



Constitution

Australian Academy of Music and Performing Arts

PRV 12026

ABN 16 085 028 351

A COMPANY LIMITED BY GUARANTEE

CONSTITUTION

of

Australian Academy of Music and Performing Arts

(ACN: 085 028 351)

1. The name of the Company is Australian Academy of Music and Performing Arts (ACN: 085 028 351) and trades as the Academy of Music and Performing Arts.
2. The Company is a public company and the liability of the members is limited by guarantee.
3. The objects for which the Company is established are: to establish, operate, maintain and promote an institution and without limiting the generality of the foregoing:
 - (a) To provide educational facilities at university standard for all persons who, without discrimination and from all sections of the public are eligible and seeking the benefits of such facilities; to award and confer degrees, diplomas and other awards; to disseminate knowledge and promote scholarship;
 - (b) To inspire creativity, appreciation and commitment to music and the performing arts in all people;
 - (c) To promote the performing arts and the achievement of excellence including but not limited to the professional training and encouragement of young talented students to achieve their goals.
 - (d) To conduct concerts and performances of both local and overseas artists and to encourage the appreciation of performing arts in the Australian community together with the creation of a teaching program within the institution to seek new talented students with special ability.
 - (e) To empower its graduates with greater knowledge, ability and professional practice;
 - (f) To nurture a culture of open intellectual inquiry and intellectual values, promoting in the students integrity, respect for the truth and other scholarly virtues;
 - (g) To establish facilities for providing courses of study and for the welfare of the staff and students;
 - (h) To undertake research, development, consultancy or other services for commercial organisations, public bodies or individuals which, in the opinion of the Board or Directors of the

- Company, are appropriate to be undertaken by public educational institutions; to aid or engage in the development promotion or use of the results of research;
- (i) To prepare, publish or distribute educational, research, literary or artistic works, audio or audio-visual material or computer software;
 - (j) To seek or encourage gifts, donations, endowments or bequests, from the public and elsewhere, and to seek or encourage participation in any investment, entity or arrangement which is of financial or other benefit to the institution; and
 - (k) To do all such things as are, in the opinion of the Board, ancillary or conducive to the attainment of all or any of the above objects.
4. All of the income and property of the Company must be applied solely towards the promotion of the objects of the Company and no portion of income shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to the members provided that this restriction does not prevent the payment in good faith of:
- (a) Remuneration to any officers or employees of the Company or to any member or any other person in return for services actually rendered to the Company;
 - (b) Interest on money lent to the Company by a member at a rate not exceeding the rate for the time being charged by the Company's bankers for overdrawn accounts;
 - (c) Reasonable and proper rent, remuneration or return for any premises occupied by the Company;
 - (d) Money, or the provision of other support, to any fund authority or institution which is a body which may receive tax deductible gifts or contributions under Subdivision 30-B of the Income Tax Assessment Act 1997 as amended from time to time or under any legislative provision enacted in substitution for those provisions.
5. If upon the winding up or dissolution (other than for the purposes of reconstruction or amalgamation) of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the members of the Company but shall be given or transferred to any organisation or trust nominated by the Board, which has similar objects to the Company and which is a body which may receive tax deductible gifts or contributions under Subdivision 30-B of the Income Tax Assessment Act 1997 as amended from time to time or

under any legislative provision enacted in substitution for those provisions.

6. Every member of the Company undertakes to contribute to the property of the Company in the event of the Company being wound up while they are a member or within one year after they cease to be a member, for the payment of the debts and liabilities of the Company contracted before it ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding (\$10.00).
7. The following are the rules governing the operation of the Company and are referred to as the Rules.

DEFINITIONS AND INTERPRETATION

INTERPRETATION

8. In the Constitution:

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

“Committee” means a committee of Directors.

“Constitution” means this constitution as amended or supplemented from time to time.

“Company” means the company referred to in clause 1.

“Director” means any person holding the position of a director of the company and

“Directors” means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

“Law” means the Corporations Law set out in section 82 of the of the Corporations Act of 1989 of the Commonwealth of Australia as in force in the State or Territory in which the Company is incorporated by virtue of the Corporations Act of that State or Territory.

“Member” means a member of the Company.

“Member Present” means in connection with a meeting of Members, a Member being present in person or by proxy or attorney.

“Office” means the registered office for the time being of the Company.

