

**CORPORATIONS LAW**

A Company Limited by Shares

CONSTITUTION**OF****SAMARITANS ENHANCED LIVING OPTIONS NEWCASTLE/LAKE MACQUARIE
PTY LIMITED****ACN 131 340 111**Name

1. The name of the Company is Samaritans Enhanced Living Options Newcastle/Lake Macquarie Pty Limited

Legal Capacity

2. In accordance with the provisions of Section 124 of the Corporations Law the Company shall have the legal capacity and powers of an individual both in and outside Australia.

Interpretation

3. In this Constitution:

'Law' means the Corporations Act 2001 (Cth).

'Seal' means the Common Seal of the Company.

'Secretary' means any person appointed to perform the duties of a secretary of the Company.

'Board' means the Board of Management of the Company appointed under Clause 22 of this Constitution.

'Diocese' means Anglican Diocese of Newcastle.

'Chief Executive Officer' means the Head of the Foundation appointed under Clause 19 of the Samaritans Foundation Diocese of Newcastle Ordinance 1984-1991.

'Director' means a member of the Board of Management appointed under Clause 22 of this Constitution.

'Diocesan Council' means the body elected by Synod to exercise the powers and functions of Synod during the recess of the Synod.

'Foundation' means The Samaritans Foundation Diocese of Newcastle established pursuant to the Samaritans Foundation Diocese of Newcastle Ordinance 1984-1991.

'Other Samaritan Entities' means the Foundation, Samaritans Enhanced Living Options Hunter Pty Limited ACN 098 658 792, Samaritans Youth Services Pty Limited ACN 098 658 818, and Samaritans Enhanced Living Options Coastal Pty Limited ACN 098 658 836

'Parishes' means parishes, provisional districts or experimental pastoral areas in the Diocese of Newcastle.

'Synod' means the governing assembly of the Anglican Church with responsibility for policy, finance and properties.

'Trustees' means the Trustees of Church Property for the Diocese of Newcastle.

4. In this constitution words importing the singular shall include the plural and words importing the masculine shall include the feminine.
5. Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of Section 46 of the Laws Interpretation Act 1901 and of the Law as in force as at the date at which this Constitution became binding on the Company.
6. An expression used in a particular Part or Division of the Law that is given by that Part or Division a special meaning for the purposes of that Part or Division has, in any part of this Constitution that deals with a matter dealt with by that Part or Division, unless the contrary intention appears, the same meaning as in that Part or Division.

Proprietary Company

7. The Company is a Proprietary Company and Replaceable Rules contained in the Law shall not apply to the Company.
8. The Company is one that is limited by shares.
9. The number of members is limited to 1 non-employee shareholder, which shall be the Foundation.
10. The Company shall have the following powers of a body corporate:
 - (i) arrange for the Company to be registered or recognised as a body corporate in any place outside the State in which the Company was incorporated;
 - (ii) do anything that it is authorised to do by any law (including a law of a foreign country).

Objects

11. The objects of the Company shall be:

(a) to promote and conduct activities within Australia and particularly within the Diocese to relieve sickness suffering poverty distress misfortune destitution or helplessness.

(b) to provide caring services for the relief of those who are poor aged or infirm.

Patrons

12. The Bishop may appoint Patrons of the Company to advise and assist the Company wherever possible. The Patrons shall hold office for the term of the Synod but may be re-appointed for such further terms as the Bishop may from time to time determine. The Patrons shall meet as required and may attend meetings of the Board but shall not be entitled to vote.

Capital

13. The Share Capital of the Company shall consist of ordinary shares.

14. The holder of ordinary shares shall be entitled to exercise at any meeting of the Company one vote for each ordinary class share held, but shall not be entitled to any dividends or other distributions.

Lien

Lien

15. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) registered in the name of a single person for all money presently payable by him or his estate to the Company but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this paragraph.

Sale of Shares

16. The Company may not sell any shares on which the Company has a lien.

Call on Shares

Sum Payable on Issue Deeded Calls

17. Any sum which by terms of issue of a share becomes payable on allotment or at any fixed date, shall for the purposes of this Constitution be deemed to be a call duly made and payable and in case of non payment all the relevant provisions of this Constitution

as to payment of interest and expenses, forfeiture, or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.

Transmission of Shares

Registration on Death or Bankruptcy of Member

18. Subject to the Bankruptcy Act 1966, any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may from time to time properly required by the Directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his death or bankruptcy.

Election to Register Himself or Another Person

19. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects, If he elects to have another person registered he shall testify his election by executing to that person a transfer of the share. All the limitations, restrictions, and provisions of this Constitution relating to the right to transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

Rights of Legal Personal Representatives and Assignees

20. Where the registered holder of any share dies or becomes bankrupt, his personal representative or assignee of this estate, as the case may be shall, upon the production of such evidence as may from time to time be properly required by the Directors in that behalf, be entitled to the same advantages, and to the same rights (whether in relation to meeting of the Company, or to voting, or otherwise), as the registered holder would have been entitled if he had not died or become bankrupt; and where two or more persons are jointly entitled to any share in consequence of the death of the registered holder they shall, for the purposes of this Constitution, be deemed to be joint holders of the share.

