



# **Constitution of St John Bosco Youth Centre**

*Australian Company Number (ACN) 002 936 825*

*Australian Business Number (ABN) 89 002 936 825*

*A company limited by guarantee*

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## **Preliminary**

### ***1. Name of the company***

The name of the company is St John Bosco Youth Centre (the Youth Centre).

### ***2. Type of company***

The Youth Centre is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

### ***3. Limited liability of members***

The liability of members is limited to the amount of the guarantee in clause 4.

### ***4. The guarantee***

Each member must contribute an amount not more than \$2 (the guarantee) to the property of the Youth Centre if the Youth Centre is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Youth Centre incurred before the member stopped being a member, or
- (b) costs of winding up.

### ***5. Definitions***

In this constitution, words and phrases have the meaning set out in clauses 75 and 76.

## **Charitable purposes and powers**

### ***6. Objectives***

The Youth Centre's objectives are to pursue the following charitable purpose(s):

- (c) to foster spiritual and physical development of the youth of Engadine and surrounding districts by character-forming activities and training in self-discipline through competitive activities,
- (d) to afford the youth of Engadine and surrounding districts the opportunity of participating in clean healthy recreation and to make the Youth Centre facilities available to them for that purpose and especially to the underprivileged youth and those in necessitous circumstances,
- (e) to instruct youth in principles of good citizenship,
- (f) to inculcate an appreciation in youth of the need for observance of the laws of the State and Commonwealth,
- (g) to encourage music, literature, art and physical education among youth – particularly those by reason of circumstances both as to this and the other

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objectives of the Youth Centre might otherwise be unable to enjoy such benefits,

- (h) to awaken citizens to their responsibilities towards adolescents,
- (i) to be non-sectarian and non-political, and
- (j) to associate with and assist similar bodies and carry out such plans and undertakings as may be conducive to the foregoing objectives.

### **7. Powers**

Subject to clause 8, the Youth Centre has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the Corporations Act.

### **8. Not-for-profit**

- (1) The Youth Centre must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8(2) and 74.
- (2) Clause 8(1) does not stop the Youth Centre from doing the following things, provided they are done in good faith:
  - (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Youth Centre, or
  - (b) making a payment to a member in carrying out the Youth Centre's charitable purpose(s).

### **9. Amending the constitution**

- (1) Subject to clause 9(2), the members may amend this constitution by passing a special resolution.
- (2) The members must not pass a special resolution that amends this constitution if passing it causes the Youth Centre to no longer be a charity.

## **Structure**

### **10. Organisational Structure**

- (1) The Youth Centre is comprised of several sub-clubs that have been established to facilitate interest specific pursuits.
- (2) The Youth Centre Committee, as defined in clause 42, is the governing board of the Youth Centre.
- (3) This constitution applies to all sub-clubs of the Youth Centre.

### **11. Role of the Committee and Sub-Clubs**

- (1) The role of the Youth Centre Committee includes, but is not limited to:
  - (a) Providing high level vision and direction,
  - (b) Providing leadership and governance,
  - (c) Providing shared services for sub-clubs,
  - (d) Facilitating inter sub-club dialogue and issue sharing,
  - (e) Ensuring adherence to the constitution
- (2) The role of sub-clubs includes, but is not limited to:
  - (a) Organisation of, and participation in interest based pursuits,
  - (b) Adherence to their own procedures and guidelines and that of governing associations, and the this constitution and associated by-laws,
  - (c) Ensuring that there is no conflict or contradiction between the documents referred to in clause 11(2)(b).
  - (d) Interact with the Youth Centre Committee in accordance with this Constitution and its By-laws.