“Officer” has the same meaning as given to that term in Section 241(4) of the Law.

“President” means the Chief Executive Officer of the Company:

“Register” means the register of Members to be kept pursuant to the Law.

“Registrar” includes the Secretary of the Company.

“Representative” means a person authorised in accordance with section 25OD of the Law to act as a representative of a body corporate holding shares in the Company.

“Secretary” means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

“Special majority” means 75 per cent of the votes cast at a meeting.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in a visible form;

The use in this Constitution of the term ‘he’ imports ‘she’ and ‘him’ imports ‘her’.

Words and expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Corporations Law as in force from time to time.

MEMBERSHIP OF THE COMPANY

9. The number of members of the Company is unlimited. ‘The minimum number of members is five’.

10. Natural persons and corporations may become members of the Company. To become a Member, the applicant must apply in writing, in such form as shall be prescribed by the Members.
11. Where there has been unanimous vote by all Members at a General Meeting accepting the appointment of an Applicant as a Member, the Secretary will forthwith send to the Applicant written notice of this acceptance.

CESSATION OF MEMBERSHIP

12. A person shall cease to be a member of the company when:
 - (a) He tenders a written resignation to the company; or
 - (b) By special majority of the Members, they resolve that he cease to be a Member; or
 - (c) He becomes bankrupt or insolvent; or
 - (d) He dies; or
 - (e) He becomes incapacitated.

GENERAL MEETINGS FOR COMPANY MEMBERS

13. An Annual General Meeting of the Company shall be held in accordance with the provisions of the Corporations Law. All general meetings other than Annual General Meetings shall be called General Meetings.
14. Any member of the Board may whenever he thinks fit convene an extraordinary general meeting, and extraordinary general meetings shall be convened on such requisition or in default may be convened by such requisitionists as provided by the Law.
15. Subject to the provisions of the Corporations Law relating to special resolutions and agreements for shorter notice, 21 days notice at the least (exclusive of the day on which the notice is served or deemed to be have served and exclusive of the day for which the notice is given) specifying in the case of special business the general nature of that business shall be given to such persons as are entitled to receive notices from the Company.

PROCEEDINGS AT GENERAL MEETINGS FOR COMPANY MEMBERS

16. (a) No business shall be transacted at any General Meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(b) Save as is otherwise provided, a simple majority (that is, 50% of membership + 1 rounded down) of the total number of members, present in person, shall be a quorum. For the purpose of this Constitution "member" includes a person attending as a proxy or as representing a corporation which is a member.

17. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be dissolved; in any other case it shall stand adjourned to the same day and next week at the same time and place or to such other day and at such other time and place the Members may determine. If it is an adjourned meeting and quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved. In the event a quorum cannot be established, it may be necessary for a court to decide.

18. (a) There shall be at every Annual General Meeting of the Company, a Poll appointing a Chairman who shall hold office for the period commencing on the closure of the Annual General Meeting, until the closure of the next Annual General Meeting. The appointment of the Chairman shall be decided by a vote of the Members with a special majority in favour of the Chairman elect.

(b) If the Chairman is not present within fifteen minutes after the time appointed for the holding of an Extra-Ordinary or Ordinary General Meeting, the Members present shall elect one of their number to be the Chairman of the meeting, for that meeting only, and the appointment of that person as Chairman, will not displace the appointment of the Chairman appointed at the Annual General Meeting, or any other meeting.

19. The Chairman of the meeting may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

20. At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded -
- (a) By the Chairman of the meeting; or
 - (b) By a simple majority (that is, 50% of membership + 1 rounded down) of the total number of members present in person or by proxy.

Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried unanimously or carried by a particular majority or lost and an entry to that effect in the book containing the Minutes of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

21. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman at a meeting of which the show of hands takes place or at which the poll is demanded shall have a second or casting vote.
22. A member may vote in person or by proxy and on a show of hands every person present who is a member or a representative of a member shall have one vote and on a poll every member present in person or by proxy shall have one vote. This clause does not prevent a member who is acting as a proxy voting in his own right.
23. No person shall be appointed a proxy who is not nominated as an Alternative Member by the Member who is appointing them as their Proxy to vote.
24. A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may not vote unless the person is an Attorney pursuant to a registered Power of Attorney.
25. The instrument appointing a proxy shall be in writing under the hand of the appointor and shall be in the common or usual form.
26. The instrument appointing a proxy shall be deposited at the principal office of the Company or at such place within the same state as is specified for that purpose not less than 24 hours before the time for holding the meeting or adjourned at which the person named in the instrument proposes to vote or in the case of a poll not less than 24 hours before the time appointed for the taking of the

poll and in default of the above, the instrument for a proxy shall not be treated as valid.

