

PROPOSED CONSTITUTIONAL CHANGES



**SPECIAL
GENERAL
MEETING
VOTE**

New Constitution for Optometry QLD/NT

Information sheet for Members

On August 6th, 2024, the Optometry Queensland Northern Territory (OQNT) Board will convene a Special General Meeting. The primary agenda of this gathering is to introduce a special resolution aimed at endorsing a new constitution for our organisation.

As a company limited by guarantee, OQNT is mandated to have a company constitution, adhering to the stipulations outlined in the Corporations Act 2001 (Cth). A constitution delineates the internal management framework of the company, serving as a central repository of rules accessible to both members and stakeholders. Furthermore, it establishes a contractual framework binding the company, its members, directors, and the company secretary.

Regular review of constitutions by the Board is imperative to ensure alignment with the evolving landscape of the Corporations Act 2001 (Cth), alongside contemporary company practices and technological advancements. Our current constitution has become outdated, failing to uphold modern standards of organisational governance. Thus, it is pertinent to highlight that the proposed constitution signifies more than just a mere revision of our existing document; rather, it constitutes a comprehensive overhaul.

To aid your comprehension of the proposed changes and advancements encapsulated within this constitution, we have compiled the following key information:

Inclusions and exclusions	Details
Removed all the historical information	Constitutions must remain clear and focused. Historical data, while valuable, clutters clarity in the document. This information will be preserved elsewhere. This approach ensures our constitution serves as a beacon of direction, empowering efficient governance and organisational excellence, not a historical story.
Objects (clause 3)	The objects clause of a constitution defines the organisation's legal purpose and guides Board decisions. However, our current objects are outdated, and no longer align with OQNT's operations. The proposed new constitution reflects our current role in the membership and health landscape, ensuring alignment between our objectives and operational reality.
Application of Profit (clause 5)	A new clause has been incorporated into the proposed constitution, ensuring transparency and compliance

	<p>with legal requirements for the organisation's not-for-profit (NFP) status. Concisely articulating the organisation's operation within a NFP framework, aligned with the Income Tax Assessment Act, is imperative and missing from the current constitution.</p>
Director remuneration (clause 6)	<p>The Corporations Act (Section 202A) requires constitutions to document if directors can be remunerated. Furthermore, the Act necessitates that members are to approve this remuneration payment. A new clause is included in the proposed new constitution to adhere to this legal requirement.</p>
Membership (clause 10)	<p>In alignment with the modern practice for constitutions, the proposed new constitution features concise and general information, unlike the current.</p> <p>Specific rule details will now be housed in a new Membership Bylaw. This bylaw is also available for review, but members will not be required to vote on it in order to vote on the proposed new constitution.</p>
Ethics and Disciplinary powers (clause 14)	<p>The proposed new constitution provides an inclusion for ethics and disciplinary powers by the Board. This clause documents how the organisation can take disciplinary action against a member and consequently, how the association ccess or suspends a member from the organisation due to ethical misconduct.</p>
General Meeting (clause 17,18 and 19)	<p>The proposed new constitution introduces enhanced clarification regarding the procedures for members to initiate the convening of a general meeting by the Board, aligning with replaceable rules outlined in the Corporations Act.</p> <p>It also provides details as to why the directors may choose to cancel or postpone a general meeting.</p>
Voting (clause 21.13)	<p>At present, electronic voting is not permitted within the constitution. However, in response to the COVID pandemic, updates to the Corporations Act now facilitate the use of technology for voting and meeting participation.</p> <p>Electronic voting will be now conducted as a function for operations of General Meetings.</p>
Circular resolutions (clause 22)	<p>Also, in response to improved technology use, changes have been made to the Corporations Act to allow for circular resolutions to occur.</p>

	<p>This provides the ability for the Board to distribute resolutions via email for voting.</p>
<p>Board directors (clause 26)</p>	<p>Currently, the Board is comprised solely of member-elected directors, yet contemporary governance trends have favoured skills-based boards. The Corporations Act (Section 201H) allows for Boards to appoint directors as per their constitution.</p> <p>Accordingly, the new constitution proposes the Board be made up of seven directors, of which two will be appointed. This shift enhances board diversity, fills identified skills gaps, and fortifies decision-making. The Association Forum benchmarking report noted 53% of associations had appointed directors, with the majority of these associations having appointed two directors.</p> <p>A new Election and Appointment of Directors and Officers Bearers Bylaw has been developed to support the rules around these roles.</p> <p>Additionally, the current constitution's one-year director terms, with no limits, pose a vulnerability for the organisation. Associations Forum's benchmarking report found only 10.8% of associations had one-year terms, with the most common term being three years (44.4%). 63.1% of associations also have maximum terms of office, with the most frequent maximum number of terms being reported at three terms (22.4%).</p> <p>The proposed changes will see a director serving a minimum of three years (unless they decide to resign), and can serve a maximum of nine years (3 x 3 terms) on the Board before they are required to stand down, fostering stability within the organisation.</p> <p>The new constitution also stipulates the election terms for the first AGM under this proposed new constitution, to ensure the establishment of a rolling board, i.e. not all directors have the same end-term date for the first cycle.</p> <p>Voting for directors will also move to be electronically and will be completed before the AGM. This provides an opportunity for all members to vote and to simplify the process of some voting in person and others online.</p> <p>The appointment of office bearers (Chair, Vice Chair, Chair of Finance Committee) was previously member-</p>

	<p>decided and will transition to board-determined. Association Forum's benchmark report found 73.9% of chairs are appointed by the Board. Board members have a better understanding of the leadership capability and qualities of individuals, thus are in a better position to determine the appointment of office bearers. It is important that skill sets are considered, and it is not a popularity vote. A new Election and Appointment of Directors and Officers Bearers Bylaw has been developed to support the rules around these roles.</p>
Ex-officio	<p>The proposed new constitution omits opportunities for ex officio members on the Board. The inclusion of an ex officio could result in them being considered as a shadow director under the Corporation Act, exposing the organisation and the individual to liabilities.</p>
Committees of the Company (clause 30)	<p>This is a new addition to the proposed new constitution to reflect how the organisation operates with having operational committees. Bylaws will be developed to support the operational rules for their functions.</p>
National representation	<p>Presently, the current constitution mandates an OQNT Board member will sit on the Optometry Australia Board. The proposed new constitution removed details from the constitution about the appointment of the OQNT representative for the Optometry Australia board.</p> <p>The details on the appointment of this position will be included in the Elections and Appointment of Directors and Officers Bylaw. The representative will no longer be an OQNT board member, to ensure there is no conflict of interest for either OQNT or Optometry Australia moving forward.</p>
Why has some information been moved from the constitution to new by-laws?	<p>Constitutions are legal documents that contain fundamental principles governing the organisation. They provide the overarching framework but are formal and rigorous requiring changes to be approved by members at general meetings.</p> <p>Bylaws, on the other hand, define specific rules and procedures. They are more accessible to amend and just require the Board of the organisation to approve updates.</p>

	Contemporary governance has seen constitutions being stripped down and information being included in Bylaws.
--	--