## **By-laws**

### **12. By-laws**

- (1) The directors may pass a resolution to make by-laws to give effect to this constitution.
- (2) Members and directors must comply with by-laws as if they were part of this constitution.
- (3) The by-laws may provide for the Youth Centre to run its operation through various sub-clubs.
- (4) The by-laws may provide for the election of sub-club committees and the delegation of director's powers to those sub-club committees.
- (5) The by-laws may provide for reporting requirements of the sub-club committees to the Youth Centre.
- (6) The by-laws may provide for operational requirements

## **Members**

### **13. Membership and register of members**

- (1) The members of the Youth Centre are any person that the directors allow to be a member, in accordance with this constitution.
- (2) The Youth Centre must establish and maintain a register of members. The register of members must be kept by the registrar and must contain:

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- (a) for each current member:
  - (i) name
  - (ii) address
  - (iii) any alternative address nominated by the member for the service of notices, and
  - (iv) date the member was entered on to the register.
- (b) for each person who stopped being a member in the last seven years, records of past membership will be held for seven years.
- (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.

### **14. Who can be a member**

- (1) A person who supports the purposes of the Youth Centre is eligible to apply to be a member of the Youth Centre under clause 16.
- (2) If the applying person is under the age of 18 the person must have a parent or guardian over the age of 18 who will act on their behalf.
- (3) In this clause, 'person' means a natural person.

### **15. Annual Membership Fee**

- (1) The directors may by resolution set an annual membership fee.
- (2) The amount of any membership fee and the date of payment may vary according to criteria set by the directors.

### **16. How to apply to become a member**

A person (as defined in clause 14(3)) may apply to become a member of the Youth Centre by paying a membership fee as required and writing to the secretary stating that they:

- (a) want to become a member
- (b) support the purpose(s) of the Youth Centre, and
- (c) agree to comply with the Youth Centre's constitution.

### **17. Directors decide whether to approve membership**

- (1) The directors must consider an application for membership within a reasonable time after the secretary receives the application.
- (2) If the directors approve an application, the registrar must as soon as possible enter the new member on the register of members.
- (3) If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons, and return any membership fee paid by the applicant.



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- (4) For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 16(a), 16(b) or 16(c). In that case, by applying to be a member, the applicant agrees to those three matters.

### **18. When a person becomes a member**

An applicant will become a member when they are entered on the register of members.

### **19. When a person stops being a member**

A person immediately stops being a member if they:

- (a) die
- (b) fail to pay an annual membership fee under clause 15 within 2 months after the fee is due
- (c) resign, by writing to the secretary, or
- (d) are expelled under clause 24.

### **20. Sub-club membership**

- (1) A person may apply to become a member of a sub-club of the Youth Centre. . . . Where membership is accepted in a sub-club, the person is also taken to be a member of the Youth Centre, subject to approval by the Youth Centre Committee.
- (2) A person may be a member of one or more sub-clubs.
- (3) A person is not required to be a member of a sub-club to be eligible for membership in the Youth Centre.

### **21. Life membership**

- (1) The following persons are eligible for election to life membership of the Youth Centre:
  - (a) a member who has completed 10 consecutive years or a total of 15 years in one of the following capacities:
    - (i) a member of the committee, or
    - (ii) a member of a sub-club committee
  - (b) a person whom a majority of directors of the Youth Centre consider should, having regard to their service of the Youth Centre in any capacity, be eligible for election.
- (2) Any question as to eligibility of a member for election to life membership must be determined by the directors.
- (3) Nomination for election to life membership must be in writing on a form acknowledged by the Youth Centre and bear the signature of the proposer and the seconder, who must be members. The nomination must be accompanied by a statement of the qualifications of the nominee for election.
- (4) Nomination for election to life membership must be lodged with the Secretary.

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- (5) A secret ballot will then be conducted in which each director present and entitled to vote may record a vote in the affirmative or negative in respect of each nominee entitled to be considered.
- (6) A nominee will be declared elected to life membership on receiving a majority of affirmative votes.
- (7) A member elected to life membership shall be presented with a suitable memento in recognition of his services to the Youth Centre.
- (8) A person who upon the date of registration of the Youth Centre was a life member of the unincorporated Youth Centre shall automatically become a life member of the Youth Centre entitled to all the rights and privileges of a life member other than that described in the preceding clause.
- (9) Every life member shall be exempt from the payment of annual membership fee and shall be entitled to retain all the rights and privileges of membership of the Youth Centre.

