

Constitution

National Art School

ACN 140 179 111

GADENS LAWYERS

Skygarden Building
77 Castlereagh Street
SYDNEY NSW 2000

T +61 2 9931 4999
F +61 2 9931 4888
Ref PPB

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Contents

1.	Defined meanings	1
2.	Objects	1
3.	Limited liability	2
4.	Use of the property by the Company	2
5.	Use of property on winding up and on revocation of endorsement.....	4
6.	Fundraising authority.....	5
7.	Registration as a charity.....	5
8.	Membership	5
9.	Rights of Members.....	6
10.	Resignation of Membership.....	7
11.	Register of Members.....	7
12.	Meetings of Members	7
13.	Proceedings at general meetings.....	9
14.	Voting at meetings of Members.....	11
15.	Directors	13
16.	Appointment and removal of office bearers	15
17.	Proceedings of Directors.....	15
18.	Director's contracts with Company.....	17
19.	Powers and duties of Directors	18
20.	Director of the School.....	19
21.	Secretary	20
22.	Patrons	20
23.	Committees	20
24.	Minutes	22
25.	Seal	22
26.	Accounts and audits	23

27.	Notices	24
28.	Indemnity	25
29.	Replaceable rules	25
30.	Definitions and interpretation.....	25

Corporations Act 2001 (Cth)

**Constitution of
National Art School
ACN 140 179 111**

A Company Limited by Guarantee

1. Defined meanings

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this document.

2. Objects

- (a) The principal object for which the Company is established is to be a centre of excellence for the provision of higher education and research, scholarship and professional practice in the visual arts and related fields. The Company will utilise its independent identity and distinctive learning methods to promote its principal object through the development of creativity, visual awareness and cultural awareness in an international context.
- (b) The principal object of the Company is to be achieved by promoting the following objects:
 - (i) to provide a high quality specialist education in studio-based visual arts and related fields;
 - (ii) to provide a high quality education that fosters the acquisition of technical skills and the interrelationship of those skills with creative invention;
 - (iii) to promote and encourage the practice of, and research and scholarship in, drawing as a core activity for visual and creative development;
 - (iv) to situate all programs of study within the historical, theoretical, cultural and professional contexts of art, so as to enhance the development of knowledge and understanding of the studio arts;
 - (v) to promote the widest possible participation and diversity of students by recruiting locally, regionally, nationally and internationally; and
 - (vi) to ensure that all academic staff members are distinguished in their respective fields as actively practising artists, scholars and/or researchers.

The Company has the power (without limitation) to do all such things as may be incidental to the attainment of the above Objects.

3. Limited liability

3.1 Members' liability

The liability of the Members is limited.

3.2 Members' contributions

Every Member of the Company undertakes to contribute to the assets of the Company if it is wound up while the Member is a Member, or within one year after the Member ceases to be a Member, for:

- (a) the payment of the debts and liabilities of the Company, contracted before the Member ceased to be a Member;
- (b) the expenses of winding up the Company; and
- (c) the adjustment of the rights of the contributories among themselves.

3.3 Amount of Members' contributions

The amount of the contribution under clause 3.2 must not exceed \$10.00 per Member in any circumstances.

4. Use of the property by the Company

4.1 Conduit policy

Any allocation of funds or property to other institutions, bodies, entities, organisations, government departments or persons must be made in accordance with the established objectives of the Company and not be influenced by the expressed preference or interest of a particular donor to the Company.

4.2 Application of Company property

All income and property of the Company must be applied towards the Objects of the Company. No portion of the income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit or return of capital to any Member.

4.3 Payments of Company expenses

Nothing in clause 4.2 prevents the payment in good faith of reasonable and proper:

- (a) remuneration to any of the officers or employees of the Company or to any Member in return for any services actually rendered by them to the Company;

- (b) interest on money borrowed from any Member for any of the purposes of the Company (provided the interest rate does not exceed the rate charged by the Company's bank on similar borrowings);
- (c) rent for premises let by any Member to the Company; or
- (d) payment for any goods or services supplied to the Company by any Member.

4.4 Remuneration payments

No remuneration or other benefit may be paid or given by the Company to any Director except for the following payments, which must first be approved by a resolution of the Directors:

- (a) reimbursement of out-of-pocket expenses incurred on reasonable commercial terms in carrying out the duties of a Director;
- (b) for any service rendered to the Company in a professional or technical capacity or for any goods supplied to the Company, where the provision of that service or the supply of those goods has the prior approval of the Board and the amount payable is on reasonable commercial terms;
- (c) as an employee of the Company, where the terms of employment have been approved by a resolution of the Board and are on reasonable commercial terms;
- (d) interest on moneys lent by any Director or Directors to the Company (provided the interest rate does not exceed the rate charged by the Company's bank on similar borrowings); and
- (e) market rent on any premises let by any Director or Directors to the Company.

