

# **Constitution**

**Central Coast Primary Care Limited (ACN 603 048 808)**

**Effective on and from 23 May 2018**

## Table of contents

<b>1. Nature of company and liability</b> .....	<b>1</b>
Nature of Company .....	1
Liability of Members and guarantee on winding up .....	1
<b>2. Objects</b> .....	<b>1</b>
<b>3. Membership</b> .....	<b>2</b>
Membership criteria.....	2
Single Membership class .....	2
Members bound by Constitution .....	2
Membership not transferable .....	2
Application for membership .....	2
Application Fee.....	2
Admission to Membership.....	3
Register of Members.....	3
<b>4. Removal and cessation of membership</b> .....	<b>4</b>
Resignation .....	4
Other cessation of membership .....	4
Removal from Membership .....	4
Suspension from Membership .....	4
<b>5. No profits for members</b> .....	<b>5</b>
Transfer of income or property.....	5
Payments, services and information .....	5
<b>6. General meetings of Members</b> .....	<b>5</b>
Convening of meetings by Directors .....	5
Convening of meetings by Members .....	5
Notice of general meeting .....	6
Cancellation of general meetings.....	6
Quorum at general meetings .....	6
Quorum at adjourned general meetings .....	6
Appointment of chairperson .....	6
Chairperson's powers.....	7
Adjournment of meetings .....	7
Voting on show of hands.....	8
Demand for a poll .....	8
Voting rights of Members .....	8
Vote of the Chairperson at general meetings .....	8
Objections to voter qualification .....	8
Mode of meeting for Members .....	9

Resolution in writing .....	9
Form of resolution in writing .....	9
<b>7. Proxies and representatives .....</b>	<b>9</b>
Appointment of proxies .....	9
Verification of proxies.....	9
Validity of proxies .....	10
Revocation of appointment of proxy .....	10
Direct Voting.....	10
<b>8. Non-Member Stakeholders.....</b>	<b>10</b>
Non-Member Stakeholders .....	10
Admission as a Non-Member Stakeholder .....	11
Removal .....	11
<b>9. Appointment and retirement of directors.....</b>	<b>12</b>
Number of Directors .....	12
Appointing and removing Directors.....	12
Vacation of office.....	12
<b>10. Directors' remuneration .....</b>	<b>12</b>
Determination of fees .....	12
Additional services rendered.....	13
Payment for expenses .....	13
<b>11. Powers of the Board .....</b>	<b>13</b>
<b>12. Proceedings of directors.....</b>	<b>13</b>
Convening of Board meetings.....	13
Notice of Board meetings.....	13
Mode of meeting for Directors.....	14
Quorum at Board meetings .....	14
Voting at Board meetings.....	14
Appointment of Chairperson and Deputy Chairperson.....	14
Chairperson's vote at Board meetings.....	14
Participation where Directors interested .....	15
No disqualification .....	15
Exercise of rights.....	15
Delegation of powers .....	15
Advisory Committees .....	16
Proceedings of committees.....	16
Validity of acts of Directors.....	16
Minutes .....	16
Resolution in writing .....	17
<b>13. Secretary .....</b>	<b>17</b>

<b>14. Indemnity and insurance</b> .....	<b>17</b>
Indemnity.....	17
Insurance premiums.....	17
<b>15. Seals and execution of documents</b> .....	<b>17</b>
Custody of Seal.....	17
Execution of documents.....	18
Official seals.....	18
<b>16. Gift Fund requirements</b> .....	<b>18</b>
Company to maintain a Gift Fund.....	18
Rules applying to the Gift Fund.....	18
Winding up of Gift Fund.....	19
Definitions.....	19
<b>17. Surplus assets on winding up or dissolution</b> .....	<b>19</b>
<b>18. Accounts, audit and records</b> .....	<b>20</b>
Accounts.....	20
Reports.....	20
Audit.....	20
Rights of inspection.....	20
<b>19. Notices</b> .....	<b>21</b>
Persons authorised to give notices.....	21
Method of giving notices.....	21
Addresses for giving notices to Members.....	21
Address for giving notices to the Company.....	21
Time notice of meeting is given.....	21
Time other notices are given.....	22
Proof of giving notices.....	22
Persons entitled to notice of meeting.....	22
<b>20. CCNSWML Reserve</b> .....	<b>23</b>
<b>21. Definitions and interpretation</b> .....	<b>23</b>
Definitions.....	23
Termination Event means:.....	25
Interpretation.....	25
References to this constitution.....	26
Replaceable rules.....	26
Application of Corporations Act.....	26

# **Corporations Act 2001 (Cth)**

## **Public company limited by guarantee**

### **Central Coast Primary Care Limited (ACN 603 048 808)**

#### **1. Nature of company and liability**

##### **Nature of Company**

1.1 The Company is a public company limited by guarantee.

##### **Liability of Members and guarantee on winding up**

1.2 The liability of the Members is limited. Every Member undertakes to contribute an amount of \$1.00 to the assets of the Company if it is wound up while that person is a Member, or within one year afterwards, for:

1.2.1 payment of the Company's debts and liabilities contracted before they ceased to be a Member; and

1.2.2 costs and expenses of winding up.