### ***22. Sub-Club Life Membership***

- (1) Sub-club committees may elect to award life membership to members of their sub-club to recognise outstanding service. The following persons shall be eligible for election to life membership of the sub-club in accordance with the following criteria:
  - (a) A member who has completed at least (10) years continuous sub-club membership and who has in the opinion of the committee rendered outstanding service to the sub-club; and to be eligible for nomination as life members, a nominee must have served at least seven (7) years as a committee member or as a coach or manager, or for seven (7) years combined service in two or more of these capacities.
  - (b) In addition to (a) a member may also be considered eligible for nomination for sub-club life membership, if they have completed more than 20 years as a player with an individual sub-club.
  - (c) Notwithstanding (a) and (b), the sub-club committee shall have the discretion to nominate any member that in its opinion has rendered outstanding service to that sub-club in any capacity.
  - (d) Nominations for life membership of a sub-club should be submitted to the committee for ratification before being placed before the Annual General Meeting of a sub-club.
  - (e) Members nominated for sub club life membership shall be eligible for sub-club life membership if elected by a three quarter majority of those present and voting at the sub-club Annual General Meeting, provided notice of the nomination of the proposed member has been given in the notice convening the meeting.
  - (f) Life members shall be exempted from annual membership fees, but subject in every way to the rules of the Youth Centre.

## **Dispute resolution and disciplinary procedures**

### ***23. Dispute resolution***

- (1) The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
  - (a) one or more members
  - (b) one or more directors, or
  - (c) the Youth Centre.
- (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 24 until the disciplinary procedure is completed.
- (3) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (4) If those involved in the dispute do not resolve it under clause 23(3), they must within 10 days:
  - (a) tell the directors 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.
- (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 directors, 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 Youth Centre has its registered office.
- (6) A mediator chosen by the directors under clause 23(5)(b)(i):
  - (a) may be a member or former member of the Youth Centre
  - (b) must not have a personal interest in the dispute, and
  - (c) must not be biased towards or against anyone involved in the dispute.
- (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.

**24. Disciplining members**

- (1) In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the Youth Centre if the directors consider that:
  - (a) the member has breached this constitution, or
  - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the Youth Centre.
- (2) At least 14 days before the directors' meeting at which a resolution under clause 24(1) will be considered, the secretary must notify the member in writing:
  - (a) that the directors are considering a resolution to warn, suspend or expel the member
  - (b) that this resolution will be considered at a directors' meeting and the date of that meeting
  - (c) what the member is said to have done or not done
  - (d) the nature of the resolution that has been proposed, and
  - (e) that the member may provide an explanation to the directors, and details of how to do so.
- (3) Before the directors pass any resolution under clause 24(1), the member must be given a chance to explain or defend themselves by:
  - (a) sending the directors a written explanation before that directors' meeting, and/or
  - (b) speaking at the meeting.
- (4) After considering any explanation under clause 24(3), the directors may:
  - (a) take no further action
  - (b) warn the member
  - (c) suspend the member's rights as a member for a period of no more than 12 months
  - (d) expel the member
  - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or
  - (f) require the matter to be determined at a general meeting.
- (5) The directors cannot fine a member.
- (6) The secretary must give written notice to the member of the decision under clause 24(4) as soon as possible.
- (7) Disciplinary procedures must be completed as soon as reasonably practical.
- (8) There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

## **General meetings of members**

### ***25. General meetings called by directors***

- (1) The directors may call a general meeting.
- (2) If members with at least 5% of the votes that may be cast at a general meeting make a written request to the Youth Centre for a general meeting to be held, the directors must:
  - (a) within 21 days of the members' request, give all members notice of a general meeting, and
  - (b) hold the general meeting within 2 months of the members' request.
- (3) The percentage of votes that members have (in clause 25(2)) is to be worked out as at midnight before the members request the meeting.
- (4) The members who make the request for a general meeting must:
  - (a) state in the request any resolution to be proposed at the meeting
  - (b) sign the request, and
  - (c) give the request to the Youth Centre.
- (5) Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### ***26. Annual general meeting***