4.5 Payment to Directors by Members

Nothing in this Constitution prevents a Member or Members paying any remuneration or other benefit to any Director provided that the payment is not made from the assets of the Company.

4.6 Public fund

- (a) The Company will establish and maintain a public fund.
- (b) Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the Company and will only be used to further the Objects of the Company. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- (c) The fund will be administered by the Board, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of the Company.

- (d) No monies/assets in this fund will be distributed to members or office bearers of the Company, except as reimbursement of reasonable out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- (e) The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.
- (f) Receipts for gifts to the public fund must state:
 - (i) the name of the public fund and that the receipt is for a gift made to the public fund;
 - (ii) the Australian Business Number of the company;
 - (iii) the fact that the receipt is for a gift;
 and any other matter required to be included on the receipt pursuant to the requirements of the ITAA.
- (g) If upon the winding-up or dissolution of the public fund listed on the Register of Cultural Organisations, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds must not be paid to or distributed among its members, but must be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules must prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100 of the ITAA and listed on the Register of Cultural Organisations maintained under the ITAA.

5. Use of property on winding up and on revocation of endorsement

5.1 Surplus

If on the:

- (a) winding up or dissolution of the Company; or
- (b) the revocation of the Company's endorsement under Subdivision 30-BA of the ITAA,

after the satisfaction of all its debts and liabilities, any property remains (**surplus**), the surplus must not be paid or distributed among the Members.

5.2 Transfer of surplus

The surplus must be given or transferred to an institution, body, entity, or organisation (**Transferee Entity**):

- (a) having objects similar to the Objects of the Company;
- (b) which is endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA and endorsed as income tax exempt under Division 50 of the ITAA; and

- (c) whose constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under this Constitution.

5.3 Choice of transferee

The Transferee Entity must be chosen by the Directors (as the Directors were constituted at the commencement of the winding up). If the Directors do not choose a Transferee Entity within a reasonable time, any Member at the commencement of the winding up or the liquidator may apply to the Supreme Court of New South Wales to choose the Transferee Entity.

6. Fundraising authority

If the Company holds an authority to fundraise from the Chief Secretary's Department of New South Wales, no addition, alteration or amendment may be made to clauses 4 or 5 without the prior written approval of the Minister responsible for the administration of the *Charitable Fundraising Act 1991*.

7. Registration as a charity

If the Company is at any time registered as a charity in any State or Territory of Australia any changes to:

- (a) the composition of the Board; or
- (b) this Constitution,

must be notified to the relevant statutory authority in each State or Territory within a reasonable time of such changes being made.

8. Membership

8.1 General

The Members consist of:

- (a) Members as at the date this Constitution is adopted as the Constitution of the Company; and
- (b) all other persons admitted to Membership in accordance with this Constitution.

8.2 First Members

The initial members of the Company are:

- (a) the New South Wales Minister for the Arts from time to time; and
- (b) the New South Wales Minister for Education from time to time,

each in his or her capacity as Minister of the Crown.

8.3 Classes of Members

The Board may from time to time establish such categories of Membership and may make appropriate provisions for the granting of such Membership and the conditions of such Membership.

8.4 Application for membership

An application for Membership must be:

- (a) made in writing;
- (b) signed by the applicant; and
- (c) in the form and manner prescribed by the Board from time to time.

8.5 Admitting Members

No applicant may be admitted to Membership and have their name entered in the Register unless the applicant agrees in writing to be bound by this Constitution.

8.6 Discretion to admit

- (a) All applications for membership received by the Company must be considered by the Members at the next general meeting of the Members after the receipt of the application for membership.
- (b) The Members must by Special Resolution accept or reject the application for membership.
- (c) The Members may refuse to admit any person as a Member. If the Members refuse to admit a person as a Member, the Members are not obliged to give reasons for so refusing.

8.7 Notification to applicant

The Secretary must promptly send written notice of the Members' acceptance or rejection to all applicants.

9. Rights of Members

9.1 Members

Members are entitled to all the rights of Members under this Constitution.

9.2 No joint Members

Joint Memberships of the Company are not permitted.

9.3 Rights generally

The Members are responsible for:

- (a) the appointment and removal of Directors, including the Chairperson;
- (b) any amendment of this Constitution (which may only be amended by Special Resolution); and
- (c) any decision to wind up the Company.

9.4 Appointment as Member transferable

Membership is transferable with the prior written consent of all other Members.

10. Resignation of Membership

A Member of the Company may resign that Membership by first giving notice in writing of such resignation to the Company and to the other Members.

11. Register of Members

The Secretary must maintain at the Company's offices a Register of Members containing the details of each Member.

12. Meetings of Members

12.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the provisions of the Corporations Act.

