

CONSTITUTION

of

Collaroy Plateau Community Kindergarten Incorporated

Australian Business Number 64 679 495 807

41 - 43 Hall Avenue

Collaroy Plateau NSW 2097

Phone/Fax: (02) 9982 6167

Email: cpck@optusnet.com.au

Website: www.cpck.com.au

Facebook: www.facebook.com/CollaroyPlateauCommunityKindergarten

Contents

Part 1 – Preliminary	
1.1	Name of incorporated association 4
1.2	Type of incorporated association 4
1.3	Definitions 4
1.4	Transitional Arrangements 5
Part 2 – Charitable purpose and powers	
2.1	Objects 5
2.2	Not for profit 6
2.3	Amending the constitution 6
Part 3 – Membership	
3.1	Membership 7
3.2	Nomination of membership 7
3.3	Cessation of membership 7
3.4	General rights of members 8
3.5	Membership entitlements not transferable 9
3.6	Resignation of membership 9
3.7	Register of members 9
3.8	Fees and subscriptions 10
3.9	Member’s liabilities 10
3.10	Resolution of disputes 10
3.11	Disciplining of members 11
3.12	Right of appeal of disciplined members 12
Part 4 – The Management Committee	
4.1	Powers of the Management Committee 13
4.2	Composition and membership of Management Committee . . 13
4.3	Election of Management Committee members 14
4.4	President 15
4.5	Secretary 15
4.6	Treasurer 16
4.7	Public Officer 16
4.8	Casual vacancies 16
4.9	Removal of Management Committee members 17
4.10	Management Committee meetings and quorum 17
4.11	Delegation by Management Committee to sub-committee. . . 18
4.12	Management Committee Voting and decisions 19

Part 5 – General meetings

5.1	Annual general meeting – holding of	20
5.2	Annual general meeting – calling of and business of	20
5.3	Special general meeting – calling of	20
5.4	Notice of meetings	21
5.5	Procedures and Quorum for general meetings	21
5.6	Presiding member.	22
5.7	Adjournment	22
5.8	Making of decisions.	23
5.9	Special resolution	23
5.10	Voting	23
5.11	Appointment of proxies	24
5.12	Conflict of interest	24

Part 6 – Minutes and records

6.1	Minutes and records	24
6.2	Financial and related records	25

Part 7 – Miscellaneous

7.1	Insurance	25
7.2	Funds – source	25
7.3	Funds – management	26
7.4	General obligations	26
7.5	Change of name, objects and constitution	26
7.6	Custody of books	26
7.7	Inspection of books.	26
7.8	Service of notice	27
7.9	Financial year	27
7.10	Auditor	27
7.11	Dissolution	28
7.12	Distribution of surplus assets	28
Appendix 1	Application for membership of association form	29
Appendix 2	Form for appointment of proxy	30
Appendix 3	Enrolment Form Application for membership	31
Appendix 4	Nomination for Management Committee form	32

Part 1 – Preliminary

1.1 Name of the association

1.1.1 The name of the incorporated association is Collaroy Plateau Community Kindergarten Incorporated.

1.2 Type of incorporated association

1.2.1 The incorporated association is a not for profit, licensed, centre based, community based, Early Childhood Education and Care service for 3 years to 6 year old children. A maximum of 40 children attend each day. The service is operated in accordance with State Government Regulations.

1.3 Definitions

1.3.1 In this constitution:

ACNC means Australian Charities and Not for Profit Commission.

Association means the organisation of Collaroy Plateau Community Kindergarten Incorporated.

Constitution means this constitution as amended.

CPCCK means Collaroy Plateau Community Kindergarten Incorporated.

Director-General means the Commissioner of Fair Trading.

Executive Committee means the office-bearers of the Management Committee.

General Committee Members means a member holding a position on the Management Committee with no specific role.

Kindergarten means the Collaroy Plateau Community Kindergarten Incorporated.

Management Committee means a Committee to which powers have been delegated by the association under Rule 4.3.

Member means a member of the Association who is not an office-bearer, ordinary committee member or general committee member of the Association, as referred to in Rule 4.3.

Natural person means a real human being, as opposed to a legal or juridical person, which may be a private (i.e. business entity or non-governmental organisation) or public (i.e. government) organisation.

Office-Bearers means the President, Vice President, Treasurer and Secretary of the Management Committee as outlined in Clause 4.2.2.

Ordinary Committee Members means a member holding a position on the Management Committee with a specific role as outlined in Clause 4.2.2.

President means, for the purposes of Management Committee meetings, the person appointed in accordance with Rules 4.3 and 4.4.

Rules means the rules set out in this Constitution, as amended.