BOARD OF DIRECTORS

27. The office-bearers of the Company shall consist of Executive Directors and Directors appointed to the Board by the Members. The Executive Directors are the President and Secretary. A Director shall only be appointed by the Members by unanimous vote at a General Meeting.
28. The Board must consist of not less than 3 Directors and, unless the Company resolves in general meeting to the contrary, must not consist of more than 10 Directors.
 - (a) The Company may not, without the unanimous consent of the Members, increase or reduce the minimum or maximum number of Directors.
 - (b) However, there is no requirement on the Company or the Directors to ensure that there are at any one time the maximum number of Directors appointed.
 - (c) The Chair of the Academic Board (or nominee) will attend Board meetings ex-officio. The Chair of the Academic Board is not a Director, but has a right to attend and speak at meetings.
29. In the event that a vacancy on the Board of Directors arises as a result of the office of a Director becoming vacant by virtue of Rule 26 hereof, the members may at a general meeting fill the vacancy with a casual appointment, who shall hold office until the next Annual General Meeting. However the members shall not be obliged to do so, if they do not believe that it is necessary. The members may at any time, appoint at a general meeting further Directors up to the maximum amount of Directors allowed.
30. (a) A person who is appointed a Director shall hold office until the next annual general meeting of the company (at which time all Directors shall be deemed to have resigned unless re-appointed). However, while a Director holds the office or position of President or Secretary, his re-appointment as a Director shall be deemed automatic, and on removal from the Office of the President or Secretary this will result also in his office as Director becoming vacant.
 - (b) As a condition to the appointment, all Directors shall agree to be bound by the Code of Conduct hereinafter appearing in this Constitution.

31. The members may at a general meeting appoint a person as a Director to fill a vacated office where a Director is removed or his office is vacated or as an addition to the existing Directors but so that the total number of Directors shall not exceed the number fixed in accordance with this Constitution. The person so appointed shall hold office until the next Annual General Meeting.
32. A Director need not be a Member of the Company.
33. All Directors whose appointment ceased by virtue of the deemed resignation under Rule 30(a) shall be eligible for re-appointment in accordance with Rule 27.
34. In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Law the office of a Director becomes vacant if the Director:
 - (a) Is absent without the consent of the Board from three successive meetings of the Board;
 - (b) Resigns by notice in writing to the Board;
 - (c) Becomes or is physically or mentally incapable of attending to his duties, unless his Attorney pursuant to a Power of Attorney is able to attend to his duties.
 - (d) Is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the interest as required by this Constitution and the Law;
 - (e) In the event that a Director is charged with an offence, which if convicted of, is punishable by a term of imprisonment equal to twelve (12) months or longer, the Director shall thereafter be suspended from Office until the Charges determined withdrawn again him;
 - (f) Is removed by a resolution of the Members for breach of the Code of Conduct, or for conduct otherwise bringing the Company into disrepute, having been given the opportunity to show cause why such action should not be taken.

Where the office of a Director is vacated, any act done in good faith by that Director, prior to a written notice having been served on the Company or an entry having been made in the Directors' minute book stating that the said Director has ceased to be a Director of the Company, shall be valid.

35.
 - (a) The Directors shall be paid remuneration as may, from time to time, be determined by the Company in general meeting.

- (b) The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Board, any of its committees, or any general meeting of the Company or otherwise in connection with the affairs of the Company.
36. A Director may hold any other office or position of profit (except that of auditor) under the Company in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Directors or the Company in general meeting may arrange.
- 37.
- (a) Subject to this Rule, a Director shall not vote in respect of any contract or proposed contract with the Company in which he is in any way directly or indirectly interested or in respect of any matter arising out of such a contract or proposed contract and shall not be present when the Board votes in respect of such a matter and if he is present and votes in contravention of this clause, his vote shall not be counted.
 - (b) Where a Director is directly or indirectly interested in a contract or proposed contract with the Company, the Board may in respect of that contract or proposed contract and/or a matter arising out of the contract or proposed contract (“the matter”) pass a resolution that the interest should not disqualify the Director from considering or voting on the matter and which resolution:
 - (i) Specifies the Director, the interest and the matter; and
 - (ii) States that the Directors voting for that resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter;

PROVIDED THAT the specified Director is not present for and does not vote in respect of such resolution.