12.2 Convening general meetings

A general meeting may be convened by:

- (a) the Directors; or
- (b) any person entitled by the Corporations Act to requisition a general meeting.

Where a meeting has been requisitioned, the Directors must proceed to convene the meeting.

12.3 Notice of meeting

Every notice of a general meeting must:

- (a) set out the place, date and time of meeting;
- (b) in the case of special business, state the general nature of the business;
- (c) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and state the resolution;
- (d) in the case of an election of Directors, give the names of the candidates for election;

- (e) contain a statement setting out the following in relation to proxy voting:
 - (i) that the Member has a right to appoint a proxy; and
 - (ii) that a proxy does not need to be a Member.

12.4 Entitlement to notice

Notice of a general meeting must be given to:

- (a) each Member, apart from any Member who under this Constitution or by the terms of issue of any Membership is not entitled to the notice;
- (b) the Auditor; and
- (c) each Director.

12.5 Notice period

Subject to clause 12.8, at least 28 days written notice must be given to those persons entitled to receive such notices from the Company.

12.6 Proxy voting by Members

A Member may appoint a proxy to attend and vote at any meeting at which the Member is entitled to attend and vote. To be valid, a proxy appointment must be in writing and delivered to the place nominated in the notice of meeting (or, if no place is nominated, the Registered Office) at least 48 hours before the scheduled commencement of the meeting. A proxy appointment may be delivered by facsimile transmission.

12.7 Omission to give notice

The accidental omission to give notice of a general meeting to, or the non-receipt of any such notice by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

12.8 Consent to short notice

With the consent in writing of all the Members for the time being entitled to vote at a general meeting, any general meeting may be called on short notice and in any manner they think fit and all provisions of this Constitution are modified accordingly.

12.9 Cancellation or postponement of meeting

The Directors may cancel or postpone the holding of any general meeting. If the meeting was called by requisitioning Members or in response to a requisition by Members, the Directors may only cancel or postpone the holding of it with the consent of a majority of the requisitioning Members.

12.10 Notice of cancellation or postponement

The Directors may notify the Members of a cancellation or postponement of a meeting by such means as they see fit. If any meeting is postponed for 28 days or more, then no less than

five days' notice must be sent to the Members of the postponed meeting. It is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

12.11 Venue

Despite any other rule, the Company may hold a general meeting of Members at two or more venues using technology that gives the Members as a whole a reasonable opportunity to participate in the meeting.

12.12 Circular resolutions

The Company may pass a resolution without a general meeting if all of the Members entitled to vote on the resolution sign a document stating that they are in favour of the resolution. Separate copies of the document may be used for signing (if the document and the wording are identical) in which case the resolution is deemed to be passed when the last Member signs. A resolution is not treated as passed on that day if the document, by its terms, is said to take effect from an earlier date.

13. Proceedings at general meetings

13.1 Business of annual general meeting

The business of an annual general meeting is:

- (a) to receive the Company's financial report, the director's report and the auditor's report on the financial statements;
- (b) to elect Directors in the place of those retiring; and
- (c) to transact any other business which under this Constitution or the Corporations Act ought to be transacted at an annual general meeting.

13.2 Special business

All business other than that referred to in clause 13.1 which is transacted at an annual general meeting and all business transacted at any other general meeting is special business.

13.3 Quorum

No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Except as provided in clause 13.4, two Members present in person, by proxy, attorney or representative are a quorum.

13.4 Failure of quorum

- (a) If a quorum is not present within 15 minutes from the time appointed for a general meeting:
 - (i) where the meeting was called by, or in response to, the requisition of Members made under the Corporations Act, the meeting is dissolved; or
 - (ii) in any other case the meeting stands adjourned to such day, and at such time and place, as the Directors determine.

- (b) If no determination of an adjourned meeting is made by the Directors, the meeting stands adjourned to the same day in the second week following, at the same time and place. If at the adjourned meeting a quorum is not present within 15 minutes from the time appointed for the meeting, the Members present will constitute a quorum.

13.5 Report on Company's activities

The Board must at each general meeting in addition to the matters in clause 13.1, submit to the Members a report on the activities of the Company in the period since the previous general meeting.

13.6 Frequency of annual general meeting

The Company must hold an annual general meeting at least once every calendar year (being in the case of the first such meeting within 18 months of incorporation) and within 5 months after the end of its financial year.

13.7 Special business

No special business may be transacted at any general meeting other than that stated in the notice calling the meeting unless it is a matter that is required by this Constitution or the Corporations Act to be transacted at the meeting.

13.8 Chairperson

The Chairperson, or in the Chairperson's absence the deputy chairperson of the Directors (if any), is entitled to take the chair at each general meeting. If neither of those persons is present at any general meeting within 15 minutes after the time appointed for holding the meeting, or neither of them is willing to take the chair, the Members present must elect a person, whether a Member or not, to be chairperson of the meeting.