Secretary means a person appointed as, or to perform the duties of, a secretary of the Association.

Service means Collaroy Plateau Community Kindergarten Incorporated.

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

The Act means the Associations Incorporation Act 2009.

The Regulation means the Associations Incorporation Regulation 2010.

1.3.2 In this constitution:

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

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

1.4 Transitional Arrangements

1.4.1 This constitution supersedes the constitution in force immediately before the adoption of this Constitution.

1.4.2 Regardless of the changes to the constitution, the office-bearers, ordinary committee members and general committee members of the association (i.e. the Management Committee); and members of the association under the old constitution continue under the new constitution until cessation of membership as outlined in 3.3.

Part 2 – Charitable Purposes and powers

2.1 Objects

2.1.1 The association is incorporated to:

- a. operate and manage a community based not for profit Early Childhood Education and Care Service for children of families who are typically residents of the local government areas;

- b. provide a program of experiences which will promote the total development and wellbeing of the young child;
- c. provide instruction and education facilities for children both collectively and individually;
- d. encourage parent and community involvement as an essential part of the operation of the kindergarten so that with frequent and active participation, both family and community will work together to achieve the basic aims of the centre;
- e. undertake additional fundraising activities for the purpose of providing funds for additions, upgrades and/or replacement of equipment, resources and property belonging to and used by the service; and
- f. manage CPCK as a kindergarten for education purposes.

2.2 Not for profit making

- 2.2.1 The income and assets of the association however they are derived shall be applied solely towards the promotion of its objects as set out in this constitution.

The incorporated association must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 2.2.2 and 7.12.

- 2.2.2 Clause 2.2.1 does not stop the incorporated association from doing the following things, provided they are done in good faith:

- i. paying a member for goods and services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the incorporated association, or
- ii. making a payment to a member in carrying out the incorporated associations charitable purposes.

2.3 Amending the constitution

- i. Subject to subclause 2.3.ii, the members may amend this constitution by passing a special resolution.
- ii. The members must not pass a special resolution that amends this constitution if passing it causes the association to no longer be a charity that holds charitable status.

Part 3 – Membership

3.1 Membership

3.1.1 A person is eligible to be a member of the association if:

- a. the person is a natural person, and
- b. the person has completed an Application for Membership Form (Appendix 1); or completed the membership section on the Enrolment Form as outlined in Appendix 3.

3.2 Nomination for Membership

3.2.1 Subject to Rules 3.2.2 and 3.2.3, the Members are such persons who have consented in writing to be Members in the form set out in Appendix 1 or Appendix 3.

3.2.2 The following persons shall be eligible for membership upon completion of a membership application (Appendix 1), or in the case of subclause a. deemed to be a member on completion of the membership section on the Enrolment Form (Appendix 3):

- a. the parents or guardians of all children enrolled at and/or attending CPCK (collectively the Parent Members);
- b. the parents or guardians of children awaiting enrolment at CPCK;
- c. the staff of CPCK; and
- d. any other person with particular interest, knowledge, or other personal or professional qualifications that the Management Committee may consider will be able to assist CPCK in achieving its objectives.

3.2.3 A nomination of a person for membership of the association:

- a. in the case of persons outlined in clause 3.2.2 subclause a, must be provided to the secretary using details from the child's enrolment form; and
- b. in the case of persons outlined in clause 3.2.2 subclauses b, c and d, must be lodged with the secretary of the association.

3.3 Cessation of Membership

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

- a. dies, or
- b. resigns membership, or
- c. is expelled from the association, or

- d. becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health; or
 - e. becomes bankrupt; or
 - f. is convicted of an indictable offence; or
 - g. is no longer eligible to be a member under Rule 3.2.2 subclause b, c and d; or
 - h. is no longer eligible to be a member under 3.2.2 subclause a, in which case membership ceases at the 1st Annual General Meeting to be held after the child no longer attends the kindergarten.
- 3.3.2 The Management Committee may expel from the association any Member who does not comply with the provisions of this Constitution or any by-laws, rules or regulations of the association or whose conduct in the opinion of the Management Committee is prejudicial to the interests of the association.
- 3.3.3 At least 21 days before the Management Committee holds a meeting to expel a Member of the Management Committee it must send a notice to the Member which states:
- a. the allegations against the Member;
 - b. the proposed resolution for the Member's expulsion;
 - c. that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and
 - d. that the Member may elect to have the question of expulsion dealt with by the Association in a special general meeting, provided that the Member notifies the Secretary in writing, at least 48 hours before the meeting at which the resolution is to be considered by the Management Committee.
- 3.3.4 The Association must expel a Member and remove the Member's name from the Register where:
- a. a special general meeting is held to expel a Member; and
 - b. a resolution is passed at the meeting for the expulsion of the Member by a majority of two-thirds of those present and voting (such voting will be by a secret ballot).
- 3.3.5 A Member expelled from the association does not have any claim, monetary or otherwise, upon the Association, its funds or property except that which is allowed under Clause 2.2.2.
- 3.4 General rights of members
- 3.4.1 A member of the Association who is entitled to vote has the right to:
- a. receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and

