



## **BY LAWS FOR THE NOMINATION AND ELECTION OF IAHA DIRECTORS**

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### **1. Purpose**

These By Laws provide the process for the nomination and election of IAHA Directors by IAHA's Members at an AGM or other General Meeting.

These By Laws do not apply to the appointment of a Director by the Board to fill a casual vacancy until the next AGM.

### **2. Application**

These By Laws apply to all AGMs and General Meetings where the notice of meeting indicates that the business includes the election of Directors.

### **3. Definitions**

**AGM** means the annual general meeting of the Company as required by the Corporations Act.

**Associate Member** means a person or organisation referred to in Articles 7(c) and 7(d).

**Attending Member** means, in relation to a meeting of Members, a Member attending the meeting (including through the use of technology), in person or by proxy, by attorney or, where the Member is a body corporate, by Corporate Representative.

**Business Day** means a day except a Saturday, Sunday or public holiday in the state or territory in which the Company is taken to be registered for the purposes of the Corporations Act.

**Corporate Representative** means a person authorised in accordance with the Corporations Act (or a corresponding previous law) by a Member which is a body corporate to act as its representative at a meeting of Members.

**Director** means a person who is a director of the Company.

**Full Member** means an Indigenous Allied Health graduate (**Graduate Member**) or Indigenous Allied Health student (**Student Member**) referred to in Articles 7(a) and 7(b).

**General Meeting** means a meeting of Members other than the AGM.

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

**Register** means the register of Members kept pursuant to the Corporations Act.

### **4. Background**

Article 39 of IAHA's Constitution provides that:

- the number of Directors will not be less than three (3) and not more than nine (9);
- the Board, to the extent possible, includes Directors from across Australia and that the Board specifically includes:
  - a. up to eight (8) Directors (Graduate) residing in Australia; and
  - b. up to two (2) Directors (Independent), provided that the total number of Directors does not exceed nine (9);
- the Board may appoint a person as a Director (Independent) at any time where the Board considers it necessary or desirable to provide additional specific skills and experience to the Board. To be eligible for appointment as a Director (Independent), the person need not be a Member nor be from an Allied Health discipline;

- there will be no more than two (2) Directors (Graduate) on the Board from any one (1) Allied Health discipline; and
- the term of a Director (Student) appointed at the Company's AGM held in 2016 expires at the end of the AGM held in 2017. The Director (Student) position does not continue beyond the 2017 AGM. Article 40 of IAHA's Constitution provides that:

Article 40 of IAHA's Constitution provides that:

- In respect to Article 40(a)(i) and (ii), Allied Health Graduate Full Members may nominate to stand for election as a Director of the Company at an AGM or General Meeting where the business of the meeting includes the election of Directors. However, that Member is not eligible to be appointed as a Director at any meeting of Members unless a nomination signed by the Member accompanied by his or her consent to act as a Director is given to the Secretary at least 10 Business Days before the meeting.
- If the number of nominations received by the Secretary under Article 40(b), from persons eligible to be appointed as Directors under this Constitution, exceeds the number of vacancies to be filled, a ballot must be held for the election of one or more Directors to fill the vacancy(ies). The Director nomination and ballot process must be conducted in such manner as the Board may direct from time to time. The outcome of the ballot process will be announced by the chairperson of the meeting and confirmed by resolution of the Members.

These By Laws are the Board's direction on how the nomination and ballot process shall be conducted.

## **5. Eligibility and Nomination**

### **Eligibility to stand for election as a Director:**

To be eligible to stand for election as a Director and be appointed as a Director at any meeting of Members where the notice of meeting indicates business relating to the election of Directors, a person must:

- be a Graduate Member in accordance with Article 9(c)(v) of the IAHA Constitution and must have their name entered in the Register of Members in accordance with Articles 9(a) and 11(b);
- have given a nomination signed by the Member, accompanied by his or her consent to act as a Director, to the Secretary at least 10 Business Days before the meeting;
- not be bankrupt or an insolvent under administration;
- not be disqualified from:
  - managing a corporation under the Corporations Act 2001 (Cth);
  - being a responsible person by the ACNC Commissioner, within the previous 12 months; or
  - managing an Indigenous corporation under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth).