13.9 Passing the chair

If the chairperson of a general meeting is unwilling or unable to be the chairperson for any part of the business of the meeting:

- (a) that chairperson may withdraw as chairperson for that part of the business and may nominate any person who would be entitled under the preceding clause to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior chairperson. The prior chairperson is then entitled to resume as the chairperson of the meeting.

13.10 Responsibilities of chairperson

The chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and

- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairperson under this clause is final.

13.11 Adjournment of meeting

The chairperson of a general meeting at which a quorum is present may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place as the chairperson determines.

13.12 Business at adjourned meeting

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting. However if any meeting is adjourned for 10 business days or more, notice of the adjourned meeting must be given.

14. Voting at meetings of Members

14.1 Entitlement to vote

Subject to this Constitution and the terms of issue of any Membership, each natural person who is present at a general meeting may vote if he or she is a Member, or an attorney, proxy or corporate representative of a Member.

14.2 Number of votes

Each Member who is, under the preceding clause, entitled to vote has:

- (a) on a show of hands (or on the voices) only one vote; and
- (b) on a poll, one vote.

14.3 Voting restrictions

If permitted or contemplated by the Corporations Act or this Constitution, the Directors may direct that particular persons (whether specified by name or description) do not cast a vote on particular business of a meeting. In relation to that business, votes cast by the prohibited persons are to be disregarded.

14.4 Method of voting

Every resolution put to a vote at a general meeting (except where there is an election of Directors by ballot) must be determined by the voices or a show of hands (as determined by the chairperson of the meeting) unless a poll is properly demanded either before or on the declaration of the result of the voices or the show of hands.

14.5 Demand for poll

A demand for a poll under the preceding clause may be made by:

- (a) the chairperson of the meeting; or
- (b) at least two persons present having the right to vote at the meeting.

14.6 Declaring result of vote on show of hands

In respect of any general meeting (unless a poll is so demanded):

- (a) a declaration by the chairperson of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority; and
- (b) an entry made in the book containing the minutes of proceedings of the Company,

is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

14.7 Conduct of poll

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a chairperson or on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

14.8 Casting vote of chairperson

If, on a show of hands or on a poll, the votes are equal the chairperson of the meeting has a casting vote in addition to the deliberative vote, if any, of the chairperson.

14.9 Objections

No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered. Every vote allowed at any such meeting or poll is treated as valid. In recording votes the latest copy of the Register held in the Registered Office must be adopted and acted on as the voting roll.

14.10 Ruling on votes

The chairperson of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chairperson is final and conclusive.

15. Directors

15.1 Number of directors

Until otherwise determined by the Company in general meeting, the number of Directors must not be less than five and not more than nine. The Director of the School will not be a member of the Board but may from time to time be invited to attend Board meetings as an observer

15.2 Initial Directors

The Directors holding office at the date of adoption of this Constitution continue in office subject to this Constitution.

15.3 Casual appointment

The Members may at any time appoint any person as a Director, either to fill a casual vacancy or as an addition to the Directors. Until that person is re-elected at a general meeting, that Director is a “casual appointee”.

15.4 Retirement of casual appointee

A casual appointee, following his or her appointment by the Members, holds office only until the conclusion of the next annual general meeting and is then eligible for re-election. A casual appointee is not taken into account in determining the number of Directors, if any, who are to retire by rotation at such meeting.

15.5 Election of Directors - rotation

- (a) Directors must not hold office (without re-election) after the third annual general meeting following the Director's appointment or three years, whichever is longer.
- (b) Directors retiring in accordance with clause 15.5(a) will be eligible for re-election for two additional consecutive terms of three years.

15.6 Resignation of Director

Any Director may retire from office by giving notice in writing to the Company of the Director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time. However the resignation must take effect within three months from the date of the giving of the notice.

15.7 Vacation of office

The office of a Director must be automatically vacated if he or she:

- (a) resigns office by notice in writing to the Company or refuses to act;
- (b) is absent from the meetings of the Board for a continuous period of six months without leave of absence from the Board;
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;

- (d) becomes prohibited from being a director of a company by reason of any order made under the Corporations Act;
- (e) ceases to be a Director by operation of the Corporations Act;
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to disclose that interest as required by the Corporations Act.

15.8 Less than minimum number of Directors

The continuing Directors may act despite any vacancy in their body. If the number falls below the minimum number fixed in accordance with this Constitution, the Directors may act only:

- (a) to call a general meeting; or
- (b) in emergencies.

15.9 Removal of Directors

The Company may, by Ordinary Resolution of which special notice has been given, remove any Director, before the expiration of his or her period of office, and may by Ordinary Resolution appoint another person in his or her place.