1.3 The amount of any contribution payable by a Member under clause 1.2 is in addition to any Application Fee that the Member may pay to become a Member.

#### **2. Objects**

2.1 The objects of the Company are to advance health by:

2.1.1 Promoting the prevention and better management of diseases;

2.1.2 Being responsive to community in the relief of sickness and distress;

2.1.3 Providing vision and innovation in improving health and wellbeing outcomes;

2.1.4 Designing, implementing, monitoring and evaluating quality accessible and equitable health and wellbeing services including GP after hours, primary care, other health services and social wellbeing initiatives to meet the health and wellbeing needs of the community;

2.1.5 Implementing successful primary health care, health improvement and health education programs to improve the health of the community;

2.1.6 Delivering health care programs and services in accordance with contractual obligations required by government and other funding organisations.

2.2 The Company will seek to achieve its objects by:

2.2.1 Raising money to further the aims of the Company and to secure sufficient funds for the purposes of the Company;

- 2.2.2 Receiving any funds and to distribute these funds in a manner that best attains the objects of the Company; and
- 2.2.3 Doing all such things as are incidental, convenient or conducive to the attainment of all or any of the objects of the Company.
- 2.2.4 Be efficient and accountable with strong governance and effective management.
- 2.2.5 Considering initiatives that will position us as a leader in the field.

### **3. Membership**

#### **Membership criteria**

- 3.1 A Member must:
  - 3.1.1 be a natural person; and
  - 3.1.2 meet the criteria for membership as the Board may determine from time to time in its absolute discretion.

#### **Single Membership class**

- 3.2 There will be one class of Member only and each Member will have the same rights.

#### **Members bound by Constitution**

- 3.3 All Members are bound by, and must comply with, the provisions of this constitution.

#### **Membership not transferable**

- 3.4 A Member's rights, privileges and benefits of membership are personal to the Member and membership of the Company is not transferable, other than by operation of law.

#### **Application for membership**

- 3.5 An application for Membership must be:
  - 3.5.1 in the form (if any) required by the Company from time to time;
  - 3.5.2 signed by the applicant and delivered to the Secretary;
  - 3.5.3 accompanied by such documents or evidence as to qualification for membership as the Board may determine from time to time; and
  - 3.5.4 accompanied by an application fee (if any) determined in accordance with clause 3.7.

#### **Application Fee**

- 3.6 The Board may determine that a fixed fee is payable to the Company to become a Member and the amount of this fee must be approved at a general meeting of Members. The amount of the fee will be the same for all Members who are natural persons.

## **Admission to Membership**

- 3.7 The Board must consider an application for Membership as soon as practicable after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant.
- 3.8 The Board does not have to give reasons for rejecting an application for Membership.
- 3.9 If an application for Membership is rejected, any Application Fee must be refunded to the applicant.
- 3.10 If an applicant is accepted for Membership the Secretary must notify the applicant of admission in the form of a receipt for the Application Fee, if any, or in such other form as the Board may determine from time to time and the name and details of the applicant must be entered in the Register.

## **Register of Members**

- 3.11 A register of the Members of the Company must be kept in accordance with the Corporations Act.
- 3.12 The following details must be entered in the Register in respect of each Member:
  - 3.12.1 the full name of the Member;
  - 3.12.2 the address of the Member; and
  - 3.12.3 the date on which the entry of the Member's name in the Register is made.
- 3.13 The Register must also show the following information, which may be kept separately from the rest of the Register:
  - 3.13.1 the name and details of each person who stopped being a Member within the last seven years; and
  - 3.13.2 the date on which each such person stopped being a Member.
- 3.14 The Company may also keep further registers recording other information about Members that is not required to be kept under the Corporations Act.
- 3.15 The following details may be entered in a register referred to in clause 3.12:
  - 3.15.1 the telephone number, facsimile number and email address (as applicable) of the Member; and
  - 3.15.2 such other information as the Board may require.
- 3.16 Each Member must notify the Secretary in writing of any change in that Member's name, address, telephone or facsimile number or email address within one month after the change.

## **4. Removal and cessation of membership**

### **Resignation**

- 4.1 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 4.2 The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice.

### **Other cessation of membership**

- 4.3 A Member ceases to be a Member immediately upon any Termination Event occurring in respect of the Member.

### **Removal from Membership**

- 4.4 The Board may (in its absolute discretion) resolve that a Member is no longer considered suitable for Membership of the Company and should be removed from the Register.
- 4.5 The Board must provide at least two month's written notice to any Member of any intention to remove that Member from the Register, so as to enable the Member an opportunity to provide any written representations to the Company regarding the proposed action.
- 4.6 The Board must consider any written representations or submissions received from the Member within that two month period. Having done so, the Board may (in its absolute discretion) proceed to remove that Member from the Register.
- 4.7 If the Board determines to remove a Member from the Register it must provide that Member with written reasons for taking such action.
- 4.8 Any Member removed from the Register under the provisions of clauses 4.4 to 4.7 agrees to indemnify and keep indemnified the Company against any loss or damage suffered or incurred by the Company as a result of the conduct of the Member that led to them being removed from the Register.