- b. submit items of business for consideration at a general meeting; and
- c. attend and be heard at general meetings; and
- d. vote at a general meeting; and
- e. have access to the minutes of general meetings and other documents of the Association as provided under rule 7.7; and
- f. inspect the register of members.

3.4.2 A member is entitled to vote if the member's membership rights are not suspended for any reason.

3.5 Membership entitlements not transferable

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

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

3.6 Resignation of membership

3.6.1 A Member may at any time resign from the association by giving notice in writing to the association. The resignation will be effective from the date of receipt by a member of the Executive Committee.

3.6.2 If a member of the association ceases to be a member under subclauses 3.3 or 3.5.1 and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

3.7 Register of members

3.7.1 The secretary of the association must establish and maintain a register of members of the association specifying the name and postal or residential address and contact details of each person who is a member of the association together with the date on which the person became a member. The register must include the date the membership started and ended.

3.7.2 Every Member must communicate any change to his or her address to the Association in writing and any such change of address must be entered in the Register.

3.7.3 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

- 3.7.4 The register of members must be kept in New South Wales at the main premises of the association.
- 3.7.5 The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- 3.7.6 A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- 3.7.7 If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection; that information must not be made available for inspection.
- 3.7.8 A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
- a. the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
 - b. any other purpose necessary to comply with a requirement of the Act or the Regulation.
- 3.8 Fees and subscriptions
- 3.8.1 No fee or subscription is payable to be a member of the association.
- 3.9 Member's Liabilities
- 3.9.1 The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 3.7.
- 3.10 Resolution of disputes
- 3.10.1 The resolution of disputes procedure in this clause applies to disputes between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association.
- 3.10.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 3.10 until the disciplinary procedure is completed.
- 3.10.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 3.10.4 If those involved in the dispute do not resolve it under clause 3.9.3, they must within 10 days:

- a. tell the Executive Committee about the dispute in writing;
- b. agree or request that a mediator be appointed; and
- c. attempt in good faith to settle the dispute by mediation.

3.10.5 The mediator must:

- a. be chosen by agreement of those involved; or
- b. where those involved do not agree:
 - i. for disputes between members, a person chosen by the Executive Committee; or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the incorporated association has its registered office or referred to a community justice centre for mediation under the Community Justice Centres Act 1983.

3.10.6 A mediator chosen by the Management Committee under clause 3.9.5:

- a. may be a member or former member of the incorporated association;
- b. must not have a personal interest in the dispute; and
- c. must not be biased towards or against anyone involved in the dispute.

3.10.7 When conducting the mediation, the mediator must:

- a. allow those involved a reasonable chance to be heard;
- b. allow those involved a reasonable chance to review any written statements;
- c. ensure that those involved are given natural justice; and
- d. not make a decision on the dispute.

3.10.8 If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.

3.10.9 The Commercial Arbitration Act 1984 and the Community Justice Centres Act 1983 applies to any such dispute referred to arbitration.

3.11 Disciplining of members

3.11.1 A complaint may be made to the Management Committee by any person that a member of the association:

- a. has allegedly refused or neglected to comply with a provision or provisions of this constitution; or
- b. has wilfully acted in a manner prejudicial to the interests of the association.

- 3.11.2 The Management Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- 3.11.3 If the Management Committee decides to deal with the complaint, the Management Committee:
- a. must cause notice of the complaint to be served on the member concerned; and
 - b. must cause notice of suspension of Membership until such time as the complaint has been given consideration; and
 - c. must give the member at least 14 days from the time the notice is served within which to make submissions to the Management Committee in connection with the complaint; and
 - d. must take into consideration any submissions made by the member in connection with the complaint.
- 3.11.4 The Management Committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- 3.11.5 If the Management Committee expels or suspends a member, the secretary must, within 7 days after the action is taken, give written notice to the member of the action taken, of the reasons given by the Management Committee for having taken that action and of the member's right of appeal under clause 3.11.
- 3.11.6 The expulsion or suspension does not take effect:
- a. until the expiration of the period within which the member is entitled to appeal against the resolution concerned; or
 - b. if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 3.11, whichever is the later.
- 3.12 Rights of appeal of disciplined members
- 3.12.1 A member may appeal to the association in a special general meeting against a resolution of the Management Committee under clause 3.10, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- 3.12.2 The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- 3.12.3 On receipt of a notice from a member under subclause 3.11.1, the secretary must notify the Management Committee which is to convene a special general meeting

of the association to be held within 28 days after the date on which the secretary received the notice.