- (1) A general meeting, called the annual general meeting, must be held at least once in every calendar year.
- (2) Even if these items are not set out in the notice of meeting, the business of an annual general meeting will include:
  - (a) a review of the Youth Centre's activities
  - (b) a review of the Youth Centre's finances
  - (c) any auditor's report
  - (d) the election of directors, and
  - (e) the appointment and payment of auditors, if any.
- (3) Before or at the annual general meeting, the directors must give information to the members on the Youth Centre's activities and finances during the period since the last annual general meeting.
- (4) The chairperson of the annual general meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Youth Centre.

### ***27. Notice of general meetings***

- (1) Notice of a general meeting must be given to:
  - (a) each member entitled to vote at the meeting

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- (b) each director, and
  - (c) the auditor (if any).
- (2) Notice of a general meeting must be provided in writing at least 21 days before the meeting.
- (3) Subject to clause 27(4), notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand, or
  - (b) for any other general meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (4) Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director
  - (b) appoint a director in order to replace a director who was removed, or
  - (c) remove an auditor.
- (5) Notice of a general meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
  - (b) the general nature of the meeting's business
  - (c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution
  - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
    - (i) the proxy does not need to be a member of the Youth Centre
    - (ii) the proxy form must be delivered to the Youth Centre at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - (iii) the proxy form must be delivered to the Youth Centre at least 48 hours before the meeting.
- (6) If a general meeting is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

### **28. Quorum at general meetings**

- (1) For a general meeting to be held, at least 5 members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- (2) No business may be conducted at a general meeting if a quorum is not present.

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- (3) If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
  - (a) if the date is not specified – the same day in the next week
  - (b) if the time is not specified – the same time, and
  - (c) if the place is not specified – the same place.
- (4) If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

### ***29. Auditor's right to attend meetings***

- (1) The auditor (if any) is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- (2) The Youth Centre must give the auditor (if any) any communications relating to the general meeting that a member of the Youth Centre is entitled to receive.

### ***30. Using technology to hold meetings***

- (1) The Youth Centre may hold a general meeting at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (2) Anyone using this technology is taken to be present in person at the meeting.

### ***31. Chairperson for general meetings***

- (1) The President is entitled to chair general meetings.
- (2) The Vice President is entitled to chair general meetings if the President is:
  - (a) not present for the meeting, or
  - (b) present but does not want to act as chairperson of the meeting.
- (3) The members present and entitled to vote at a general meeting may choose a director or member to be the chairperson for that meeting if there is no President or Vice President or both the President and Vice President are:
  - (a) not present within 30 minutes after the starting time set for the meeting, or
  - (b) the President is present but says they do not wish to act as chairperson of the meeting.

### ***32. Role of the chairperson***

- (1) The chairperson is responsible for the conduct of the general meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- (2) The chairperson does not have a casting vote.

### **33. Adjournment of meetings**

- (1) If a quorum is present, a general meeting must be adjourned if a majority of members present direct the chairperson to adjourn it.
- (2) Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' resolutions and statements**

### **34. Members' resolutions and statements**

- (1) Members with at least 5% of the votes that may be cast on a resolution may give:
  - (a) written notice to the Youth Centre of a resolution they propose to move at a general meeting (members' resolution), and/or
  - (b) a written request to the Youth Centre that the Youth Centre give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (members' statement).
- (2) A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- (3) A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- (4) Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- (5) The percentage of votes that members have (as described in clause 34(1)) is to be worked out as at midnight before the request or notice is given to the Youth Centre.
- (6) If the Youth Centre has been given notice of a members' resolution under clause 34(1)(a), the resolution must be considered at the next general meeting held more than two months after the notice is given.
- (7) This clause does not limit any other right that a member has to propose a resolution at a general meeting.