15.10 Conflict of Interest Resolution

- (a) At any meeting of the Directors at which a resolution is put for approval of a payment to be made pursuant to this clause 15.10 (**conflict of interest resolution**) or at any general meeting considering a conflict of interest resolution, the Director who is the object of the conflict of interest resolution and any other Director or Member who is related to that Director is not entitled to:
 - (i) be heard in discussion on the conflict of interest resolution;
 - (ii) propose or second the conflict of interest resolution;
 - (iii) vote on the conflict of interest resolution;
 - (iv) be present at the meeting when the conflict of interest resolution is put to the vote.
- (b) At the next general meeting of the Company after the passing of a conflict of interest resolution, the resolution as passed by the Board shall be included on the agenda of that meeting for the purposes of ratification.
- (c) If a conflict of interest resolution is not ratified at the subsequent general meeting, the Company shall immediately cease remuneration of the Director. The Director shall not be required to refund to the Company any remuneration received between the date the conflict of interest resolution was passed by the Board and the date ratification by the general meeting was rejected.

16. Appointment and removal of office bearers

The Directors may elect from among their number a treasurer, secretary and such other officers as determined by the Directors from time to time and may determine the period for which each is to hold office.

17. Proceedings of Directors

17.1 Number of Board meetings

At least four Board meetings must be held in each financial year or as otherwise considered desirable by the Chairperson. At least one Board meeting must be held in every period of three consecutive months.

17.2 Mode of meeting

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit. The Directors may conduct their meetings in person, by telephone, audio visual link or by using any other technology consented to by a simple majority of Directors. A consent may be a standing one and a Director may only withdraw their consent within a reasonable period prior to a meeting. A meeting conducted by telephone or other means of communications is considered to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

17.3 Quorum

A quorum of the Board is four Directors or such greater number fixed by the Directors.

17.4 Chairperson calling a meeting

The Chairperson may at any time call a meeting of the Directors to be held at such time and place as the Chairperson chooses.

17.5 Notice of meeting

Notice of each meeting of the Directors:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission; and
- (b) must be given to all Directors.

17.6 Chairperson

If:

- (a) no Chairperson is elected; or
- (b) at any meeting of the Directors the Chairperson is not present within 15 minutes of the time appointed for holding the meeting,

the Directors present must choose one of their number to be chairperson of such meeting.

17.7 Votes of Directors

Questions arising at any meeting of the Directors must be decided by a simple majority of votes cast. Each Director has one vote. A person who is an alternate Director is entitled (in addition to his or her own vote if a Director) to one vote on behalf of each Director whom the alternate Director represents (as an alternate Director at the meeting). The alternate Director may only vote if the Director is not personally present. If there is an equality of votes, the Chairperson has a second or casting vote. The chairperson of the meeting or a majority of Directors who are present and entitled to vote, will be entitled to call for a secret ballot on any decision.

17.8 Circular resolution of Directors

If a majority of Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Directors held on the day on which the document was signed. If the Directors sign the documents on different days, then a resolution is treated as having been passed on the day on which the document was last signed by a Director thereby constituting a majority in number of the Eligible Directors. A resolution is not treated as passed on that day if the document, by its terms, is said to take effect from an earlier date.

17.9 Signing of circular resolution

For the purposes of the preceding clause:

- (a) the **Eligible Directors** are all Directors for the time being but excluding:
 - (i) all alternate Directors; and
 - (ii) those who, at a meeting of Directors, would not be entitled to vote on the resolution;
- (b) each Director, other than one not entitled to vote on the resolution, may sign the document;
- (c) if a person who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid;
- (d) each alternate Director may sign the document on behalf of each Director whom the alternate Director represents (appointor) if:
 - (i) the alternate Director reasonably believes that the appointor is unavailable to sign the document; and
 - (ii) the appointor has not suspended the appointment of the alternate Director.

An alternate Director may sign even if the available appointor could not have voted on the resolution. An alternate Director who represents more than one Director may sign as many times accordingly;

- (e) an electronic transmission purporting to be signed by a Director or alternate Director is treated as being in writing signed by such person; and

- (f) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

17.10 Deemed minute

The document or documents referred to in the two preceding clauses are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

17.11 Validity of acts of Directors

All acts done in respect of any meeting of:

- (a) the Directors; or
- (b) a committee of Directors; or
- (c) other persons or by any person acting as a Director; or
- (d) any person purporting to act as an attorney under power of the Company,

are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

18. Director's contracts with Company

18.1 Material personal interests of Directors

Subject to compliance with the disclosure and voting requirements under the Corporations Act in relation to material personal interests, a Director may:

- (a) hold any office in the Company;
- (b) act in a professional capacity for the Company (except as Auditor);
- (c) hold any office or place of profit in any other entity in which the Company has an interest;
- (d) contract with the Company; and
- (e) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors.

