



Constitution review



Wuchopperen
HEALTH SERVICE LTD

Constitution review

- Why is a constitution important?
- Current constitution
- 2021 Review process
- 2022 Member Endorsed Approach
- 2023 Approach
- New constitution – key changes including options considered
- Next Steps



Why a constitution is important

- Our “rule book” – sets how we operate and how we engage
- Provides members the process and rules to vote for directors



Current constitution

- Endorsed 24 November 2008 - 15 years ago
- Major changes in **law** e.g. Banking Royal Commission
- Major changes in **Wuchopperen** e.g. expansion of social and emotional wellbeing and other non-clinical programs to now be almost equal with clinical services
- Major changes in **environment** e.g. greater use of technology for meetings rather than in person; greater use of electronic funds transfer rather than cheque



Review Process

- Constitution Review Subcommittee formed in late 2020 – subcommittee of the board of directors
- King Wood & Malleons engaged as pro-bono Constitution law experts
- Separate resolution to change board size from maximum 10 to maximum 9 – endorsed by members.
- Remaining Draft Constitution presented to 2021 Annual General Meeting – members endorsement **not** obtained. More member consultation requested by members



Review Process

- Areas for further consideration/review raised at 2021 AGM:
 - Membership eligibility – including residency requirements
 - Director payments
 - Acknowledgement of Founding Members
 - Wuchopperen Footprint



2022 Member Endorsed Approach

- Given 2021 AGM Feedback, Board Subcommittee endorsed targeted and tailored member consultation in 2022 including:
 - Member mail outs
 - Member information forums including ‘what is a constitution’ and why it is important, director duties and responsibilities
 - Tailored youth engagement



2022 Member Endorsed Approach

Steps

- Draft 2021 constitution revised – 2021 AGM feedback
- Board Subcommittee endorse draft 2022 constitution
- Board approve draft 2022 constitution for member consultations
- **Member consultations held**
- Revised draft 2022 constitution – 2022 member feedback
- Board Subcommittee endorse final draft 2022 constitution for 2022 AGM
- Board approve final draft 2022 constitution for 2022 AGM



2023 Approach – why today is important

- Changes identified from previous years which we are now looking at finalising in 2023
- Wuchopperen Constitution Review Subcommittee has worked with pro bono lawyer
- Targetted member consultation on clause changes is important – we need your voice



Constitutional Changes



Constitutional Changes

Resolution 1 - Acknowledgement



Acknowledgement - Updated

Wuchopperen Health Service Limited extends heartfelt appreciation and sincere gratitude to the trailblazers who set the course for our journey.

Our deepest recognition goes to the original Directors - Peter Frederick Noble, Sandra Ruth Levers, Michael John Miller, Clarence Ernest Grogan, and Timothy Seamus O'Shane - along with our inaugural CEO, Leslie Charles Collins. These remarkable individuals played a pivotal role in shaping the very essence of Wuchopperen.

Equally, we hold in high esteem all those who have walked this path before us and stand with us today, each contributing to the unique tapestry of our identity. Your collective efforts have sculpted Wuchopperen into the organisation we are proud to be today. Your legacy and ongoing contributions are the cornerstone of our success, and we express our wholehearted gratitude for your unwavering commitment.



Resolution 1

That the members endorse the draft Acknowledgment clause as presented



Constitutional Changes

Resolution 2 - Membership



Membership

4.4 Eligibility for Membership (new members)

- Must be an Aboriginal Person or a Torres Strait Islander Person; **and**
- Provide evidence, satisfactory to the Board that they are an Aboriginal Person or Torres Strait Islander Person, and that they both identify, and are accepted as, an Aboriginal Person or a Torres Strait Islander Person; **and**
- be a resident in the Cairns Region (links back to added definition) for a minimum of two years prior to the person's application to become a Member

Source: 2021 AGM Feedback, Board Subcommittee Consideration



Membership

4.4 Eligibility for Membership (existing members)

- Above eligibility criteria does not apply to existing members

Source: 2021 AGM Feedback, Board Subcommittee Consideration

4.11 Ceasing to be a member

- Failure to respond to notice from Secretary confirming your membership to be retained (3 months from issue of notice) OR
- Notify the Secretary in writing that they no longer wish to be a member.

Source: 2021 AGM Feedback, Board Subcommittee Consideration



Membership

4.13 Disciplining and expelling members

- Member breaches, member behaviour, Member no longer meets eligibility criteria for membership
- Process to be followed

Source: 2023 Board Subcommittee Consideration

4.14 Right to appeal

- Process to be followed

Source: 2023 Board Subcommittee Consideration



Resolution 2

That the members endorse the draft membership clause changes as presented



Constitutional Changes

Resolution 3 - Objectives



Objectives

Remove object i. and retain objects a. – h.