- 3.12.4 At a special general meeting of the association convened under subclause 3.11.3:
- a. no business other than the question of the appeal is to be transacted; and
 - b. the Management Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both; and
 - c. the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 3.12.5 The appeal is to be determined by a simple majority of votes cast by members of the association.

Part 4 – The Management Committee

4.1 Powers of the Management Committee

- 4.1.1 Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in a special general meeting, the Management Committee:
- a. is to control and manage the affairs of the association; and
 - b. may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a special general meeting of members of the association; and
 - c. has power to perform all such acts and do all such things as appear to the Management Committee to be necessary or desirable for the proper management of the affairs of the association.

4.2 Composition and membership of Management Committee

- 4.2.1 The Management committee (each of whom is elected at the annual general meeting of the association under clause 4.3) is to consist of:
- a. the office-bearers of the association, and
 - b. ordinary committee members,
 - c. general committee members
- 4.2.2 The office-bearers of the association (known as the Executive Committee) are as follows:
- a. President
 - b. Vice President

- c. Treasurer
- d. Secretary

The Ordinary Committee members are as follows:

- a. Maintenance Officer
- b. Social Club Co-ordinator
- c. Staff Liaison Officer
- d. Policy & Procedure Officer
- e. OH&S Officer
- f. Environmental Officer
- g. Marketing Officer

General Committee Members:

In addition to the above positions, any number of General Committee members may also be elected to the Management Committee, taking on a general role on the Management Committee.

- 4.2.3 An office-bearer or ordinary committee member may hold up to 2 offices (only 1 of which can be an office-bearer position).
- 4.2.4 Each member of the Management Committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- 4.2.5 No member of the Management Committee shall be appointed to any salaried office of the association or any office of the organisation paid by fees.
- 4.2.6 No remuneration or other benefit in money or monies worth shall be given by the association to any member of the Management Committee except repayment of out of pocket expenses, as outlined in clause 2.2.2.

- 4.3 Election of Management Committee members
 - 4.3.1 The President, or in their absence the Vice-President or member elected to chair the Annual General Meeting must declare all positions on the Committee vacant prior to holding elections for those positions as outlined in subclause 4.3.3 to 4.3.8.
 - 4.3.2 Nominations of candidates for election as office-bearers, ordinary committee members or general committee members of the association must be:
 - a. made using Appendix 4; and
 - b. delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

- 4.3.3 Upon receipt of nomination forms, the secretary must undertake relevant checks on each nominee as per ACNC, ASIC and any other requirements at the time.
- 4.3.4 If insufficient nominations are received to fill all vacancies on the Management Committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- 4.3.5 If insufficient further nominations are received, any vacant positions remaining on the Management Committee are taken to be casual vacancies.
- 4.3.6 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 4.3.7 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- 4.3.8 The ballot for the election of office-bearers, ordinary committee members and general committee members of the Management Committee is to be conducted at the annual general meeting in such usual and proper manner as the Management Committee may direct.
- 4.3.9 A person nominated as a candidate for election as an office-bearer, an ordinary committee member or a general committee member of the association must be a member of the association.
- 4.4 President
- 4.4.1 The President is appointed for a 1 year term and is eligible for reappointment. The President must apply for nomination as outlined in Clause 4.3.
- 4.4.2 If the President is not present at the time specified for holding any meeting, the Vice President shall chair the meeting. In the absence of both the President and the Vice President, Management Committee may choose one of their members to be chair of the meeting.
- 4.4.3 The President may exercise a second or casting vote in the event of an equality of votes on any question arising at a Management Committee meeting or special general meeting.
- 4.5 Secretary
- 4.5.1 It is the duty of the secretary to keep minutes of:
- a. all appointments of office-bearers, ordinary committee members and general committee members of the Management Committee; and
 - b. the names of members of the committee present at a Management Committee meeting or a special general meeting; and

- c. all proceedings at Management Committee meetings and special general meetings.

4.5.2 Minutes of proceedings at a meeting must be signed by the President of the meeting or by the President of the next succeeding meeting, or in the absence of the President, by the Vice-President.

If both the President and Vice-President are absent from the meeting to which the minutes relate, the minutes must be signed by the committee member who was elected to chair the meeting for which the minutes relate.