### **Suspension from Membership**

- 4.9 The Board may (in its absolute discretion) resolve that a Member's rights be suspended for a period of time.
- 4.10 The Board must provide at least two week's written notice to any Member of any intention to suspend that Member's rights, so as to enable the Member an opportunity to provide any written representations to the Company regarding the proposed action.
- 4.11 The Board must consider any written representations or submissions received from the Member within that two week period. Having done so, the Board may (in its absolute discretion) proceed to suspend that Member's rights.
- 4.12 If the Board determines to suspend a Member from the Register it must provide that Member with written reasons for taking such action.



- 4.13 The suspension will continue until the Board is satisfied (in its absolute discretion) that:
- 4.13.1 the conduct which led to the suspension has ceased or been rectified;  
and
  - 4.13.2 the Member is again fit and proper to resume their status as a participating Member with full rights.
- 4.14 Any Member who is suspended under the provisions of clauses 4.9 to 4.13 agrees to indemnify and keep indemnified the Company against any loss or damage suffered or incurred by the Company as a result of the conduct of the Member that led to them being suspended.

## **5. No profits for members**

### **Transfer of income or property**

- 5.1 The Company may not pay or transfer any income or property, directly or indirectly to any Member.
- 5.2 The Company must not pay a dividend to any Member.

### **Payments, services and information**

- 5.3 Nothing in this clause 5 prevents the Company making a payment in good faith of any of the following:
- 5.3.1 remuneration to any officers or employees of the Company for services actually rendered to the Company (including payment of directors' fees in accordance with clause 10.1);
  - 5.3.2 an amount to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business;
  - 5.3.3 reasonable and proper interest on money borrowed from any Member;
  - 5.3.4 reasonable and proper rent for premises let by any Member to the Company; and
  - 5.3.5 reimbursement of expenses reasonably and properly incurred by any Member on the Company's behalf with the consent of the Board.
- 5.4 Nothing in this clause 5 prevents the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.

## **6. General meetings of Members**

### **Convening of meetings by Directors**

- 6.1 Any two Directors may convene a general meeting of Members.

### **Convening of meetings by Members**

- 6.2 The Board must call and arrange to hold a general meeting of Members if required to do so by Members under the Corporations Act.

### **Notice of general meeting**

- 6.3 The Board may give notice of a general meeting of Members by any form of communication permitted by the Corporations Act.
- 6.4 The notice of a general meeting of Members must specify the place, the day and the hour of meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting, the general nature of the business to be transacted and any other matters as are required by the Corporations Act.
- 6.5 The accidental omission to give notice of any general meeting of Members to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting of Members.

### **Cancellation of general meetings**

- 6.6 The Board may cancel a general meeting of Members, other than a general meeting which the Board is required to convene and hold under the Corporations Act.
- 6.7 The Board may cancel a general meeting of Members if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in notice of meeting.

### **Quorum at general meetings**

- 6.8 The Members in general meeting may not transact any business unless a quorum of Members is present at the time when the meeting proceeds to business.
- 6.9 Except as otherwise set out in this constitution, a quorum for the purposes of a general meeting of Members is 50% plus one (1) of the total number of Members entitled to vote at the meeting at the time (rounded up).
- 6.10 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chairperson:
- 6.10.1 if the meeting was convened by or on the requisition of Members, it must be dissolved; and
  - 6.10.2 otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.
- 6.11 If a meeting has been adjourned to another time and place determined by the Board, not less than seven days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

### **Quorum at adjourned general meetings**

- 6.12 At the adjourned meeting a quorum will be constituted by the same number of Members determined under clause 6.9. If a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

### **Appointment of chairperson**

- 6.13 Every general meeting of Members must be chaired by a chairperson. The chairperson will be determined as follows:
- 6.13.1 if the Board has elected a Director as Chair - that person is entitled to chair every general meeting of Members;

- 6.13.2 if the Board has not elected a Director as Chair, or any appointed Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act - the Directors present at a general meeting of Members must elect one of their number to chair that meeting; or
- 6.13.3 if there are no Directors present within 15 minutes after the time appointed for the holding of the meeting or all Directors present decline to chair the meeting - the Members present at a general meeting of Members must elect one of the Members present to chair that meeting.

### **Chairperson's powers**

- 6.14 The chairperson may temporarily vacate the chair at a general meeting of Members in favour of another person present at any time and for any reason they see fit, and must do so if the Members are voting on the chairperson's election or re-election as a Director.
- 6.15 Subject to the terms of this constitution regarding adjournment of meetings, the chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting of Members is final and no motion of dissent from a ruling of the chairperson may be accepted.
- 6.16 The chairperson may, in his or her absolute discretion, refuse any person admission to a general meeting of Members, or expel the person from the general meeting of Members and not permit them to return, if the chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a general meeting of Members includes:
  - 6.16.1 the use of offensive or abusive language which is directed to any person, object or thing;
  - 6.16.2 attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting, including any alcoholic substance; and
  - 6.16.3 possession of any article, including a recording device or other electronic device or a sign or banner, which the chairperson considers is dangerous, offensive or disruptive or likely to become so.