### **35. Youth Centre must give notice of proposed resolution or distribute statement**

- (1) If the Youth Centre has been given a notice or request under clause 34:
  - (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the Youth Centre's cost, or
  - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Youth Centre in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a general meeting, the members may pass a resolution that the Youth Centre will pay these expenses.



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- (2) The Youth Centre does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
  - (a) It is more than 1000 words long
  - (b) the directors consider it may be defamatory
  - (c) clause 35(1)(b) applies, and the members who proposed the resolution or made the request have not paid the Youth Centre enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
  - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a general meeting or is otherwise not a valid resolution able to be put to the members.

### **Voting at general meetings**

#### ***36. How many votes a member has***

Each member has one vote. If a person is a member of more than one sub-club, that person still only has one vote. A parent or guardian has one vote for each person under the age of 18 that they represent.

#### ***37. Challenge to member's right to vote***

- (1) A member or the chairperson may only challenge a person's right to vote at a general meeting at that meeting.
- (2) If a challenge is made under clause 37(1), the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

#### ***38. How voting is carried out***

- (1) Voting must be conducted and decided by:
  - (a) a show of hands
  - (b) a vote in writing, or
  - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- (2) Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- (3) On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- (4) The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

#### ***39. When and how a vote in writing must be held***

- (1) A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

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- (a) at least five members present
  - (b) members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
  - (c) the chairperson.
- (2) A vote in writing must be taken when and how the chairperson directs, unless clause 39(3) applies.
- (3) A vote in writing must be held immediately if it is demanded under clause 39(1):
- (a) for the election of a chairperson under clause 31(2), or
  - (b) to decide whether to adjourn the meeting.
- (4) A demand for a vote in writing may be withdrawn.

### **40. Appointment of proxy**

- (1) A member may appoint a proxy to attend and vote at a general meeting on their behalf.
- (2) A proxy does not need to be a member.
- (3) A proxy appointed to attend and vote for a member has the same rights as the member to:
- (a) speak at the meeting
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - (c) join in to demand a vote in writing under clause 39(1).
- (4) An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- (a) the member's name and address
  - (b) the Youth Centre's name
  - (c) the proxy's name or the name of the office held by the proxy, and
  - (d) the meeting(s) at which the appointment may be used.
- (5) A proxy appointment may be standing (ongoing).
- (6) Proxy forms must be received by the Youth Centre at the address stated in the notice under clause 27(5)(d) or at the Youth Centre's registered address at least 48 hours before a meeting.
- (7) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- (8) Unless the Youth Centre receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) Dies
  - (b) is mentally incapacitated

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- (c) revokes the proxy's appointment, or
  - (d) revokes the authority of a representative or agent who appointed the proxy.
- (9) A proxy appointment may specify the way the proxy must vote on a particular resolution.

### **41. Voting by proxy**

- (1) A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- (2) When a vote in writing is held, a proxy:
  - (a) does not need to vote, unless the proxy appointment specifies the way they must vote
  - (b) if the way they must vote is specified on the proxy form, must vote that way, and
  - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

## **Directors**

### **42. The committee and office-bearers**

- (1) The office-bearers of the Youth Centre are the Directors.
- (2) The directors will form and operate via a Committee consisting of:
  - (a) the President
  - (b) the Vice-President
  - (c) the Treasurer
  - (d) the Secretary
  - (e) the Registrar
  - (f) no more than five additional directors.
- (3) Office bearers of sub-clubs are not directors.

### **43. Election and appointment of directors**

- (1) At each annual general meeting the directors must be elected.
- (2) A person is eligible for election as a director of the Youth Centre if they:
  - (a) are a member of the Youth Centre, and
  - (b) are nominated by two members entitled to vote (unless the person was previously elected as a director at a general meeting and has been a director since that meeting), and
  - (c) give the Youth Centre their signed consent to act as a director of the Youth Centre, and
  - (d) are not ineligible to be a director under the Corporations Act or the ACNC Act.