4.6 Treasurer

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

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

4.7 Public Officer

4.7.1 The Public Officer is the official contact point for the Kindergarten and is responsible for lodging documents.

4.7.2 The secretary of the association will assume the role of Public Officer with relevant forms to be completed. The Public Officer must be 18 years old or more, and be a resident of NSW. The Public Officer is an authorised signatory for the association. The Management Committee must fill the vacancy of Public Officer within 28 days of the vacancy arising and a new Public Officer must advise details to NSW Fair Trading within 28 days of taking office. The former Public Officer must ensure that all documents of the association in his or her possession are returned to the Management Committee within 14 days of vacating the office.

4.8 Casual Vacancies

4.8.1 In the event of a casual vacancy occurring in the membership of the Management Committee, the Management Committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

4.8.2 A casual vacancy in the office of a member of the Management Committee occurs if the member:

- a. dies; or
- b. ceases to be a member of the association, as outlined in Clause 3.3; or
- c. becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth; or
- d. resigns office by notice in writing given to the secretary; or
- e. is removed from office under clause 4.9; or
- f. becomes a mentally incapacitated person; or
- g. is absent without the consent of the Management Committee from 3 consecutive meetings of the Management Committee; or
- h. is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months; or
- i. is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth; or

4.8.3 A casual vacancy also occurs if insufficient nominations are received at the Annual General Meeting to fill the vacancies on the Management Committee.

4.9 Removal of Management Committee members

4.9.1 The association in a special general meeting may by resolution remove a member of the Management Committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

4.9.2 If a member of the Management Committee, to whom a proposed resolution referred to in subclause 4.9.1 relates, makes representations in writing to the secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

4.10 Management Committee meetings and quorum

4.10.1 The Management Committee must meet at least 3 times in each period of 12 months at such place and time as the Management Committee may determine.

4.10.2 Additional meetings of the committee may be convened by the president or by any member of the Management Committee.

- 4.10.3 Oral or written notice of a meeting of the Management Committee must be given by the secretary to each member of the Management Committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the Management Committee) before the time appointed for the holding of the meeting.
- 4.10.4 Notice of a meeting given under subclause 4.10.3 must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Management Committee members present at the meeting unanimously agree to treat as urgent business.
- 4.10.5 Any 3 members of the Management Committee constitute a quorum for the transaction of the business of a meeting of the Management Committee.
- 4.10.6 No business is to be transacted by the Management Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 4.10.7 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- 4.10.8 At a meeting of the Management Committee:
- a. the President or, in the President's absence, the Vice-President is to preside;
or
 - b. if the President and the Vice-President are absent or unwilling to act, one of the remaining members of the Management Committee as may be chosen by the members present at the meeting is to preside.
- 4.11 Delegation by Management Committee to sub-committee
- 4.11.1 The Management Committee may by instrument in writing, establish sub-committees (consisting of such member or members of the association as the Management Committee thinks fit) to carry out specific functions on its behalf. Any sub-committees that are established shall report regularly at meetings of the Management Committee and follow any directions received from the Management Committee, other than:
- a. this power of delegation; and
 - b. a function which is a duty imposed on the Management Committee by the Act or by any other law.
- 4.11.2 A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

- 4.11.3 A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- 4.11.4 Despite any delegation under this clause, the Management Committee may continue to exercise any function delegated.
- 4.11.5 Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Management Committee.
- 4.11.6 The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- 4.11.7 A sub-committee may meet and adjourn as it thinks proper.
- 4.11.8 The Management Committee may dissolve a sub-committee at any time. Any funds raised or handled by a sub-committee shall be for all purposes, funds of the association.
- 4.12 Management Committee voting and decisions
- 4.12.1 Questions arising at a meeting of the Management Committee or of any sub-committee appointed by the Management Committee are to be determined by a majority of the votes of members of the Management Committee or sub-committee present at the meeting.
- 4.12.2 Each member present at a meeting of the Management Committee or of any sub-committee appointed by the Management Committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the chair of the meeting may exercise a second or casting vote.
- 4.12.3 Subject to clause 4.8, the Management Committee may act despite any vacancy on the Management Committee.
- 4.12.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the Management Committee or by a sub-committee appointed by the Management Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Management Committee or sub-committee.
- 4.12.5 In circumstances where time or other constraints do not allow for a vote to be undertaken at the next committee meeting, a quorum, being three members of the executive committee, may vote on a matter with the decision determined by a majority of votes of the executive committee. In the event of an equality of votes, the President may exercise a second or casting vote. The matter and decision is to be mentioned at the next committee meeting for minuting.

