appeal with the General Members;
 - 3) ensure the Special General Meeting is lodged and can be attended by the Secretary; and
 - 4) ensure that any documentary evidence that is required is available to all General Members.

6.4 Notice and Adjournment

- a) Except if the nature of the business proposed to be dealt with at an Annual General Meeting or Special General Meeting requires a Special Resolution, the Secretary must, at least 14 days before the date fixed for the holding of the Annual General Meeting or Special General Meeting, give a notice to each General Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- b) If the nature of the business proposed to be dealt with at an Annual General Meeting or Special General Meeting requires a Special Resolution, the Secretary must, at least 21 days before the date fixed for the holding of the Annual General Meeting or Special General Meeting, cause notice to be given to each General Member specifying the intention to propose the resolution as a Special Resolution.
- c) In the event that quorum is not met for any meeting in accordance with this Constitution, the Chairperson, with the consent of a simple majority of General Members present at the meeting, will 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.
- d) If a General Meeting or Annual General Meeting is adjourned for 14 days or more, the Secretary must communicate to all General Members details of the adjourned meeting (stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting) 10 days prior to the meeting.

6.5 Presiding member

At an Annual General Meeting or Special General Meeting:

- a) the Chairperson or, in the Chairperson's absence, the Vice-Chairperson is to preside; or

- b) if the Chairperson and the Vice-Chairperson are absent or unwilling to act, one of the remaining Executive Committee Members chosen by the General Members present at the meeting is to preside; and
- c) when the Executive Committee Members vacate their positions at any Annual general Meeting, a third party may be chosen by the General Members to preside over the election process until the Executive Committee Member have been elected at which point clause (a) or clause (b) above will apply (as relevant).

6.6 Decision making

- a) Other than any motion which requires a Special Resolution to be passed, a motion presented at any Annual General Meeting or Special General Meeting is to be determined by a show of hands (or otherwise in accordance with the directions of the Chairperson) by a majority of votes of General Members present at that properly constituted meeting.
- b) A motion presented at any Annual General Meeting or Special General Meeting which requires a Special Resolution is to be determined by a show of hands (or otherwise in accordance with the directions of the Chairperson) by at least three-quarters of the votes cast by General Members present at that properly constituted meeting.
- c) On any question arising at an Annual General Meeting or Special General Meeting a General Member has one vote only.
- d) A General Member is not entitled to vote at any meeting unless all money due and payable by that General Member to the Association has been paid.
- e) The Chairperson has the discretionary right to exercise a casting vote on any issue.
- f) 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.

- g) 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.

Part 7 Financial Management

7.1 *Financial Year*

The Association financial year shall commence on 1 July and end on the following 30 June.

7.2 *Source of funds*

- a) The Association is a non-profit organisation that relies predominately on fees including payments for the receipt of childcare services and Annual Membership Fees; plus additional fundraising income.
- b) In consultation with the Nominated Supervisor, the Treasurer oversees the Association financial statements and ensures that a minimal profit is made at the end of each financial year. If greater than minimal profits are recorded, excess funds should be reinvested directly into the Association.
- c) The Association will not retain any cash on the premises.
- d) With the exception of fundraising monies, receipts shall be issued for every deposited amount.
- e) All monies received by the Association must be deposited as soon as practicable and without deduction to the credit of the bank.

7.3 *Management of funds*

- a) The Association is not-for-profit. Subject to the Act, the Regulation and any resolution passed at a General Meeting, the Association must apply its funds and assets solely in pursuance of the objects of the Association and must not conduct its affairs to provide a pecuniary gain for any of its General Members.
- b) Note. Section 5 of the Act defines pecuniary gain for the purpose of this clause.

- c) All cheques, debit or credit card transactions, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed or otherwise authorised:
 - 1) by the Nominated Supervisor and either co-signed, authorised or reconciled at the end of each month (as applicable) by the bookkeeper employed by the Association; or
 - 2) by any other 2 people so authorised by the Executive Committee.

7.4 Financial Statements

- a) In consultation with the Nominated Supervisor and bookkeeper, the Treasurer must present to the Executive Committee the preceding 2 month's financial statements, including but not limited to profit and loss statements, balance sheets and cash flow statements.
- b) All financial statements are to be recorded within business and accounting software and are subject to annual report by a qualified, competent and independent financial auditor. Audit reports are to be presented within the Treasurer report at the Annual General Meeting and submitted to the Department of Fair Trade.
- c) Association financial statements may be accessed and inspected by any General Member during normal business hours and in the presence of the Liaison/Public Officer.

Part 8 Dissolution

8.1 *Dissolution Clause*

In the event of Association being dissolved, the remaining finances after such a dissolution and the satisfaction of all debts and liabilities, shall be transferred to another organisation with similar purposes, which is considered a non-profit Children's service within the local area. Such an organisation may be found using the ACECQA website - www.acecqa.gov.au under the National Registers menu.

8.2 *Appointment of General Members as Executive Committee Members to constitute quorum*

In the event of dissolution, and the number of Executive Committee Members falling less than the number required to constitute a quorum for a General Meeting, the existing Executive Committee Members may appoint a sufficient number of General Members as Executive Committee Members for the purposes of that meeting to enable the quorum to be constituted.