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- (3) The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
  - (a) is a member of the Youth Centre,
  - (b) gives the Youth Centre their signed consent to act as a director of the Youth Centre, and
  - (c) is not ineligible to be a director under the Corporations Act or the ACNC Act.
- (4) If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a general meeting, but for no other purpose.

### **44. Chairperson**

The President shall be the Youth Centre's chairperson.

### **45. Secretary**

The role of the secretary includes maintaining the minutes and other records of general meetings (including notices of meetings) and directors' meetings.

### **46. Registrar**

The role of the registrar includes maintaining a register of the Youth Centre's members.

### **47. Term of office**

- (1) At each annual general meeting each of the directors must retire.
- (2) A director who retires under clause 47(1) may be nominated for election or re-election.

### **48. When a director stops being a director**

- (1) A director stops being a director if they:
  - (a) give written notice of resignation as a director to the Youth Centre
  - (b) die
  - (c) are removed as a director by a resolution of the members
  - (d) stop being a member of the Youth Centre
  - (e) are a representative of a member, and that member stops being a member
  - (f) are a representative of a member, and the member notifies the Youth Centre that the representative is no longer a representative
  - (g) are absent for 3 consecutive directors' meetings without approval from the directors, or
  - (h) become ineligible to be a director of the company under the Corporations Act or the ACNC Act.

## **Powers of directors**

### ***49. Powers of directors***

- (1) The directors are responsible for managing and directing the activities of the Youth Centre to achieve the purpose(s) set out in clause 6.
- (2) The directors may use all the powers of the Youth Centre except for powers that, under the Corporations Act or this constitution, may only be used by members.
- (3) The directors must decide on the responsible financial management of the Youth Centre including:
  - (a) any suitable written delegations of power under clause 50, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- (4) The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a general meeting.

### ***50. Delegation of directors' powers***

- (1) The directors may delegate any of their powers and functions to a sub-committee, a sub-club committee, a director, an employee of the Youth Centre (such as a chief executive officer) or any other person, as they consider appropriate.
- (2) The delegation must be recorded in the Youth Centre's minute book.

### ***51. Payments to directors***

- (1) The Youth Centre must not pay fees to a director for acting as a director.
- (2) The Youth Centre may:
  - (a) pay a director for work they do for the Youth Centre, other than as a director, if the amount is no more than a reasonable fee for the work done, or
  - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the Youth Centre.
- (3) Any payment made under clause 51(2) must be approved by the directors.

### ***52. Execution of documents***

The Youth Centre may execute a document without using a common seal if the document is signed by:

- (a) two directors of the Youth Centre, or
- (b) a director and the secretary.

## **Duties of directors**

### ***53. Duties of directors***

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Youth Centre
- (b) to act in good faith in the best interests of the Youth Centre and to further the charitable purpose(s) of the Youth Centre set out in clause 6
- (c) not to misuse their position as a director
- (d) not to misuse information they gain in their role as a director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 54
- (f) to ensure that the financial affairs of the Youth Centre are managed responsibly, and
- (g) not to allow the Youth Centre to operate while it is insolvent.

### ***54. Conflicts of interest***

- (1) A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
  - (a) to the other directors, or
  - (b) if all of the directors have the same conflict of interest, to the members at the next general meeting, or at an earlier time if reasonable to do so.
- (2) The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- (3) Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses 54(4):
  - (a) be present at the meeting while the matter is being discussed, or
  - (b) vote on the matter.
- (4) A director may still be present and vote if:
  - (a) their interest arises because they are a member of the Youth Centre, and the other members have the same interest
  - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the Youth Centre (see clause 71)

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- (c) their interest relates to a payment by the Youth Centre under clause 70 (indemnity), or any contract relating to an indemnity that is allowed under the Corporations Act
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
- (e) the directors who do not have a material personal interest in the matter pass a resolution that:
  - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the Youth Centre, and
  - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

### **Directors' meetings**

#### ***55. When the directors meet***

The directors may decide how often, where and when they meet.