### **Adjournment of meetings**

- 6.17 The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting of Members to another time and to another place.
- 6.18 The only business that may be transacted at any adjourned meeting of Members is the business left unfinished at the meeting from which the adjournment took place.
- 6.19 When a meeting of Members is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 6.20 Except when a meeting of Members is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **Voting on show of hands**

- 6.21 At a general meeting of Members a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared.
- 6.22 If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the 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 the resolution.

### **Demand for a poll**

- 6.23 A poll may be demanded by either:
- 6.23.1 the chairperson; or
  - 6.23.2 at least two Members entitled to vote on the resolution.
- 6.24 The demand for a poll may be withdrawn.
- 6.25 The demand for a poll does not prevent the continuance of a meeting of Members for the transaction of business other than the question on which a poll is demanded.
- 6.26 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 6.27 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

### **Voting rights of Members**

- 6.28 On a show of hands every person present who is a Member or Director has one vote.
- 6.29 On a poll every Member present in person or by proxy, attorney or representative has one vote.

### **Vote of the Chairperson at general meetings**

- 6.30 The chairperson of a general meeting of Members is entitled to a second or casting vote (in addition to any votes he or she may have as a proxy or attorney).

### **Objections to voter qualification**

- 6.31 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 6.32 An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.
- 6.33 A vote not disallowed according to an objection as provided in this constitution is valid for all purposes.

### **Mode of meeting for Members**

- 6.34 A general meeting of Members may be called or held using any technology consented to by all the Members. The consent may be a standing one. A Member may only withdraw their consent within a reasonable period before the meeting. The Members may otherwise regulate their meetings as they think fit.

### **Resolution in writing**

- 6.35 A resolution in writing signed by all Members entitled to vote on the resolution is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.

### **Form of resolution in writing**

- 6.36 A resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- 6.37 If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- 6.38 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Members is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

## **7. Proxies and representatives**

### **Appointment of proxies**

- 7.1 A Member who is a natural person may appoint another person as their proxy to attend and vote instead of the Member. A proxy must be a Member or Director themselves.
- 7.2 A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and signed by the Member making the appointment.
- 7.3 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 7.4 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a general meeting of Members, except that the proxy is not entitled to vote on a show of hands for the appointing Member. However the proxy can vote in its own capacity as a Member on a show of hands.

### **Verification of proxies**

- 7.5 Before the time for holding the meeting or adjourned meeting of Members at which a proxy proposes to vote, both of the following documents must be deposited with the Company:

- 7.5.1 the document appointing the proxy; and
  - 7.5.2 if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of that authority.
- 7.6 Those documents must be received at the Office, at a fax number or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting of Members not less than 24 hours before the time for holding the meeting.
- 7.7 If a general meeting of Members has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

### **Validity of proxies**

- 7.8 A proxy document is invalid unless both clauses 7.6 and 7.7 are satisfied.

### **Revocation of appointment of proxy**

- 7.9 A vote given in accordance with the terms of a proxy document or power of attorney is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting of Members at which the document is used:
- 7.9.1 the previous death or unsoundness of mind of the principal; or
  - 7.9.2 the revocation of the instrument or of the authority under which the instrument was executed.

### **Direct Voting**

- 7.10 The Board may determine that, at any general meeting of Members, a Member who is entitled to attend and vote at that meeting is entitled to a direct vote.
- 7.11 A direct vote includes a vote delivered to the Company by post, facsimile transmission or other electronic means approved by the Board.
- 7.12 The Board may prescribe rules to govern direct voting including rules specifying the form, method and timing of giving the direct vote in order for the vote to be valid.

## **8. Non-Member Stakeholders**

### **Non-Member Stakeholders**

- 8.1 The Board may create a register of Non-Member Stakeholders.
- 8.2 A Non-Member Stakeholder of the Company is a person or organisation who:

- 8.2.1 is not a Member;
  - 8.2.2 has applied to become a Non-Member Stakeholder in accordance with any procedures or policies applicable to Non-Member Stakeholders as may be determined by the Board from time to time (including if applicable payment of any fee determined by the Board from time to time); and
  - 8.2.3 who has been admitted by the Board as a Non-Member Stakeholder.
- 8.3 A Non-Member Stakeholder:
- 8.3.1 is not a Member of the Company and has none of the rights enjoyed by a Member under this constitution and the Corporations Act;
  - 8.3.2 has the right to attend but not vote at any general meeting of the Company;
  - 8.3.3 may be granted access to certain sections of any website maintained by or on behalf of the Company that are not accessible to the general public;
  - 8.3.4 may be invited to attend certain events hosted by the Company which are not open to the general public; and
  - 8.3.5 has such other rights not inconsistent with this clause 8 as the Board may determine from time to time.
- 8.4 The Board may determine from time to time that Non-Member Stakeholders will be referred to by some other name or names, provided that any such name could not reasonably be misconstrued as representing that Non-Member Stakeholders are Members or otherwise enjoy the same rights as a company's members.