18.2 Notice of interest

A general notice given to the Directors by any Director in accordance with section 192 of the Corporations Act and to the effect that he or she:

- (a) is an officer or a member of, or interested in, any specified firm or body corporate; and
- (b) is to be regarded as interested in all transactions with such firm or body,

is sufficient disclosure as required by the Corporations Act as regards such Director and those transactions. After such general notice it is not necessary for such Director to give any special notice relating to any transaction with such firm or body.

19. Powers and duties of Directors

19.1 Powers generally

Subject to the Corporations Act and to any other provisions of this Constitution, the management and control of the Company and of the business and affairs of the Company is vested in the Directors who may exercise all such powers of the Company and do all such acts or things not expressly required by this Constitution or by the Corporations Act to be exercised or done by a general meeting. In particular the Directors will have the following powers:

- (a) to determine and guide the strategic direction of the Company;
- (b) to maintain and enhance the role of the Company as a national centre of excellence for the provision of higher education in the visual arts and related fields;
- (c) to monitor and maintain the financial integrity and viability of the Company;
- (d) to maintain and enhance the physical assets in the ownership, custody or care of the Company, both real property and personal property;
- (e) to appoint and monitor the performance of the Director of the School, or any interim Director of the School;
- (f) to determine the terms, conditions and remuneration of the Director of the School;
- (g) to determine the removal or retirement of the Director of the School as appropriate;
- (h) to establish guidelines for the Company to enter into agreements and contracts of employment of staff;
- (i) to approve the conferral of honorary degrees, fellowships, professorial titles and other honours as the Board sees fit;
- (j) to negotiate with Governments and Ministers;
- (k) to implement regulations concerning financial, legal and risk management requirements to ensure compliance with all relevant provisions; and

- (l) to determine and approve the investment of Company funds alone or in connection with other monies.

19.2 Manner for carrying out obligations

In carrying out its functions and obligations, the Directors must recognise the need to:

- (a) monitor the educational performance and cultural contribution of the Company in a higher education context;
- (b) facilitate and support fundraising activities;
- (c) ensure sound risk management policies;
- (d) manage the relationship between the Board and Members; and
- (e) implement appropriate succession planning policies.

19.3 Borrowing

The Board may exercise all of the powers of the Company to borrow money and to mortgage or charge its property or any part of its property, and to issue debentures and other securities for any debt, liability or obligation of the Company, in such manner and on such terms in all respects as they think fit.

19.4 Execution of negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be, in such manner as the Directors at any time determine.

19.5 Validity of acts

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which but for such omission would have been valid.

19.6 Minutes

The Board must cause minutes of meetings to be made and kept in accordance with the Corporations Act.

20. Director of the School

20.1 Appointment of Director of the School

The Board may at any time:

- (a) set up a committee to recommend to the Board the recruitment and appointment of a Director of the School. The committee must consist of the Chairperson and at least two other persons, at least one of whom must be a Director;

- (b) define, limit and restrict the powers of the Director of the School;
- (c) fix the remuneration and duties of the Director of the School;
- (d) subject to the provisions of any contract between the Director of the School and the Company, vary any of the powers so conferred; and
- (e) remove the Director of the School from that office and appoint another in that person's place.

20.2 Acting Director of the School

The Director of the School may appoint a suitably qualified person to act temporarily as Director of the School in his or her absence.

20.3 Duties

- (a) The Director of the School will be responsible to the Board for the day-to-day academic, financial, administrative and operational functioning of the School, including the day-to-day responsibility for the Company's assets and reputation.
- (b) The Director of the School will be the Chief Executive Officer of the Company and will act as chairperson of the Academic Board.

21. Secretary

The Board must appoint a Secretary to hold office on such terms and conditions, as to remuneration and otherwise, as the Board determines. The Secretary may be removed at any time by the Board.

22. Patrons

The Board may from time to time create and appoint life governors, patrons, fellows, emeritus professors and any other categories of recognition, honour or acknowledgement.

23. Committees

23.1 Delegation to committee

The Directors may:

- (a) delegate any of their powers to committees consisting of such one or more persons, whether Directors or not, as they think fit; and
- (b) establish advisory committees (or other committees not having delegated power of Directors) consisting of such person or persons as they think fit.

23.2 Committee powers

Any committee so formed or person or persons so appointed must, in the exercise of the powers so delegated, or functions entrusted, conform to any regulations that may at any time be imposed by the Directors.

23.3 Committee meetings

The meetings and proceedings of any committee, consisting of two or more persons are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Directors so far as those provisions are applicable and not affected by any resolution or regulation made by the Directors under the preceding clause.

23.4 Committee Members as officers

Each person appointed to a committee under clause 23.1(a), if not otherwise an officer of the Company, is, when exercising the powers so delegated or functions entrusted, an officer of the Company.