#### ***56. Calling directors' meetings***

- (1) A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- (2) A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

#### ***57. Chairperson for directors' meetings***

- (1) The President is entitled to chair directors' meetings.
- (2) The Vice President is entitled to chair a directors' meeting if the President is:
  - (a) not present for the meeting, or
  - (b) present but does not want to act as chairperson of the meeting.
- (3) The directors at a directors' meeting may choose a director to be the chairperson for that meeting if both the President and the Vice President are:
  - (a) not present for the meeting, or
  - (b) present but do not want to act as chairperson of the meeting.

#### ***58. Quorum at directors' meetings***

- (1) Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- (2) A quorum must be present for the whole directors' meeting.

### **59. Using technology to hold directors' meetings**

- (1) The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- (2) The directors' agreement may be a standing (ongoing) one.
- (3) A director may only withdraw their consent within a reasonable period before the meeting.

### **60. Passing directors' resolutions**

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

### **61. Circular resolutions of directors**

- (1) The directors may pass a circular resolution without a directors' meeting being held.
- (2) A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 61(3) or clause 61(4).
- (3) Each director may sign:
  - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (4) The company may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- (5) A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 61(3) or clause 61(4).

## **Minutes and records**

### **62. Minutes and records**

- (1) The Youth Centre must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of general meetings
  - (b) minutes of circular resolutions of members
  - (c) a copy of a notice of each general meeting, and
  - (d) a copy of a members' statement distributed to members under clause 35.
- (2) The Youth Centre must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any sub-committees), and
  - (b) minutes of circular resolutions of directors.



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- (3) To allow members to inspect the Youth Centre's records:
  - (a) the Youth Centre must give a member access to the records set out in clause 62(1), and
  - (b) the directors may authorise a member to inspect other records of the Youth Centre, including records referred to in clause 62(2) and clause 63(1).
- (4) The directors must ensure that minutes of a general meeting or a directors' meeting are accepted as correct at the next general meeting or directors meeting.
- (5) The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are accepted as correct at the next directors' meeting.

### **63. Financial and related records**

- (1) The Youth Centre must make and keep written financial records that:
  - (a) correctly record and explain its transactions and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- (2) The Youth Centre must also keep written records that correctly record its operations.
- (3) The Youth Centre must retain its records for at least 7 years.
- (4) The directors must take reasonable steps to ensure that the Youth Centre's records are kept safe.

### **64. Delegates meetings**

- (1) The directors will hold regular meetings of delegates from each of the sub-clubs.
- (2) The purpose of the delegates meetings is to share Youth Centre committee activities and for sub-clubs to raise matters that impact the Youth Centre and/or other sub-clubs.
- (3) The by-laws may provide for the process for holding delegates meetings and the appointment or election of delegates from sub-clubs.

## **Notice**

### **65. What is notice**

- (1) Anything written to or from the Youth Centre under any clause in this constitution is written notice and is subject to clauses 66 to 68, unless specified otherwise.
- (2) Clauses 66 to 68 do not apply to a notice of proxy under clause 40(6).

### **66. Notice to the Youth Centre**

Written notice or any communication under this constitution may be given to the Youth Centre, the directors or the secretary by:

- (a) delivering it to the Youth Centre's registered office

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- (b) posting it to the Youth Centre's registered office or to another address chosen by the Youth Centre for notice to be provided, or
- (c) sending it to an email address or other electronic address notified by the Youth Centre to the members as the Youth Centre's email address or other electronic address.

### **67. Notice to members**

- (1) Written notice or any communication under this constitution may be given to a member:
  - (a) in person
  - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
  - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any), or
  - (d) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- (2) If the Youth Centre does not have an address for the member, the Youth Centre is not required to give notice in person.

### **68. When notice is taken to be given**

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and

## **Financial year**

### **69. Youth Centre's financial year**

The Youth Centre's financial year is from 1 January to 31 December, unless the directors pass a resolution to change the financial year.