Board

Board of Management

21. The company shall be managed and administered by a Board of Management whose individual members shall be designated as Directors.

Composition of Board

22. The Board shall consist of the same persons who are appointed, from time to time, as members of the Board of the Foundation.

Chief Executive Officer

23. The Chief Executive Officer shall not be a member of the Board. He or she shall nevertheless be entitled to attend all meetings of the Board and have the right to speak but not vote.

Term of Chairman

24. The Chairman shall hold office for the term of the Synod but may be reappointed for such further terms as the Bishop from time to time may determine.

Term of Appointment

25. All appointments to the Board shall be made for the term of the Synod.

Vacancy of Board

26. A casual vacancy of the Board shall be filled in the case of a Synod or Diocesan Council appointee by the Diocesan Council, and in the case of a Board appointee by the Board.

27. The office of any member of the Board shall become vacant if that person -

- (a) Resigns by writing under his hand addressed to the Chairman, or
- (b) becomes bankrupt, or
- (c) is convicted of any felony, or
- (d) is absent from four consecutive ordinary meetings of the Board without leave of absence.

Indemnity

- 28.
- (a) Every Director shall be indemnified by the Company against a liability to another person (other than the Company or a related body corporate) arising out of any contract entered into or any act or thing done by that first person as Director or in any way in discharge of his or her duty unless the liability arises out of conduct involving a lack of good faith.
 - (b) Every Auditor and other officer or employee of the Company may by resolution of the directors be indemnified by the Company against a liability to another person (other than the Company or a related body

corporate) arising out of any contract entered into or any act or thing done by that first person as Auditor or other officer (other than as a Director) or employee (as the case may be) or in any way in discharge of his or her duty unless the liability arises out of conduct involving a lack of good faith.

- (c) Every Director, Auditor and other officer or employee of the Company may by resolution of the Directors be indemnified out of the assets of the Company against a liability for costs and expenses incurred by that person:
 - (i) in defending any proceedings (whether civil or criminal) in which judgment is given in favor of that person or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the Court grants relief to that person under the Law.

Insurance

Payment for Insurance Premiums

29. The Company or a related body corporate may following resolution of the Directors pay, or agree to pay, either directly or indirectly through one or more interposed entities, a premium in respect of a contract insuring a person who is or has been a Director, Auditor or other officer of employee of the Company against:-

- (a) any liability other than a liability incurred by the person as such a Director, Auditor or other officer or employee and arising out of conduct involving:-
 - (i) a wilful breach of duty in relation to the Company; or
 - (ii) without limiting sub-paragraph (i), a contravention of sub-section 232(5) or (6) of the Law; or
- (b) a liability for costs and expenses incurred by the person in defending proceedings, whether civil or criminal and whatever their outcome.

Meetings Of The Board

30.

- (a) Meetings of the Board shall be held at least quarterly or at other times called by the Chairman or by five members of the Board. The times and places of meetings shall be decided by the Board or, if appropriate, by the

Chairman. At least seven (7) days' notice shall be given to members of the meetings of the Board.

- (b) No meeting shall be held unless at least five members of the Board are present.
- (c) Each member shall have one vote, and the Chairman may exercise a casting vote.
- (d) Meetings of the Board shall take place at the same time and at the same place as the meetings of the Boards of the Other Samaritan Entities.

Powers And Duties Of The Board

31. The Board shall have the following powers and duties -

- (a) It may appoint an executive committee of its members to act on its behalf and to attend to the detailed administration of the Company. Such Committee shall report to each meeting of the Board and its powers and authority shall be determined, from time to time, by the Board.
- (b) To appoint committees to attend to the management of establishments or activities under the control of the Board. Such committees may include persons who are not members of the Board. The committees shall be responsible to the Board and the Chief Executive Officer for the proper control and management of establishments or activities committed to their charge and shall report to each meeting of the Board or as the Board may determine. The Board may make Bylaws for the conduct of the Committees and may amend or revoke such Bylaws or substitute others in their place as it may see fit from time to time.
- (c) To appoint or terminate the services of officers in charge of the establishments or activities under its control and such other staff as it may decide but may delegate such powers to any appointed committees as it may see fit from time to time.
- (d) To make arrangements to acquire by purchase or otherwise any property for the purposes of social work or to raise money thereon for completing acquisitions or for other purposes of the Board.
- (e) To control all monies received for the purpose of the Company and to authorise all expenditure necessary for the proper running of the Company.
- (f) To open banking accounts for the Company and to authorise operations thereon provided that no account shall be operated by less than two persons and shall not be overdrawn without the approval of the Diocesan Council.