Part 5 – General Meetings

- 5.1 Annual general meetings - holding of
- 5.1.1 The association must hold its annual general meetings:
- a. at least once per calendar year and within 4 months after the close of the association's financial year, to ensure the association complies with reporting requirements of other organisations; or
 - b. within such later time as may be allowed by the Director-General, ACNC and NSW Fair Trading and/or prescribed by the Regulation.
- 5.2 Annual general meetings - calling of and business at
- 5.2.1 The annual general meeting of the association is, subject to the Act and to clause 5.1, to be convened on such date and at such place and time as the Management Committee thinks fit.
- 5.2.2 In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
- a. to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
 - b. to receive from the Management Committee reports on the activities of the association during the last preceding financial year;
 - c. to elect office-bearers, ordinary committee members and general committee members of the association, and
 - d. to receive and consider any financial statement or report required to be submitted to members under the Act.
- 5.2.3 An annual general meeting must be specified as such in the notice convening it.
- 5.3 Special general meetings - calling of
- 5.3.1 The Management Committee may, whenever it thinks fit, convene a special general meeting of the association.
- 5.3.2 The Management Committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- 5.3.3 A requisition of members for a special general meeting:
- a. must state the purpose or purposes of the meeting; and
 - b. must be signed by the members making the requisition; and
 - c. must be lodged with the secretary; and

- d. may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- 5.3.4 If the Management Committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- 5.3.5 A special general meeting convened by a member or members as referred to in subclause 5.3.4 must be convened as nearly as is practicable in the same manner as special general meetings are convened by the Management Committee.
- 5.4 Notice of general meetings
- 5.4.1 Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 5.4.2 If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause 5.4.1, the intention to propose the resolution as a special resolution.
- 5.4.3 No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 5.2.
- 5.4.4 A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.
- 5.4.5 The non-receipt of a notice of any general meeting by, or in accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- 5.5 Procedure and Quorum for general meetings
- 5.5.1 No item of business is to be transacted at a special general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

Constitution - Collaroy Plateau Community Kindergarten Inc. - 2015

- 5.5.2 Five members present (being members entitled under this constitution to vote at a special general meeting) constitute a quorum for the transaction of the business of a special general meeting.
- 5.5.3 If within half an hour after the appointed time for the commencement of a special general meeting a quorum is not present, the meeting:
- a. if convened on the requisition of members, is to be dissolved; and
 - b. in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- 5.5.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.
- 5.6 Presiding member
- 5.6.1 The President or, in the President's absence, the Vice-President, is to preside as President at each special general meeting of the association.
- 5.6.2 If the President and the Vice-President are absent or unwilling to act, the members present must elect one of their numbers to preside as President at the meeting.
- 5.7 Adjournment
- 5.7.1 The President of a special general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 5.7.2 If a special general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 5.7.3 Except as provided in subclauses 5.7.1 and 5.7.2, notice of an adjournment of a special general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

5.8 Making decisions

- 5.8.1 A question arising at a general meeting of the association is to be determined by either:
- a. a show of hands; or
 - b. if on the motion of the President or if 5 or more members present at the meeting decide that the question should be determined by a written ballot, a written ballot is to be held.
- 5.8.2 If the question is to be determined by a show of hands, a declaration by the President that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- 5.8.3 If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the President.
- 5.8.4 At a general meeting of the association, a poll may be demanded by the President or by at least 3 members present in person or by proxy at the meeting.
- 5.8.5 If a poll is demanded at a general meeting, the poll must be taken:
- a. immediately in the case of a poll which relates to the election of the President of the meeting or to the question of an adjournment; or
 - b. in any other case, in such manner and at such time before the close of the meeting as the President directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

5.9 Special resolutions

- 5.9.1 A special resolution may only be passed by the association in accordance with section 39 of the Act.
- 5.9.2 A resolution of the association is a special resolution if it is passed by a majority which comprises at least three-quarters of such members of the association as, being entitled under these rules so to do, vote in person or by the proxy at a general meeting of which at least 21 days written notice specifying the intention to propose the resolution as a special resolution was given in accordance with these rules.

5.10 Voting

- 5.10.1 On any question arising at a general meeting of the association a member has one vote only.