23.5 Finance and Audit Committee

- (a) The Board will establish a Finance and Audit Committee comprising:
 - (i) the Chairperson;
 - (ii) the Director of the School; and
 - (iii) two additional persons, at least one of whom is to be a Director.
- (b) The Business and Corporate Services Manager of the Company or any equivalent officer must attend meetings and act as secretary of the Finance and Audit Committee.
- (c) The Finance and Audit Committee will advise the Board on all financial, administrative and risk management issues, including annual financial statements, annual budgets, investments, insurances, superannuation and occupational health and safety.

23.6 Academic Board

- (a) The Board will establish an Academic Board of the School to be chaired by the Director of the School.
- (b) The Academic Board is the senior academic advisory body of the School. Its responsibilities include maintaining the highest standards in teaching, scholarship and research and safeguarding the academic freedom of the School. It is also responsible for overseeing the development of all academic activities of the School, formulating and reviewing policies, guidelines and procedures in relation to academic matters.
- (c) The Academic Board will comprise the Director of the School, Head of Studies and representatives of other academic staff, senior members of administrative staff, alumni representatives, external advisers and student representatives. Elected members will include an establishment academic staff representative, sessional academic staff representative and student representative(s). Its members are

representatives of the key course delivery, teaching, learning and research areas of the School and related resource management areas.

- (d) The Academic Board will ordinarily meet four times per academic year. The chairperson of the Academic Board may call extraordinary meetings of the Academic Board when required.
- (e) The Academic Board will advise the Board through the Director of the School on all academic matters of the School, including academic priorities and policies, the strategic academic plan, the maintenance of academic standards and any academic matters of strategic importance.
- (f) The Academic Board will have the authority to create sub-committees to ensure the quality, management and enhancement of the academic activities of the School.

24. Minutes

If any minutes of a general meeting or of the Directors are signed by any person purporting to be either the chairperson of such meeting, or the chairperson of the next succeeding meeting, those minutes must be received in evidence without any further proof that the matters and things recorded by or appearing in such minutes actually took place or happened at a meeting duly called and held.

25. Seal

25.1 Execution of documents

The Company may execute a document without using the Seal if the document is signed by:

- (a) two Directors; or
- (b) a Director and a Secretary.

25.2 Use of a common seal

The Board must provide a provide a Seal for the purpose of conferring diplomas, degrees, honorary degrees, fellowships, professorships, patronships and any other awards, qualifications, honours or recognitions, and the Board will have the power from time to time to destroy the Seal and substitute a new seal in lieu thereof.

25.3 Safe custody of Seal

The Directors must provide for the safe custody of the Seal.

25.4 Authority to use Seal

The Seal may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal, and every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

25.5 Official seal

The Company may have one or more official seals for use in particular localities, each of which must be a facsimile of the Seal with the addition on its face of the name of every place where it may be used.

25.6 Use of official seal

A document sealed with an official seal of the Company is to be treated as having been sealed with the Seal.

25.7 Non-autographic signatures

The Directors may determine by resolution (either generally or in respect of a particular case) that where the Seal or duplicate common seal of the Company is to be affixed to any instrument, or where an instrument is to be executed without using the Seal, the signature of any Director or the Secretary or any other person may be affixed by some mechanical or other non-autographic means.

25.8 Effect of sealing

Any instrument bearing the Seal, a duplicate seal or an official seal if issued for valuable consideration will be binding on the Company notwithstanding any irregularity affecting the authority of the Directors to issue the same, or the circumstances of its issue.

26. Accounts and audits

26.1 Duty to keep accounts

The Company must keep proper books of account (which may include computer records) of the Company at its principal office and entries made of all such matters, transactions and things which are usually entered in books of accounts kept by entities engaged in concerns of a similar nature.

26.2 Accounts to be laid before annual general meeting

The Directors must cause the financial statements for the last financial year of the Company together with such other accounts, reports and statements as required by the Corporations Act to be laid before the annual general meeting.

26.3 Copy of accounts to be sent

A copy of every document which is required to be laid before each annual general meeting by clause 26.2, must be sent to all persons entitled to receive notices of general meeting pursuant to clause 12.4, together with the notice of meeting, as required by the Corporations Act.

26.4 Audit

A properly qualified Auditor must be appointed and their duties regulated in accordance with the Corporations Act.

26.5 Inspection of books

Subject to the requirements under the Corporations Act, the Board must from time to time determine at what times and places and under what conditions or regulations the accounting and other records of the Company will be open to the inspection of Directors or Members or their delegates.

27. Notices

27.1 Service of documents to Members

- (a) Any notice required by law or by or under this Constitution to be given to any Member must be given personally to him or her or sent by post, fax transmittal or electronic means to the person's registered address, fax number or email address shown in the appropriate Register.
- (b) Where a notice is sent by post, service of the notice will be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where notice is sent by fax transmittal or electronic means, service of the notice will be deemed to be effected by properly addressing the fax transmittal or electronic notice and transmitting or sending it, and to have been effected on the day of its dispatch.