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

38. The business of the Company shall be managed by the Board which may pay all expenses incurred in promoting the incorporation of the Company and may exercise all such powers of the Company as are not by the Law or by this Constitution required to be exercised by the Company in general meeting. Without limiting the operation of proceeding, the Board is strictly prohibited from making any decision in respect of the following matters, which shall require approval by unanimous decision of the Members:

- (a) The merger of the Company with another Company or the changing of the Company into a different form;
- (b) The entering into a joint venture or partnership of a Company;
or
- (c) Voting in favour of either of the above, in respect to subsidiary Company.

39. The Board shall cause minutes to be made -

- (a) Of all appointments of officers;
- (b) Of names of members of the Board present at all meetings of the Company and of the Board; and
- (c) Of all proceedings at all meetings of the Company and of the Board.

Such minutes shall be signed by the Chairman of the meeting at which he chaired proceedings or by the Chairman of the next succeeding meeting.

PROCEEDINGS OF THE BOARD OF DIRECTORS

40.

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as the Board thinks fit.
- (b) The Chairman or any two Directors may at any time, and the Secretary shall on the requisition of the Chairman or any two (2) Directors, convene a meeting of the Board.
- (c) A Board meeting may be held with one or more of the Directors taking part by telephone, audiovisual link up or other instantaneous communication medium, if the meeting is conducted so that Directors are able to hear the proceedings of the entire meeting and to be heard by all others attending the meeting. Such a meeting shall be deemed to be held at such place as is agreed upon by the Directors being a place at which at least one Director was present for the duration of that meeting.
- (d) If all the Directors have signed a document (or several documents in identical form) containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Board held on the day on

which the document was signed and at the time at which the document was last signed by a Director or if the Directors signed the document on different days, on the day on which and at the time at which the document was last signed by a Director.

41. Subject to this Constitution, questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Board. In case of an equality of votes the Chairman shall have a second or casting vote.
42. At a meeting of the Board a simple majority (that is, 50% of membership + 1 rounded down) of the total number of Directors (excluding any vacancies) shall constitute a quorum. No business shall be transaction at any such meeting unless a quorum is present at the time the meeting proceeds to business.
43. In the event of a vacancy or vacancies in the office of a Director or offices of Directors the remaining Directors may act but if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board they may act only for the purpose of convening a general meeting of the Company.
44. The Members of the Board shall nominate a Chairman of the Board from amongst the appointed Directors, and the Board may appoint a Deputy Chairman of the Company. The Chairman shall preside as Chairman at every meeting of the Board, or if there is no Chairman, or if at any meeting he is not present within ten (10) minutes after the time appointed for holding the meeting, the Deputy Chairman shall be chairman or if the Deputy Chairman is not present at the meeting then the members may choose one of their number to be chairman of the meeting.

THE ACADEMIC BOARD AND ADVISORY BOARDS/COMMITTEES

45. The Board shall establish an Academic Board, to which it shall (subject to any regulations, policies or requirements laid down from time to time by the Board) delegate the academic functions and policies of the Company. The Academic Board has the power to make decisions about academic matters under its delegated authority from the Board. The Academic Board shall meet at least 4 times per annum. It shall report its decisions to the Board by the provision of meeting minutes.
46. The Academic Board shall comprise at least seven persons, namely two Ex-Officio Members, two Elected Members, and between two and six External Appointed Members. The composition of the Academic Board, and terms of office of its members, is set out in the Terms of Reference of the Academic Board, which may only be changed with approval of the Board.
47. The Academic Board shall operate in the manner laid down from time to time by the Board. The Board or the Academic Board may establish advisory boards or committees reporting to the Academic Board, and may formulate rules as to the manner in which the membership of such advisory boards or may be constituted. Without limiting the generality of the foregoing any of such advisory boards or committees may consist of persons who are not members of the Board or the Academic Board.