- 5.10.2 All votes must be given personally or by proxy but no member may represent more than 5 proxies.
- 5.10.3 In the case of an equality of votes on a question at a general meeting, the chair of the meeting is entitled to exercise a second or casting vote.
- 5.10.4 A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.
- 5.11 Appointment of proxies
- 5.11.1 Each member is to be entitled to appoint another member as proxy by notice given to the secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- 5.11.2 The notice appointing the proxy is to be in the form set out as Appendix 2 of these rules.
- 5.12 Conflicts of Interest
- 5.12.1 All members of the association must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Management Committee meeting or general meeting (or that is proposed in a resolution).
- 5.12.2 The disclosure of a conflict of interest must be recorded in the minutes of the meeting.
- 5.12.3 Any member who has a material personal interest in a matter that is being considered at a meeting (or that is proposed in a resolution) must not enter discussions or vote on the matter, unless permitted under clause 5.12.4.
- 5.12.4 A member may still vote if a quorum is satisfied that the interest should not stop the member from voting or being present.

Part 6 - Minutes and records

- 6.1 Minutes and related records
- 6.1.1 The incorporated association must, within one month, make and keep the following records:
- a. minutes of proceedings and resolutions of general meetings;
 - b. minutes of proceedings and resolutions of any Management Committee meetings;
 - c. minutes of resolutions of members; and

- d. a copy of a notice of each general meeting.
- 6.1.2 The President must ensure that minutes of a general meeting or a Management Committee meeting are signed within a reasonable time after the meeting by:
- a. the chair of the meeting, or
 - b. the chair of the next meeting.
- 6.2 Financial and related records
- 6.2.1 The incorporated association must make and keep written financial records that:
- a. correctly record and explain its transactions and financial position and performance; and
 - b. enables true and fair financial statements to be prepared and to be audited.
- 6.2.2 The incorporated association must also keep written records that correctly record its operations.
- 6.2.3 The incorporated association must retain its financial and related records for at least 7 years.
- 6.2.4 The Management Committee must take reasonable steps to ensure that the incorporated association's records are kept safe.
- 6.2.5 The Management Committee may delegate tasks outlined in 6.2 to salaried staff under their supervision.

Part 7 – Miscellaneous

- 7.1 Insurance
- 7.1.1 The association may effect and maintain insurance.
- 7.2 Funds - source
- 7.2.1 The funds of the association are to be derived from kindergarten fees, fundraising, and donations and, subject to any resolution passed by the association in general meeting, such other sources as the Management Committee determines. Funding is also received from the NSW State Government. Additional funding is also sourced for children attending with additional needs. Grants are also applied for and allocated towards specific projects
- 7.2.2 All monies received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.

- 7.2.3 The association must, as soon as practicable after receiving any money, issue an appropriate receipt.
- 7.3 Funds – management
- 7.3.1 Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the Management Committee determines.
- 7.3.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the Management Committee or employees of the association, being members or employees authorised to do so by the Management Committee.
- 7.4 General obligations
- 7.4.1 The association's full name (including the word 'Incorporated' or the abbreviation 'Inc.')
- must appear on all documents such as letters, statement, invoices, notices, publications, order for goods or services or receipts in connection with its activities.
- 7.5 Change of name, objects and constitution
- 7.5.1 An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the Public Officer or a Management Committee member.
- 7.5.2 Subject to Clause 2.3, the statement of objects and these rules may be altered, rescinded or added to only by a special resolution of the association as outlined in Clause 5.9.
- 7.6 Custody of books etc.
- 7.6.1 The Director (as appointed by the association's Management Committee) must keep in his or her custody or under his or her control all records, books and other documents relating to the association.
- 7.7 Inspection of books etc.
- 7.7.1 The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
- a. records, books and other financial documents of the association;
 - b. this constitution; and

- c. minutes of all Management Committee meetings and general meetings of the association including any records outlined in clause 6.1.
- 7.7.2 A member of the association may obtain a copy of any of the documents referred to in subclause 7.7.1 on payment of a fee of not more than \$1 for each page copied.
- 7.8 Service of notices
 - 7.8.1 For the purpose of this constitution, a notice may be served on or given to a person:
 - a. by delivering it to the person personally; or
 - b. by sending it by pre-paid post to the address of the person; or
 - c. by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
 - 7.8.2 For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
 - a. in the case of a notice given or served personally, on the date on which it is received by the addressee;
 - b. in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
 - c. in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.
- 7.9 Financial year
 - 7.9.1 The financial year of the association is:
 - a. the period of time commencing on the date of incorporation of the association and ending on the following 31st day of December; and
 - b. each period of 12 months after the expiration of the previous financial year of the association, commencing on 1st day of January and ending on the following 31st day of December.
- 7.10 Auditor
 - 7.10.1 The members at each Annual General Meeting of the association shall appoint an Auditor for the next 12 months. The Auditor shall audit the accounts of the association as at the close of the financial year. The Auditor shall not be a member or ex-officio member of the Management Committee.