#### **Admission as a Non-Member Stakeholder**

- 8.5 The Board must consider an application for admission as a Non-Member Stakeholder as soon as practicable after its receipt and determine, in its absolute discretion, the admission or rejection of the applicant as a Non-Member Stakeholder.
- 8.6 The Board does not have to give reasons for accepting or rejecting an application for admission as a Non-Member Stakeholder.
- 8.7 If an application for admission as a Non-Member Stakeholder is rejected, any fee paid pursuant to the application must be refunded to the applicant.
- 8.8 If an applicant is admitted as a Non-Member Stakeholder the Secretary must notify the applicant of admission in the form of a receipt for the relevant fee, if any, or in such other form as the Board may determine from time to time and the name and details of the applicant must be entered in a register of Non-Member Stakeholders maintained for this purpose.

#### **Removal**

- 8.9 The Board may in its absolute discretion determine that a person ceases to be a Non-Member Stakeholder. The Board does not need to provide its reasons for doing so.

## **9. Appointment and retirement of directors**

### **Number of Directors**

- 9.1 The Board will consist of a minimum of three and maximum of seven Directors.
- 9.2 The Board shall represent a balanced mix of General Practitioners, Primary Health Care Practitioners and persons with relevant business and/or financial management experience; each of whom has a knowledge of the Central Coast community and its local healthcare sector.

### **Appointing and removing Directors**

- 9.3 The Board may at any time appoint a person to be a Director, either to fill a casual vacancy or as an addition to the existing number of Directors, subject to any maximum number of Directors fixed by this constitution.
- 9.4 Subject to clause 9.7, a Director appointed to fill a casual vacancy will hold office until the next AGM or other General Meeting of the Members.
- 9.5 Subject to clause 9.7, a Director appointed as an additional Director, will hold office until the next AGM or other General Meeting of the Members.
- 9.6 A Director whose office expires may stand for re-election or re-appointment (as the case may be).
- 9.7 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint another person as a replacement.

### **Vacation of office**

- 9.8 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act or another provision of this constitution, the office of Director immediately becomes vacant if any of the following occurs:
- 9.8.1 the Director becomes an insolvent under administration;
- 9.8.2 the Director 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;
- 9.8.3 the Director is absent from half or more Board meetings over a consecutive period of 12 months without the prior written consent of the Board; or
- 9.8.4 the Director becomes prohibited from being a director by reason of an order made under the Corporations Act.

## **10. Directors' remuneration**

### **Determination of fees**

- 10.1 The Directors must be paid by way of fees for their services the amounts, if any, determined from time to time by the Board.



10.2 Directors' fees accrue from day to day.

#### **Additional services rendered**

10.3 A Director may be paid a fee in return for any extra services actually rendered to the Company in a professional or technical capacity (other than within his or her ordinary duties as a Director) provided that:

10.3.1 the prior written approval of the Board is obtained;

10.3.2 the services are rendered on arms length terms including payment of a commercially reasonable amount; and

10.3.3 the details of services provided, the name of the Director and the amount paid to that Director must be disclosed in the Company's audited annual accounts.

10.4 A fee payable in accordance with clause 10.3 may be paid either by fixed sum or salary determined by the Board.

#### **Payment for expenses**

10.5 The Board will determine a policy for reimbursement of out-of-pocket expenses reasonably and properly incurred by Directors in connection with Company business (including travel and accommodation expenses). Alternatively, the Company may pay such amounts on the Director's behalf.

### **11. Powers of the Board**

11.1 The Board may exercise all those powers of the Company as are not, by the Corporations Act or by this constitution, required to be exercised by the Members in general meeting or otherwise.

### **12. Proceedings of directors**

#### **Convening of Board meetings**

12.1 Two Directors may at any time convene a Board meeting.

#### **Notice of Board meetings**

12.2 The persons convening a Board meeting must ensure that notice of the Board meeting is given to each Director at least 24 hours before the meeting or at another time determined by Board resolution, except:

12.2.1 all Directors may waive in writing the required period of notice for a particular meeting; and

12.2.2 it is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence by the Board.

### **Mode of meeting for Directors**

- 12.3 A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Board may otherwise regulate its meetings as they think fit.

### **Quorum at Board meetings**

- 12.4 At a Board meeting, the number of Directors whose presence is necessary to constitute a quorum is that number representing at least half of the total number of Directors (rounded up to the nearest whole person as necessary).
- 12.5 If the number of Directors is reduced below the number necessary for a quorum of Directors, the continuing Director or Directors may act only to:
- 12.5.1 appoint additional Directors to the number necessary for a quorum; or
  - 12.5.2 convene a general meeting of the Company.

### **Voting at Board meetings**

- 12.6 The Board must determine any questions arising at a Board meeting by a majority of votes of Directors present and voting.
- 12.7 Each Director shall have one vote.

### **Appointment of Chairperson and Deputy Chairperson**

- 12.8 The Board may elect one of its members to act as Chairperson and another to act as Deputy Chairperson, and may determine the period for which each will hold office.
- 12.9 If at any meeting the Chairperson is not present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Deputy Chairperson shall be the chairperson for that meeting.
- 12.10 If neither a Chairperson nor Deputy Chairperson has been elected, or if neither of them is present within ten minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present must choose one of their number to chair that meeting.

### **Chairperson's vote at Board meetings**

- 12.11 The Chairperson, Deputy Chairperson or other Director chairing a meeting in accordance with clause 12.8, 12.9 or 12.10 (as the case may be) has a second or casting vote at Board meetings.