*Note: Prior to accepting a nomination to be a Director, IAHA will search:*

- ASIC's Banned and Disqualified Register;
- ACNC's Register of Disqualified Persons; and
- the Office of the Registrar of Indigenous Corporations Register of Disqualified Officers.

ACNC's Governance Standard 4 requires IAHA to take reasonable steps to be satisfied that its [responsible persons](#) (that is, its board members) are not disqualified from managing corporations. If IAHA is not satisfied, it must not appoint the person.

#### **Election Notice:**

The Secretary shall circulate a notice to IAHA Members indicating any and all Director vacancies at least 6 weeks prior to the AGM or General Meeting where the business of the meeting includes the election of Directors (Election Notice).

A vacancy exists where a Director has retired (for example, in accordance with Article 42(c)) or otherwise ceases to be a director (in accordance with Article 43, 44(a) or the Corporations Act).

#### **Director Nominations:**

An eligible Full Member may nominate for the role of Director by providing a nomination signed by the Member to the Secretary at any time after the Election Notice has been issued and at least 10 Business Days before the meeting. The nomination form must include the candidate's:

- consent to act as a Director; and
- [declaration confirming that:](#)
  - [they are not disqualified](#) to act as a director or responsible person of a corporation or company; and
  - they understand [what it means to be disqualified](#).

#### **Written statement of candidates:**

A person nominating as a Director is encouraged (but not required) to provide a written statement, presenting his or her case to Members for election to the position of Director. This statement may be provided to the Secretary along with the candidate's nomination or at any time following that nomination but prior to 10 Business Days before the meeting. Upon receipt of a statement from an eligible candidate, the Secretary will arrange for the statement to be promptly posted on the Members-only section of the IAHA website for Members to be able to access prior to voting at the Director election. The statement will not be posted if it contains any defamatory content or other content deemed inappropriate by the Secretary.

The statement may include (but is not limited to):

- the nominee's qualifications, skills and expertise;
- an explanation of the nominee's understanding of IAHA's objects, stakeholders and operating environment;
- an explanation of the nominee's vision and priorities for IAHA;
- an explanation of the nominee's communication and interpersonal skills and how the nominee would propose to add value to the Board and function effectively as part of a team; and
- an explanation of how the nominee views the governance role of the Board as distinct from the management function of the executive.

Director rotation and tenure is in accordance with Article 42

## **6. Elections**

### **Requirement for a ballot process:**

Article 40 provides that if the number of nominations for Director received by the Secretary under Article 40(c) exceeds the number of vacancies to be filled, a ballot must be held for the election of one or more Directors to fill the vacancy (ies).

If there are fewer (or the same number of) nominations than vacancies, then the election of each candidate will be put to the vote under Article 30, as a separate resolution for each candidate.

The following rules apply to the conduct of a ballot:

**Returning Officer to conduct election:**

The Chair of the meeting is to appoint an independent Returning Officer to conduct the Director ballot.

The Returning Officer is to appoint two scrutineers to assist with the tally of votes. In the case of any dispute as to the conduct or scrutiny of the ballot, the decision of the Returning Officer shall be final.

**Ballot papers:**

All Attending Members shall, prior to attending the meeting and on confirmation of their voting eligibility, be given pre-printed ballot papers validated with a distinguishing mark which they must use to cast a vote at the election of Directors.

Each ballot paper shall contain the names of those candidates that have formally nominated for the position in accordance with Article 40(b).

The ballot papers shall be prepared by the Secretary and are to:

- show the position(s) being contested;
- show the names of the candidates contesting each position (in the order drawn by lot);
- distinguish names from each other where a similarity in the names of two or more candidates is likely to cause confusion;
- give the candidates preferred use of name where possible. For example, candidate may prefer Bill for William or Jim for James but nicknames are not acceptable; and
- provide clear and concise direction as to the manner in which the vote is to be recorded.