7.11 Dissolution

7.11.1 The association shall be dissolved in the event of membership less than 10 persons or upon the vote of a three quarters majority of members present at a Special General Meeting convened to consider such question.

7.11.2 Upon dissolution, notification must be made in writing to the appropriate NSW State Government body, NSW Fair Trading and the ACNC.

7.12 Distribution of surplus assets

7.12.1 Upon a resolution being passed in accordance with 7.11.1, and subject to the Association Act, any other applicable Act, and any court order; any surplus assets that remain after the incorporated association is wound up must be distributed to one or more charities:

- a. with charitable purposes(s) similar to, or inclusive of, the purpose(s) in clause 2.1; and
- b. which also prohibit the distribution of any surplus assets to its members to at least the same extent as the incorporated association.

7.12.2 Surplus assets must not be distributed to a member or a former member of the incorporated association, unless that member or former member is a charity described in 7.12.1.

7.12.3 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of dissolution. If members do not make this decision, the incorporated association must make application to NSW Fair Trading and ACNC for determination.

Appendix 1 Application for membership of association

**APPLICATION FOR MEMBERSHIP OF ASSOCIATION
Collaroy Plateau Community Kindergarten
Incorporated
(Incorporated under the Associations Incorporation Act 2009)**

I,
[full name of applicant]

of.....
[address]

.....
[occupation]

.....
[Qualification of membership (current parent, future parent, staff, other interested parties)]

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

.....
Signature of applicant Date

I agree / disagree (circle) for my details including address and contact details to be available for inspection as per clause 3.6.7 of this constitution. (Copied below)

.....
Signature of applicant Date

Clause 3.6.7 reads:

If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection; that information must not be made available for inspection.

Appendix 2 Form for appointment of proxy

FORM FOR APPOINTMENT OF PROXY

**Collaroy Plateau Community Kindergarten
Incorporated
(Incorporated under the Associations Incorporation Act 2009)**

I,
[full name of applicant]

of
[address]

Being a member of Collaroy Plateau Community Kindergarten,

Hereby appoint
[full name of proxy]

of
[address]

Being a member of Collaroy Plateau Community Kindergarten, as my proxy to vote for me on my behalf at the general meeting of the Association (Annual General Meeting or Special General Meeting, as the case may be) to be held on day of and at any adjournment of that meeting.

- ❖ My proxy is authorised to vote in favour of / against (delete as appropriate) the resolution
[insert details]

.....
Signature of member appointing proxy Date

Note: A proxy vote may not be given to a person who is not a member of the association

Appendix 3 – Enrolment form Application for membership of association

As it will appear on the CPCK Enrolment Form completed by parents when enrolling their child.

Membership

Parents or guardians of all children enrolled at and/or attending CPCK; parents or guardians of children awaiting enrolment at CPCK; the staff of CPCK and any other person with particular interest, knowledge, or other personal or professional qualifications that the Management Committee may consider to be able to assist CPCK in achieving its objectives are eligible for membership of the association.

Parents or Guardian’s with a child/ren attending the kindergarten are deemed to be members of the association upon completion of this section. Membership is active on the child’s first day of kindergarten and ceases at the 1st Annual General Meeting to be held after the child no longer attends the kindergarten.

By signing below, I agree to abide by the rules outlined in the Collaroy Plateau Community Kindergarten Constitution 2015 which is available to view on the CPCK website www.cpck.com.au

.....
Signature

Date

I agree / disagree (circle) for my details including address and contact details to be available for inspection as per clause 3.6.7 of the CPCK Constitution. (Copied below)

.....
Signature

Date

Clause 3.6.7 reads:-

If a member requests that any information contained on the register about the member (other than the member’s name) not be available for inspection; that information must not be made available for inspection.

Appendix 4 Nomination for Management Committee

NOMINATION FOR MANAGEMENT COMMITTEE

**Collaroy Plateau Community Kindergarten
Incorporated
(Incorporated under the Associations Incorporation Act 2009)**

- | | |
|--|---|
| <input type="checkbox"/> President | <input type="checkbox"/> Vice President |
| <input type="checkbox"/> Treasurer | <input type="checkbox"/> Secretary |
| <input type="checkbox"/> Staff Liaison Officer | <input type="checkbox"/> W H & S Officer |
| <input type="checkbox"/> Policy & Procedures Officer | <input type="checkbox"/> Environmental Officer |
| <input type="checkbox"/> Social Co-ordinator | <input type="checkbox"/> Maintenance Officer |
| <input type="checkbox"/> Marketing Officer | <input type="checkbox"/> General Committee Member |

.....
Full Name

.....
Signature

.....
Date