- i. To relieve poverty, sickness, suffering, distress, misfortune, disability and helplessness within Aboriginal and Torres Strait Islander peoples.

Source: 2021 AGM Feedback, Board Subcommittee Consideration



Resolution 3

That the members endorse the draft Objectives clause change as presented



Constitutional Changes

Resolution 4 – Board size,
composition, term



Board size, composition, term

1 Definitions and Interpretation

- Cairns Region
- Source: 2021 AGM Feedback, Board Subcommittee Consideration
- Community Director, Specialist Non-Member Director, Youth Director (next slide)
- Source: Board Subcommittee Consideration



Board size, composition, term

1 Definitions and Interpretation

Youth Director

- a. 18 – 21 years of age **or**
- b. 18 – 25 years of age **or**
- c. 18 – 29 years of age

18 – 29 years of age proposed – based on health definition of ‘youth’ and also to enable a ‘youth’ director to serve for consecutive terms and provide continuity



Board size, composition and term

8.1 Number of directors

Unless otherwise determined by the Company in general meeting, the number of Directors is to be not more than 7 comprising at all times

- a) no less than 2 Specialist Non-Member Directors; and
- b) at least 1 Youth Director

with all of the remaining Directors from time to time being Community Directors

Clause 13.1 – current constitution

Source: Board Subcommittee Consideration



Board size, composition and term

Other options considered:

8.1 Number of directors

Current constitution 9 directors (as per 2021 AGM endorsed resolution to reduce from 10 directors) and no requirements on composition ie. Community, specialist, youth



Board size, composition and term

8.3 Term of office of directors

A Director shall hold office for a term of 3 years but shall be eligible for re-election as a Director for 1 further term of 3 years (comprising a maximum consecutive term of 6 years).

Source: Board Subcommittee Consideration



Board size, composition and term

8.3 Term of office of directors

- a. Current constitution – 2 year term with no maximum consecutive term
- b. Other options – 3 year term with no maximum consecutive term **or**
- c. 3 year term with maximum 2 consecutive terms and then ineligible for directorship for 1 term before being able to renominate



Board size, composition and term

8.4 Eligibility to become a Director

- (a) **be a Member;**
- (b) **be an Aboriginal Person and/or be a Torres Strait Islander Person;**
- (c) **be 18 years of age or older;**
- (d) **demonstrate that they hold a current and valid Blue Card;**
- (e) **undertake a criminal history check and any other background check as deemed necessary by the Board from time to time (and the results of those checks must be satisfactory to the Board);**

Source: Board Subcommittee Consideration



Board size, composition and term

8.4 Eligibility to become a Director

- f) not be ineligible to be a director under the Corporations Act or the ACNC Act;
- g) provide a written confirmation to the Board committing to the Objects of the Company;
- h) not be a current employee of the Company, or have been an employee of the Company in the previous 3 years from the date on which the person is nominated to be a Director;
- i) provide written evidence to the Board that that they have been a resident in the Cairns Region for the 12 month period immediately preceding the date of the person's appointment to the Board; and
- j) meet any other eligibility criteria relating to the composition of the Board and the skills and qualifications of Directors as may be determined by the Directors from time-to-time pursuant to a Board Determination.



Board size, composition and term

8.4 Eligibility to become a Director

Current constitution – no residency requirement

Current constitution – no specialist non-member director



Resolution 4

That the members endorse the draft Board of Directors clause changes as presented



Constitutional Changes

Resolution 5 – Director
remuneration



Director Remuneration

1 Definitions and Interpretation

- Board Determination
- Source: 2021 AGM Feedback, Board Subcommittee Consideration



Director Remuneration

8.9 Payments to a Director

The Company may pay fees to a Director for acting as a Director in amounts to be determined by the Board from time to time by way of Board Determination provided that:

- a) the maximum aggregate amount that a Director is entitled to receive pursuant to this article 8.9 in respect of any 1 meeting must not exceed the sum of \$600 (or such greater amount as the Members may, in general meeting, determine); and
- b) the maximum annual aggregate amount a Director is entitled to receive pursuant to this article 8.9 in any 1 calendar year must not exceed the sum of [\$7,200] for all Directors other than the chair and [\$10,800] for any Director serving as chair during that calendar year (or such greater amount as the Members may, in general meeting, determine)

Source: Board Subcommittee Consideration



Resolution 5

That the members endorse the draft Remuneration clause change as presented



Constitutional Changes

Resolution 6 – Administrative
changes



Administrative changes

5 & 7 GENERAL MEETINGS

Quorum is 20 members for general meetings and 5 members for adjourned meetings

Source: Legal – to align with standard Corporations Act amendments to constitution



Administrative changes

10 Circulating resolutions (Proceedings of the Board)

Must be sent to all directors for voting

Source: Legal – to align with standard Corporations Act amendments to constitution



Administrative changes

11 Chief Executive Officer

The Directors may:

- (i) appoint a Chief Executive Officer for any period;
- (ii) delegate to the Chief Executive Officer any of the powers conferred on the Directors; and
- (iii) withdraw or vary any of those powers,

on any terms and conditions and with any restrictions as they think fit. The Directors may fix the remuneration of the Chief Executive Officer which may be by way of salary drawn from the Company.