**Candidates may address meeting:**

Each candidate may address the meeting for up to five (5) minutes prior to the ballot. The Returning Officer shall determine by lot the order in which the candidates for each position will be heard by the meeting. No other candidate shall be present while a candidate is being heard.

**Preferential ballot system to apply:**

The ballots for the available number of Director (Graduate) positions.

The ballots will be conducted as a "secret ballot" using a "preferential voting system", where each Member voting indicates the order of preference for candidates by placing "1" next to their first choice, "2" next to their second choice, and so on. Where the outcomes of an election would result in more than two (2) Directors on the Board from any one (1) Allied Health discipline, the following process applies:

- only two (2) Director (Graduates) on the Board may be from any one (1) Allied Health discipline; and

- the Director(s) to be appointed from the election (if any) are those first elected under the preferential voting system.

### **Informal voting:**

Ballot papers that:

- do not allocate a number to all listed candidates (although a voter may choose to not allocate a number to one candidate, in which case that candidate is treated as the voter's last preference); or
- are marked so as to be indistinguishable as to the intent of the vote,
- will be deemed informal and will not be included in the voting tally. The decision of the Returning Officer as to informal votes shall be final.

### **Tallying votes:**

Once all votes are cast, the Returning Officer (and the two selected scrutineers) shall tally the formal votes as follows:

#### ***Where only 1 candidate is to be elected:***

Where only one candidate is to be elected, the formal votes will be counted as follows:

- an absolute majority is 50% + 1 of the total formal votes cast;
- the formal votes are counted according to the first preferences given by voters (primary vote);
- a candidate that receives an absolute majority of the primary vote is elected;
- if no candidate receives an absolute majority of the primary vote, then subsequent preferences are distributed as follows:
  - the candidate who receives the smallest number of first preferences is eliminated from the count;
  - the votes initially received by the eliminated candidate are allocated to the remaining candidates accord to the second preference of those who gave their first preference to the now eliminated candidate - this number is now added to the number of first preferences obtained by the remaining candidates;
  - if as a result, a remaining candidate now has an absolute majority that person is elected;
  - if not, the same process is applied in respect of the candidate who has the smallest aggregate of the primary vote plus allocated preferences, and so on, until a candidate has an absolute majority.

#### ***Where 2 or more candidates are to be elected:***

Where 2 or more candidates are to be elected, the formal votes will be counted as follows:

- an absolute majority is 50% + 1 of the total formal votes cast;
- the formal votes are counted according to the first preferences given by voters (primary vote);
- a candidate that receives an absolute majority of the primary vote is elected;
- if no candidate receives an absolute majority of the primary vote, then subsequent preferences are distributed as follows:
  - the candidate who receives the smallest number of first preferences is eliminated from the count but only for the purposes of the immediate count and this candidate is not excluded from the contest;
  - the votes initially received by the eliminated candidate are allocated to the remaining candidates accord to the second preference of those who gave their

- first preference to the now eliminated candidate - this number is now added to the number of first preferences obtained by the remaining candidates;
- if as a result, a remaining candidate now has an absolute majority that person is elected;
  - if not, the same process is applied in respect of the candidate who has the smallest aggregate of the primary vote plus allocated preferences, and so on, until a candidate has an absolute majority.
  - to ascertain the next successful candidate, all candidates (other than the successful candidate) are brought into consideration again, including those eliminated in the first count and the following process applies:
    - to the number of first preferences obtained by each of the remaining candidates is now added a distribution of the second preferences of those voters who gave their first preferences to the successful candidate;
    - if this does not produce an absolute majority for a candidate, the candidate with the lowest aggregate number is eliminated and preferences are distributed, and so on, until the next successful candidate is elected;
  - This process continues until the required number of Directors are elected (in each case all candidates, other than the successful candidates, are brought into consideration again, including those eliminated in the earlier counts).

**Election outcomes:**

The Returning Officer will notify the election outcomes to the Chair of the meeting.

The outcome of the ballot process will be announced by the Chair of the meeting and confirmed by resolution of the Members.

DEVELOPED BY:

Clayton Utz

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Signed by the Chair:

6 December 2016





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