- (g) To invest monies from time to time in institutions with capital. The income derived from such investments shall be applied solely towards the promotion of the objects of the Company as stated in this Constitution.
- (h) To raise funds by appeal for the purpose of furthering the objects of the social work of the Company.
- (i) To receive, administer and provide for the investment of donations, gifts and legacies and to receive, administer and distribute income to charitable and mission work of the Company and the Diocese.
- (j) To encourage parishes to participate in the on-going work of the Company in ways which suit their particular circumstances and interests.
- (k) To encourage the social and community services at present being undertaken and provided within the parishes.
- (l) To present an annual report of the Company and duly audited statements of account to Synod.
- (m) To do all such things as are incidental or conducive to the exercise and performance of all or any of the powers and duties of the Board, and to carry out the objects of the Company.

Funds

Property Vesting

32.

- (a) All real estate relating to the Company and any establishment or agency administered by the Foundation shall be vested in the Foundation.
- (b) The Board shall report annually to the Trustees or as the Trustees shall determine.

Transfer of Funds

33. Funds may be transferred between the Company and any of the Other Samaritan Entities that hold DGR status.

General Fund

34. The Board shall establish and maintain a General Fund of the Company, which shall consist of such property of the Company that is held for purposes that only allow the application of capital and income derived therefrom to be used towards the attainment of any of the objects of the Company.

If the General Fund is wound up or if the endorsement (if any) of the Company as a deductible gift recipient is revoked, any surplus assets of the General Fund remaining after the payment of liabilities attributable to it shall be transferred to the Foundation or, if the Foundation is no longer operating, a fund, authority or institution to which income tax deductible gifts can be made.

Endowment Fund

35. The Board shall establish and maintain an Endowment Fund of the Company, which shall consist of property of the Company that is held for the purpose of deriving income for purposes that allow its application in or towards the attainment of any of the objects of the Company.

If the Endowment Fund is wound up or if the endorsement (if any) of the Company as a deductible gift recipient is revoked, any surplus assets of the Endowment Fund remaining after the payment of liabilities attributable to it shall be transferred to the Foundation or, if the Foundation is no longer operating, a fund, authority or institution to which income tax deductible gifts can be made.

Gift Fund

36. The Board shall establish and maintain a Gift Fund of the Company, which shall consist of such property of the Company that is held for purposes that only allow the application of capital and income derived therefrom to be used towards the attainment of any objects of the Company.

All gifts to the Company for the attainment of any objects of the Company shall be credited to the Gift Fund.

If the Gift Fund is wound up or if the endorsement (if any) of the Company as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it shall be transferred to the Foundation or, if the Foundation is no longer operating, a fund, authority or institution to which income tax deductible gifts can be made.

Winding Up

36. If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any assets, they shall be given or transferred to the Foundation, or another organisation in Australia which is a public benevolent institution for the purposes of any Commonwealth taxation Act.

Income

37. The income and property of the Company whencesoever derived shall be applied solely towards the promotion of the objects of the Company as set forth in this Constitution, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to the members of the Company or to any

person claiming through any of them. Provided that nothing herein contained shall prevent the payment in good faith of remuneration to any officers or servants of the Company or to any member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business nor prevent the payment of interest at a rate not exceeding interest at the rate for the time being fixed for the purpose of this paragraph by the Constitution, on money borrowed from any members of the Company or reasonable and proper rent for premises demised or let by any member of the Company but so that no member of the Board of the Company shall be appointed to any salaried office of the Company or any office of the Company paid by fees, and that no remuneration or other benefit in money or money's worth shall be paid or given by the Company to any member of the Board except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Company.

Execution of Documents/Common Seal

Common Seal and Share Seal

38. The Company may have a Seal and if it does so may also have a share seal which shall be a duplicate of the Seal with the words "Share Seal" on its face and may also have an Official Seal for use outside the jurisdiction of the incorporation of the Company which shall be a duplicate of the Seal with the name of each place it may be used on its face.

Use of Seal

39. The Directors shall provide for the safe custody of any Seal. The Seal shall only be used by the authority of the Directors, or of a Committee of Directors authorised by the Directors. Every instrument to which the Seal is affixed must be signed:

- (c) where the Company has a single Director who is also the only Secretary of the Company, by that person;
- (d) in any other case, by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Directors for that purpose.

Execution of Documents without Seal

40. The Company may execute documents without the Seal. Where a deed is executed by the Company without using the Seal it must be signed by:

- (a) where the Company has a Single Director who is also the only Secretary of the Company, by that person; or
- (b) in any other case, by a Director and shall be counter signed by the Secretary or a second Director or by some other person appointed for that purpose.

Accounts and Dividends

Records to be Kept

41. The Directors shall cause proper accounting and other records to be kept and shall distribute copies of balance-sheets as required by the Law and shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them shall be open to the inspection of members not being Directors, and no member (not being a Director) shall have any right of inspecting any account or book or paper of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.