Subject to the terms of any employment contract between the Company and the Chief Executive Officer, the Directors may at any time remove or dismiss the Chief Executive Officer from employment with the Company.

Source: Legal – to align with standard Corporations Act amendments to constitution



Administrative changes

18 Accounts

The Directors must cause the accounts and records of the Company to be **maintained** and, if required, audited in accordance with the requirements of the Corporations Act.

(Clauses 25 – current constitution)

Source: Legal – to align with standard Corporations Act amendments to constitution; Board Subcommittee Consideration



Administrative changes

18 Accounts

Current constitution – accounts for payment must be presented and endorsed at a Board Meeting.



Administrative changes

17 Winding Up

Distribution of surplus assets



Resolution 6

That the members endorse the draft Administrative clause changes as presented including:

- General Meetings (Draft Clause 7)
- Proceedings of the Board (Draft clauses 10 and 11)
- Winding Up (Draft Clause 17)
- Accounts (Draft Clause 18 to replace current clauses 19 and 25)
- Membership Application Form (Draft Annexure A)



Constitutional Changes

Resolution 7 – Administrative amendments (no content, relocation and/or renumbering)



Administrative amendments

Clause Ref	Clause Title	Proposed Clause Ref	Proposed Clause Title	Proposed clause content – Key Changes only
1	NAME	N/A	N/A	Company Name and ACN will appear on title page of Constitution
		1.3	Corporations Act	<p>3. Corporations Act</p> <p>(a) In this Constitution unless the contrary intention appears:</p> <p>a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and</p> <p>(a) “section” means a section of the Corporations Act.</p> <p>While the Company is a Registered Charity, the ACNC Act and the Corporations Act override any provisions in this Constitution which are inconsistent with those Acts.</p>
3	REGISTERED OFFICE	N/A	N/A	<p>Moved into Definitions at proposed clause 1.1 and no change to wording:</p> <p>Registered Office means the registered office of the Company, which will be situated at such place in the State of Queensland as the Board may from time to time decide.</p>



Administrative amendments

Clause Ref	Clause Title	Proposed Clause Ref	Proposed Clause Title	Proposed clause content – Key Changes only
6	POWERS OF THE COMPANY	2	Purpose, objects, and powers of the company	
7	LIABILITIES OF THE COMPANY	Title Page 4.6 4.15 17	A public company limited by guarantee Application fee and guarantee Limited Liability Winding Up	
9	RIGHTS OF MEMBERS	7.5 14	Proceedings at General Meetings - Entitlement to vote Inspection of Records	
12	REPRESENTATION AND VOTING OF MEMBERS	6	Appointment of proxies and attorneys	
14	ELECTION OF BOARD MEMBERS	8.6	Director elected at general meeting	



Administrative amendments

Clause Ref	Clause Title	Proposed Clause Ref	Proposed Clause Title	Proposed clause content – Key Changes only
16	VACATION OF OFFICE	8.12	Vacation of Office of Director	
18	SECRETARIES AND OTHER OFFICERS	12	Secretary and other officers	Numbering change only
20	APPLICATIONS OF INCOME AND PROPERTY	3	Income and property of the Company	Numbering change only
22	NOTICES	15	Communications and service of documents	Numbering change only
23	INDEMNITY	16	Indemnity Insurance	Numbering change only
24	COMMON SEAL	13	Seals	Numbering change only



Resolution 7

That the members endorse the draft Administrative clause amendments as presented including:

- Name (Title Page)
- Corporations Act (Draft clause 1.3)
- Registered Office (included in draft clause 1.1 Definitions)
- Powers of the Company (Draft clause 2)
- Liabilities of the Company (Draft Clauses 4.6, 4.15, 17)
- Rights of Members (Draft Clauses 7.5, 14)
- Representation and Voting of Members (Draft clause 6)
- Election of Board Members (Draft clause 8.6)
- Vacation of Office (Draft clause 8.12)
- Secretaries and Other Officers (Draft clause 12)
- Application of income and property (Draft clause 3)
- Notices (Draft clause 15)
- Indemnity (Draft clause 16)
- Common Seal (Draft clause 13)



Next Steps

Steps

- Revised draft 2023 constitution – 2023 member feedback (September 2023)
- Board Subcommittee endorse final draft 2023 constitution for 2023 SGM
- Board approve final draft 2023 constitution for proposed 2023 SGM 16 October 2023
- Constitutional changes put to members for endorsement – 75% vote in favour needed. Member endorsed changes will take effect from the end of 2023 SGM.



Questions