## **Participation where Directors interested**

- 12.12 A Director may be present and may vote on a matter before the Board if and to the extent that they are permitted to do so under the Corporations Act.
- 12.13 If there are not enough Directors to form a quorum as a result of a Director having an interest which disqualifies them from voting then one or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.
- 12.14 Subject to compliance with the Corporations Act, a Director may execute or participate in the execution of a document by or on behalf of the Company.

## **No disqualification**

- 12.15 Subject to compliance with the Corporations Act, a Director or any entity in which the Director has a direct or indirect interest (as applicable) may:
- 12.15.1 enter into a contract or arrangement with an Associated Party; hold any office or place of profit (other than auditor) in an Associated Party; and
  - 12.15.2 act in a professional capacity (or be a member of a firm that so acts) other than as auditor of an Associated Party.
- 12.16 Despite the fiduciary nature of a Director's office and the Director's fiduciary obligations:
- 12.16.1 any contract or arrangement entered into in accordance with clause 12.15.1 by the Director or any entity in which the Director has a direct or indirect interest is not invalid or voidable; and
  - 12.16.2 a Director may do any of the things specified in clause 12.15 without any liability to account to the Company or any other person for any direct or indirect benefit accruing to the Director or any entity in which the Director has a direct or indirect interest.

## **Exercise of rights**

- 12.17 If the Company holds or owns membership, shares or other interests in another body corporate, trust or other entity, the Board may exercise any and all voting rights conferred by the membership, shares or interests in any manner they consider fit.

## **Delegation of powers**

- 12.18 The Board may delegate any of its powers to any person, as the Board sees fit. This includes delegating any of the Board's powers to committees consisting of Directors or other persons (as the Board sees fit) to act in Australia or elsewhere.
- 12.19 A committee's exercise of a power in accordance with this constitution, other than an Advisory Committee established in accord with clause 12.21, is to be treated as the exercise of that power by the Board.

- 12.20 A committee must conform to the directions of the Board in the exercise of any powers delegated to it.

### **Advisory Committees**

- 12.21 The Board may establish advisory committees to provide advice and recommendations to the Board on specified matters (among any other functions determined by the Board).
- 12.22 The Board may, with respect to an Advisory Committee:
- 12.22.1 specify in writing from time to time the terms of reference and functions of the Advisory Committee;
  - 12.22.2 appoint such persons as they consider appropriate to the Advisory Committee (including, if thought fit, one or more Directors), and remove any such person from the Advisory Committee at any time by written notice;
  - 12.22.3 specify the period and conditions (including as to remuneration, if any) of any such appointment to the Advisory Committee; and
  - 12.22.4 terminate the Advisory Committee at any time.
- 12.23 The Board must not delegate any of its powers to an Advisory Committee, and an Advisory Committee must not exercise any powers of a Director or the Board.

### **Proceedings of committees**

- 12.24 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Directors or an Advisory Committee must be governed by the provisions of this constitution, in so far as they are applicable, as if meetings and proceedings of the committee or Advisory Committee are meetings and proceedings of the Board.

### **Validity of acts of Directors**

- 12.25 All acts done by a Board meeting or of a committee of Directors or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

### **Minutes**

- 12.26 The Board must cause minutes of all proceedings of general meetings, of Board meetings and of committees formed by the Directors to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 12.27 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

## **Resolution in writing**

- 12.28 A resolution in writing signed by all Directors entitled to vote on the resolution (excluding Directors who have requested and been given leave of absence by the Board) is to be treated as a determination of the Board passed at a Board meeting duly convened and held.
- 12.29 A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- 12.30 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

## **13. Secretary**

- 13.1 The Board may appoint one or more Secretaries and may at any time terminate the appointment or appointments.
- 13.2 The Board may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this constitution, the Corporations Act or by any other statute to be carried out by the secretary of the Company.

## **14. Indemnity and insurance**

### **Indemnity**

- 14.1 Every officer and past officer of the Company may be indemnified by the Company, to the fullest extent permitted by law, against a liability incurred by that person as an officer of the Company or a subsidiary of the Company, including without limitation legal costs and expenses incurred in defending an action.

### **Insurance premiums**

- 14.2 The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

## **15. Seals and execution of documents**

### **Custody of Seal**

- 15.1 If the Company has one, the Board must provide for the safe custody of the Seal.

## **Execution of documents**

- 15.2 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by any of the following:
- 15.2.1 by two Directors;
  - 15.2.2 by a Director and the Secretary; or
  - 15.2.3 by a Director and some other person appointed by the Directors for the purpose.
- 15.3 The Company may execute a document without the use of a seal if the document is signed by either of the following:
- 15.3.1 by two Directors; or
  - 15.3.2 by a Director and a Secretary.
  - 15.3.3 by a Director and some other person appointed by the Directors for the purpose

## **Official seals**

- 15.4 The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Board.

## **16. Gift Fund requirements**

### **Company to maintain a Gift Fund**

- 16.1 The Company must maintain a Gift Fund in accordance with this clause 16 for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office, or the Company is named as a DGR in ITAA 97.