PRESIDENT

- 48.
- (a) The Board may from time to time appoint a person to the office of President on such terms as they think fit and subject to the terms of any agreement entered into in any particular case may revoke any such appointment. The said appointee shall contemporaneously with his appointment as President be appointed to the Board. The appointment of such person as a Director as aforesaid shall automatically be determined if he ceases from any cause to be a President;
 - (b) A President shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration as determined, from time to time, by the Company in general meeting
- 49.
- (a) The President shall be entitled to exercise such powers as are conferred on them from time to time by the Board.

ESTABLISHMENT OF COMMITTEES

50. The Board may at any time appoint a Committee or Committees from amongst the Directors or persons co-opted by the Board and may prescribe the functions of any Committee and the constitution of each such Committee shall be as approved by the Board.

SECRETARY

51. The Board shall appoint at least one Secretary of the Company who will hold office on such terms and conditions as the Board determines. The Registrar shall normally hold the office of Secretary of the Company.

COMMON SEAL

52. The Board may adopt a common seal of the Company which shall be used only by the authority of the Board and every document to which the seal is affixed shall be signed by the President and countersigned by a Director or Secretary or such other person appointed by the Board for that purpose.

ACCOUNTS AND RECORDS

53. The Board shall ensure that there are kept proper accounts and records of the transactions and affairs of the Company and such other records as sufficiently explain its financial operations and financial position.

- (a) The Board shall do all things reasonably open to them to:
- (i) Ensure that all money payable to the Company is properly collected;
 - (ii) Ensure that all money expended by the Company is properly expended and properly authorised;
 - (iii) Ensure that adequate control is maintained over assets owned by or in the custody of the Company;
 - (iv) Ensure that all liabilities incurred by the Company are properly authorised;
 - (v) Ensure efficiency and economy of operations and avoidance of waste and extravagance;

- (vi) Develop and maintain an adequate budgeting and accounting system;
- (vii) Develop and maintain an adequate internal audit system.

AUDIT

54. The Board shall ensure compliance with all statutory audit requirements.

NOTICE

- 55.
- (a) Any notice required by Law or by or under this Constitution, to be given to any Member may be given by serving it on him personally or sending it by post, facsimile or e-mail or other electronic means to the address nominated by such member. Where a notice is delivered personally, it shall be deemed to have been given when delivered.
 - (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at the time at which the letter would be delivered in the ordinary course of post.
 - (c) Where a notice is sent by facsimile it shall be deemed to have been given on receipt by the sender of the answerback code of the recipient at the end of transmission provided that if the time of despatch is not before 4 p.m. (local time) on a day on which business is generally carried on in the place to which such communication is sent, it shall be deemed to have been given at the commencement of business on the next such day at that place.
 - (d) Where a notice is sent by electronic mail it shall be deemed to have been given at the time it is sent **PROVIDED THAT** if the time of dispatch is not before 4 p.m. (local time) on a day on which the business is generally carried on in the place to which such communication is sent, it shall be deemed to have been given at 9 a.m. on the next such day at that place.

INDEMNITY

56. Every officer of the Company will be indemnified out of the property of the Company against any liability incurred in that capacity to

another person (other than the Company or a related body corporate) unless the liability arises out of conduct involving a lack of good faith.

57. A liability in the preceding Rule includes, but is not limited to, any loss, cost or expenses suffered or incurred by an officer:
- (a) In defending proceedings, whether civil or criminal, in which judgment is in favour of that person or in which that person is acquitted;
 - (b) In connection with an application in relation to such proceedings, in which the Court grants relief to that person under the Law;
 - (c) For other legal costs, to the extent permitted by the Law, as approved by the Board.
58. The Company will pay the premiums on any policy of insurance in relation to any liability of an officer, to the fullest extent permitted by law.

CODE OF CONDUCT

59. Any person wishing to become a Member of the Company or be appointed as a Director or be appointed to the Academic Board, shall agree to and undertake to be bound by (in writing if requested), the following Code of Conduct:
- (a) I will observe the principles of good corporate governance.
 - (b) I will perform any duties assigned to me under the Constitution, By-Laws, policies or procedures, lawfully, honestly, ethically, responsibly and in good conscience.
 - (c) I will not disclose to any third party any Confidential Information in my possession or knowledge relating to the Company's affairs, business dealings, transactions, intellectual property, or any other matters relating to the Company.
 - (d) By complying with this Code of Conduct (and being seen to do so) I will seek to protect the reputation of the Company and its interest.

DATE OF THIS CONSTITUTION: amended 17th April, 2015