## **Indemnity, insurance and access**

### **70. Indemnity**

- (1) The Youth Centre indemnifies each officer of the Youth Centre and each officer of its sub-clubs out of the assets of the Youth Centre, to the relevant extent, against all

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losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the Youth Centre or its sub-clubs.

- (2) In this clause, 'officer' means a person elected to position on the Youth Centre Committee or the controlling committee of a sub-club and includes a person elected to position on the Youth Centre Committee or the controlling committee of a sub-club after they have ceased to hold that office.
- (3) In this clause, 'to the relevant extent' means:
  - (a) to the extent that the Youth Centre is not precluded by law (including the Corporations Act) from doing so, and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- (4) The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Youth Centre or its sub-clubs.

### **71. Insurance**

To the extent permitted by law (including the Corporations Act) the Youth Centre will pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Youth Centre or its sub-clubs against any liability incurred by the person as an officer of the Youth Centre or its sub-clubs. The selection of appropriate insurance contract, and its cover, will be made by the Youth Centre Committee.

### **72. Directors' access to documents**

- (1) A director has a right of access to the financial records of the Youth Centre at all reasonable times.
- (2) If the directors agree, the Youth Centre must give a director or former director access to:
  - (a) certain documents, including documents provided for or available to the directors, and
  - (b) any other documents referred to in those documents.

## **Winding up**

### **73. Surplus assets not to be distributed to members**

If the Youth Centre is wound up, any surplus assets must not be distributed to a member or a former member of the Youth Centre.

### **74. Distribution of surplus assets**

- (1) Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets (including 'gift funds' defined in clause 74(4)) that remain after the Youth Centre is wound up must be distributed to one or more charities:
  - (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6

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- (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Youth Centre, and
  - (c) that is or are deductible gift recipients within the meaning of the Income Tax Assessment Act 1997 (Cth).
- (2) 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 winding up. If the members do not make this decision, the Youth Centre may apply to the Supreme Court to make this decision.
- (3) If the Youth Centre is wound up the assets held by sub-clubs may be retained by sub-clubs subject to a special resolution and provided they are established as new independent charities with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6.
- (4) If the Youth Centre's deductible gift recipient endorsement is revoked (whether or not the Youth Centre is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of 74(1)(a), (b) and (c), as decided by the directors.
- (5) For the purpose of this clause:
- (a) 'gift funds' means:
    - (i) gifts of money or property for the principal purpose of the Youth Centre
    - (ii) contributions made in relation to a fund-raising event held for the principal purpose of the Youth Centre, and
    - (iii) money received by the Youth Centre because of such gifts and contributions.
  - (b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (Cth).
  - (c) 'surplus assets' excludes assets released in accordance with clause 74(3).

## Definitions and interpretation

### 75. Definitions

In this constitution:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)

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

**general meeting** means a meeting of members and includes the annual general meeting, under clause 26(1)

**member present** means, in connection with a general meeting, a member present in person, by representative or by proxy at the venue or venues for the meeting

**registered charity** means a charity that is registered under the ACNC Act

**special resolution** means a resolution:

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- (i) of which notice has been given under clause 24(5)(c), and
- (ii) that has been passed by at least 75% of the votes cast by members present and entitled to vote on the resolution

**surplus assets** means any assets of the Youth Centre that remain after paying all debts and other liabilities of the Youth Centre, including the costs of winding up, and

**unincorporated Youth Centre** means the unincorporated body known as the St John Bosco Youth Centre whose funds and other assets and liabilities the Youth Centre took over.

**Youth Centre** means the company referred to in clause 1.

### **76. Reading this constitution with the Corporations Act**

- (1) The replaceable rules set out in the Corporations Act do not apply to the Youth Centre.
- (2) While the Youth Centre is a registered charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.
- (3) If the Youth Centre is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.
- (4) A word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

### **77. Interpretation**

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).