### **Rules applying to the Gift Fund**

- 16.2 The following rules apply to any Gift Fund established and maintained by the Company:
- 16.2.1 the Gift Fund must have a name;
  - 16.2.2 the Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations;
  - 16.2.3 the Company must maintain a separate bank account for the Gift Fund;

- 16.2.4 the following must be credited to the Gift Fund:
- (a) all gifts of money or property to the Company for the Principal Purpose; and
  - (b) all money or property received by the Company because of those gifts;
- 16.2.5 no other money or property may be credited to the Gift Fund; and
- 16.2.6 the Company must use any gifts, money or property of the kind referred to in clause 16.2.4 only for the Principal Purpose.

### **Winding up of Gift Fund**

- 16.3 Despite clause 17, if the Gift Fund is wound up or the Company ceases to be a DGR for any reason, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund, authority or institution to which income tax deductible gifts can be made. For the avoidance of doubt, if a Gift Fund operated by the Company is wound up but the Company remains a DGR and operates any other gift fund in accordance with this clause 16, any surplus assets of the Gift Fund that is being wound up may be transferred to any other gift fund operated by the Company.

### **Definitions**

- 16.4 In this clause 16 the following definitions apply:

**DGR** means a 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97.

**Gift Fund** means a fund that is maintained for the Principal Purpose.

**ITAA 97** means *Income Tax Assessment Act 1997* (Cth).

**Principal Purpose** means the purposes of the Company as reflected in the objects of the Company specified in clause 2, or any of those purposes.

## **17. Surplus assets on winding up or dissolution**

- 17.1 Subject always to clause 16.3, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, but will be given or transferred to some other institution or company which satisfies both of the following requirements:

17.1.1 it has objects similar to the objects of the Company; and

17.1.2 its constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 5.

- 17.2 This is to be determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of the State or Territory in which the Office is located.

## **18. Accounts, audit and records**

### **Accounts**

- 18.1 The Board must cause proper accounting and other records to be kept in accordance with the Corporations Act.

### **Reports**

- 18.2 To the extent required by the Corporations Act, the Board must cause the Company to:
- 18.2.1 prepare financial reports in accordance with the Corporations Act;
  - 18.2.2 prepare Directors' reports in accordance with the Corporations Act;
  - 18.2.3 notify each Member of the Member's right to receive reports from the Company; and
  - 18.2.4 provide Members with reports in a form and within such timeframe as may be required by the Corporations Act.

### **Audit**

- 18.3 A registered company auditor must be appointed. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

### **Rights of inspection**

- 18.4 Subject to the Corporations Act:
- 18.4.1 the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting; and
  - 18.4.2 Despite clause 18.4.1, the Board may refuse access to a document where the Board (acting reasonably) considers that such access would, or would be likely to, cause the Company to lose the benefit of any form of evidentiary privilege, including legal professional privilege.



## **19. Notices**

### **Persons authorised to give notices**

- 19.1 A notice by either the Company or a Member in connection with this constitution may be given on behalf of the Company or Member by a solicitor, director or company secretary of the Company or Member.
- 19.2 The signature of a person on a notice given by the Company may be written, printed or stamped.

### **Method of giving notices**

- 19.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this constitution may be given to the addressee by any of the following means:
- 19.3.1 by delivering it to a street address of the addressee;
  - 19.3.2 by sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee; or
  - 19.3.3 by sending it by facsimile or email to the facsimile number or email address of the addressee.

### **Addresses for giving notices to Members**

- 19.4 The street address or postal address of a Member is the street or postal address of the Member shown in the Register.
- 19.5 The facsimile number or email address of a Member is the number which the Member may specify by written notice to the Company as the facsimile number or email address to which notices may be sent to the Member.
- 19.6 If a person is entitled to a membership in consequence of the death or bankruptcy of a Member, until that person gives notice to the Company of an address for the giving of notices, the address of that person is the address of the deceased or bankrupt Member.

### **Address for giving notices to the Company**

- 19.7 The street and postal address of the Company is the Office.
- 19.8 The facsimile number or email address of the Company is the number which the Company may specify by written notice to the Members as the facsimile number or email address to which notices may be sent to the Company.

### **Time notice of meeting is given**

- 19.9 A notice of meeting given in accordance with this constitution is to be taken as given, served and received at the following times:
- 19.9.1 if delivered in writing to the street address of the addressee, at the time of delivery;

- 19.9.2 if it is sent by post to the street or postal address of the addressee, on the business day after posting; or
- 19.9.3 if sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

#### **Time other notices are given**

- 19.10 A notice given in accordance with this constitution is to be taken as given, served and received at the following times:
  - 19.10.1 if delivered in writing to the street address of the addressee, at the time of delivery;
  - 19.10.2 if it is sent by post to the street or postal address of the addressee, on the 2<sup>nd</sup> (5<sup>th</sup> if outside Australia) business day after posting; or
  - 19.10.3 if sent by facsimile or email to the facsimile number or email address of the addressee, at the time transmission is completed.

#### **Proof of giving notices**

- 19.11 The sending of a notice by facsimile or email and the time of completion of transmission may be proved conclusively by production of the relevant one of the following:
  - 19.11.1 a transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee; or
  - 19.11.2 a print out of an acknowledgment of receipt of the email or equivalent proof that the email was successfully transmitted.