27.2 Counting of days

Subject to the Corporations Act, where a specified number of days' notice or notice extending over any period is required to be given, the day of service will be included but the day upon which such notice will expire will not be included in such number of days or other period.

27.3 Service on Company or its officers

Every document required to be served upon the Company or upon any officer of the Company may be served by leaving it at the Registered Office.

27.4 Signature

The signature to any document to be given by the Company may be written, printed or stamped.

27.5 Entitlement to Notice of General Meeting

Notice of every general meeting must be given in any manner authorised in this Constitution to all persons entitled to such notice under the Corporations Act. No other person shall be entitled to receive notice of general meetings.

28. Indemnity

28.1 Director and Officers Indemnities

To the extent permitted by the Corporations Act, every person who is or has been a Director, Secretary or Officer for the time being of the Company must be indemnified out of the assets of the Company against any liability whatsoever arising in any way from the position or office of that person in the Company or from the purported exercise of that position or office, including the costs of defending, resisting or appearing in any proceedings, whether civil or criminal, arising out of the execution or purported execution of the duties of their office, except for such liabilities or costs incurred by that person which under the Corporations Act may not be indemnified by the Company, and excepting also for any liability arising directly or indirectly out of or from deliberate fraud or misappropriation or wilful breach of duty by such person. To the extent that this indemnity applies, it is not a precondition that monies are first expended personally by the person being indemnified.

28.2 Insurance

The Company must cause a policy or policies of insurance to be taken out to cover the Company and the Directors, Secretary and Officers for the time being of the Company against the liability and costs referred to in clause 28.1, and insuring all such persons personally who are or have been an Officer of the Company and its related bodies corporate against:

- (a) any liability referred to in clause 28.1 incurred by that person in such office or as an Officer which does not arise out of conduct involving a wilful breach of duty in relation to that person's position with the Company or its subsidiaries or a contravention of section 182 or section 183 of the Corporations Act; and
- (b) any liability for costs and expenses incurred by that person in defending proceedings referred to in clause 28.1, whether criminal or civil, and whatever the outcome of such proceedings.

29. Replaceable rules

The replaceable rules contained in the Corporations Act will apply to the Company unless, and to the extent, they are expressly displaced by the provisions of this Constitution.

30. Definitions and interpretation

30.1 Definitions

In the construction of this Constitution, unless the contrary intention appears:

Academic Board means the subcommittee of the Board established by the Constitution in accordance with clause 23.6;

ASIC means the Australian Securities and Investments Commission;

Auditors means the auditors of the Company;

Board means the Board of Directors of the Company from time to time;

Chairperson means the chairperson of the Board appointed from time to time;

Company means the National Art School ACN 140 179 111;

Constitution means this constitution;

Corporations Act means the *Corporations Act* 2001 (Cth) as amended from time to time;

Directors means the Directors of the Company in office for the time being;

Director of the School means the Director of the School appointed under the Constitution who is also the Chief Executive Officer of the Company from time to time;

Finance and Audit Committee means the subcommittee of the Board established by the Constitution to advise and assist the Board in financial, administrative and risk management matters;

general meeting means a meeting of Members duly called and constituted in accordance with this Constitution and any adjourned holding of it;

ITAA means the *Income Tax Assessment Act* 1997 (Cth) as amended from time to time;

Member means any person entered in the Register as a member for the time being of the Company;

Membership means membership of the Company;

Objects means the objects of the Company set out in clause 2;

Officer has the meaning given to that term in the Corporations Act;

Ordinary Resolution means a resolution of a general meeting where more than 50% of the total votes cast on the resolution are in favour of the resolution;

Register means the Register of Members kept under the Corporations Act and includes any branch Register;

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

remuneration includes, without limitation, salaries, wages, commissions, fees, rewards, allowances, bonuses, incentive schemes or profit sharing schemes;

School means the National Art School, a school for the visual arts operated by the Company;

Seal means the common seal of the Company and includes any official seal of the Company;

Secretary means any person appointed to perform the duties of secretary of the Company and includes an assistant secretary or any person appointed to act as the secretary or assistant secretary temporarily; and

Special Resolution means a resolution of a general meeting where at least 75% of the votes cast on the resolution are in favour of the resolution.

30.2 Interpretation

In the construction of this Constitution:

- (a) headings are disregarded;
- (b) words importing persons include partnerships, associations, corporations, companies unincorporated and incorporated whether by Act of Parliament or otherwise, as well as individuals;
- (c) singular includes plural and vice versa and words importing any gender include all other genders;
- (d) except for the definitions in the preceding clause, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- (e) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force.