#### **Persons entitled to notice of meeting**

- 19.12 Notice of every general meeting must be given by a method authorised by this constitution to all of the following persons:
  - 19.12.1 every Member;
  - 19.12.2 every Director;
  - 19.12.3 every person (if any) entitled to a membership in consequence of the death or bankruptcy of a Member who, but for the Member's death or bankruptcy, would be entitled to receive notice of the meeting; and
  - 19.12.4 the auditor for the time being of the Company, if any.
- 19.13 No other person is entitled to receive notices of general meetings.

## 20. CCNSWML Reserve

- 20.1 The Members acknowledge and agree that an amount of money equal to the CCNSWML Reserve (if any) will be held by the Company and used at the Board's discretion for establishing the Company and its organization and as working capital and meeting operating expenses for activities pursuant to the Company's objects and Board policies. In particular, wherever possible the CCNSWML Reserve will be used for health professional support, professional development and education programs. Given the previous history of this reserve with the Central Coast Division of General Practice and CCNSWML, the Company will ensure an appropriate focus on general practice support and development for its utilization.

## 21. Definitions and interpretation

### Definitions

- 21.1 In this constitution the following definitions apply:

**Advisory Committee** means an advisory committee established by the Board under clause 12.21.

**AGM** means the annual general meeting of the Company held under the Corporations Act.

**2016 AGM** means the AGM held in the 2016 Calendar Year, and **2017 AGM** means the AGM held in the 2017 Calendar Year and **2018 AGM** means the AGM held in the 2018 Calendar Year.

**Application Fee** means any amount determined by the Board under clause 3.7.

**Associated Party** means each of the following:

- (a) the Company;
- (b) any Related Body Corporate of the Company; and
- (c) any other body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind.

**Board** means Directors acting as the board of the Company (including the Transition Board).

**CCNSWML Reserve** means the amount of uncommitted retained earnings and/or property of the Central Coast NSW Medicare Local Limited (CCNSWML) as is given or transferred to the Company upon the winding up of CCNSWML. The CCNSWML Reserve will be diminished as expended.

**Chair** means the Director elected under clause 12.8 to preside as chairperson at Board meetings for the time being.

**Company** means Central Coast Primary Care Limited ACN 603 048 808

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Director** means a person occupying the position of a director of the Company.

**General Practitioner** means a medical specialist who spends the majority of his or her time in general practice and whose practice involves the provision of primary, continuing and comprehensive whole-patient care to individuals, families and the community.

**Member** means a person whose name is entered in the Register as a member of the Company.

**Non-Member Stakeholder** has the meaning given in clause 8.2.

**Office** means the registered office of the Company.

**Primary Health Care Practitioner** means a health practitioner registered by the Australian Health Practitioner Regulation Agency or other primary health care professional, educator or worker as determined by the Board and who must (to the satisfaction of the Board):

- (a) be actively involved in the provision of primary health care;
- (b) hold nationally recognised qualifications;
- (c) be committed to the provision of evidence-based health service provision and practice;
- (d) be committed to the prevention of illness and health promotion;
- (e) be a member of a National Association, professional body or equivalent that is related to their profession or occupation; and
- (f) be supportive of effective linkages and collaboration between primary health care providers that benefit clients and patients, but does not include General Practitioner.

**Register** means the register of Members kept by the Company under the Corporations Act.

**Related Body Corporate** has the meaning given in the Corporations Act.

**Seal** means, if the Company has one, the common seal of the Company.

**Secretary** means a person appointed to perform the duties of a secretary of the Company.

## Termination Event means:

- (a) if a Member is an individual, the death or bankruptcy of that Member or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health; or
- (b) where a Member ceases to be qualified for Membership; or
- (c) where a Member ceases to be a Director.

## Interpretation

21.2 In this constitution, unless the context otherwise requires:

- 21.2.1 a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this constitution;
- 21.2.2 a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;
- 21.2.3 a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this constitution;
- 21.2.4 where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- 21.2.5 a word which indicates the singular indicates the plural, a word which indicates the plural indicates the singular, and a reference to any gender indicates the other genders;
- 21.2.6 a reference to 'dollars' or '\$' means Australian dollars;
- 21.2.7 references to the word 'include' or 'including' are to be interpreted without limitation;
- 21.2.8 a reference to a time of day means that time of day in the place where the Office is located;
- 21.2.9 a reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place where the Office is located;
- 21.2.10 where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day; and
- 21.2.11 a term of this constitution which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

### **References to this constitution**

- 21.3 A reference to this constitution, where amended in accordance with section 136(1)(b) of the Corporations Act, means this constitution as so amended.

### **Replaceable rules**

- 21.4 Each of the provisions of the Corporations Act which would but for this clause apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company.

### **Application of Corporations Act**

- 21.5 Unless the context otherwise requires:
- 21.5.1 an expression used but not defined in this constitution has the same meaning given in the Corporations Act; and
  - 21.5.2 where an expression referred to in clause 21.5.1 has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as the relevant clause of this constitution, the expression has the same meaning as in that provision.