

Monash University Student Union Peninsula Incorporated

Reg No: A0044807M, ABN 93 002 915 529

CONSTITUTION

Last Amended May 2020

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PART 1 – NAME AND STATEMENT OF PURPOSES

1. Name

- 1.1 The name of the incorporated association is Monash University Student Union Peninsula Incorporated (in this constitution, “MONSU Peninsula”).
- 1.2 The name and registration number of MONSU Peninsula must appear in legible characters in all notices, advertisements and other official publications and on all business documents.

2. Purpose

The purpose of MONSU Peninsula is to service its members in the following ways:

- 2.1 Represent students within and outside the University, as appropriate;
- 2.2 Promote the interests and welfare of its members;
- 2.3 Promote personal, intellectual, cultural and social development of its members;
- 2.4 Foster equality and diversity within the University community;
- 2.5 Maintain and support student clubs and societies;
- 2.6 Provide a democratic and transparent forum for its members to govern student affairs in an accountable manner;
- 2.7 Enhancing the experience of students while at University;
- 2.8 Provide a safe and common meeting ground;
- 2.9 Provide social, recreational, entertainment and refreshment facilities; and
- 2.10 Do all other lawful things that are incidental to the attainment of these purposes.

3. Legal Capacity and Powers

- 3.1 *Subject to this Constitution*, MONSU Peninsula has all the legal capacity and powers of an incorporated body pursuant to the Association Incorporations Reform Act 2012 to do all things incidental or conducive to achieving its purposes.
- 3.2 MONSU Peninsula must not distribute any profit, income or assets directly or indirectly to its members.
- 3.3 MONSU Peninsula has the right to reimburse its members for reasonable expenses properly incurred by them on behalf of MONSU Peninsula and for goods or services supplied by them to MONSU Peninsula.

PART 2 – MEMBERSHIP

4. Members

- 4.1 Subject to the provisions of this Constitution, all Peninsula campus students are members of MONSU Peninsula.
- 4.2 MONSU Peninsula may exempt a student from membership if:
- (a) the student has written to the Vice President (General Secretary) of the Association specifically stating that he or she does not wish to be a member; or
 - (b) the student has been expelled from MONSU Peninsula due to a disciplinary action undertaken in accordance with this Constitution.
- 4.3 Members have the right to:
- (a) use the amenities and services of MONSU Peninsula;
 - (b) attend MONSU Peninsula meetings;
 - (c) participate in MONSU Peninsula referendums and elections in accordance with this Constitution; and
 - (d) access the records of MONSU Peninsula in accordance with this Constitution.
- 4.4 Due to strict Monash privacy policies, MONSU Peninsula cannot keep a register that contains the name and student number of each student. However, this register can be accessed from Monash University for relevant occasions such as elections.

5. Associate and Honorary Members

- 5.1 MONSU Peninsula may offer Associate Memberships to persons who are ineligible for student membership.
- 5.2 An application for Associate Members shall be accompanied by the membership fee (if any) to be decided by the Student Council.
- 5.3 The Student Council may invite persons to be Honorary Members.
- 5.4 There will be no membership fee paid by Honorary Life members.
- 5.5 Subject to this Constitution and any other conditions of use, Associate and Honorary members have the right to use the amenities and services of MONSU Peninsula.
- 5.6 Sections 6 and 7 will also apply to Associate and Honorary members.
- 5.7 The Vice President (General Secretary) must keep a register that contains the names of all Associate and Honorary members.

6. Obligations

Members must at all times comply with the Constitution and Regulations.

7. Disciplinary Action

- 7.1 MONSU Peninsula may suspend or expel a member if the Student Council is of the opinion that:
- (a) a member has refused or neglected to comply with the Constitution or the regulations; or
 - (b) the member has been guilty of conduct prejudicial to MONSU Peninsula, the Student Council may by resolution suspend the right of a member to use the amenities and services of MONSU Peninsula.
- 7.2 A resolution of the Student Council under section 7.1 does not take effect unless:
- (a) the Student Council confirms the resolution at a meeting held with the member; and
 - (b) if the member exercises a right of appeal to MONSU Peninsula under this rule, MONSU Peninsula confirms the resolution in accordance with this rule.
 - (c) A meeting of the Student Council to confirm or revoke a resolution passed under section s 7.1 must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the member.
 - (d) Notice should be given in accordance with s 7.3.
- 7.3 The Vice President (General Secretary) must, as soon as practicable, give the member a written notice:
- (a) setting out the resolution of the Student Council and the grounds for disciplinary action;
 - (b) stating that the member, may address the Student Council at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member;
 - (c) stating the date, place and time of that meeting;
 - (d) informing the member that he or she may do one or both of the following:
 - i. attend the meeting;
 - ii. give to the Student Council a written statement seeking the revocation of the resolution before the meeting date, and
 - (e) informing the member that, if at that meeting, the Student Council confirms the resolution, he or she may not later than 48 hours after that meeting, appeal the decision and request for mediation.
- 7.4 At a meeting of the Student Council to confirm or revoke a resolution passed under section 7.1, the Student Council must:
- (a) give the member, or his or her representative, an opportunity to be heard;

- (b) give due consideration to any written statement submitted by the member; and
- (c) determine by resolution whether to confirm or revoke the resolution.

7.5 If, the Student Council confirms the resolution, the member may, not later than 48 hours after that meeting, give the Vice President (General Secretary) written notice that he or she is dissatisfied with the resolution and wishes to appeal the decision by way of the Grievance Procedure set out in this Constitution.

8. Grievance Procedure

8.1 The grievance procedure set out in this rule applies to disputes under these rules between:

- (a) a member and another member; and
- (b) a member and MONSU Peninsula; and
- (c) a resolution under section 7 hereof.

8.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all the parties.

8.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a Mediator.

8.4 The Mediator:

- (a) must not have a personal interest in the matter; and
- (b) must not be biased in favour of or against any party; and
- (c) must be appointed with the agreement of all parties.

8.5 The Mediator cannot be a member who is a party to the dispute.

8.6 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

8.7 The Mediator must:

- (a) give the parties to the mediation process every opportunity to be heard; and
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

8.8 If the mediation does not result in the dispute being resolved the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 3 – REFERENDUMS

9. Convening

- 9.1 A referendum must be conducted in a manner consistent with this Constitution.
- 9.2 The Student Council may by resolution passed by an absolute majority convene a referendum.
- 9.3 The Student Council must convene a referendum on the request in writing of at least 5% of members.
- 9.4 The request:
- (a) must state the question or questions to be put to referendum. The question must be within the purpose and powers of MONSU Peninsula; and
 - (b) may consist of multiple copies of the same document; and
 - (c) must be signed by the members making the request; and
 - (d) must be given to the Vice President (General Secretary) or any other member of the Executive.
- 9.5 If a referendum is requested:
- (a) The Student Council must convene the referendum within 15 academic days of the request having been received;
 - (b) The Student Council may by resolution passed by an absolute majority reword for the purpose of clarification only the question or questions to be put; and
 - (c) The referendum must commence within 15 academic days of being convened.
- 9.6 Officers and members of MONSU bodies may be removed by referendum.

10. Binding Decisions

- 10.1 A question put to referendum only has effect as a binding decision if:
- (a) At least 5% of members vote in the referendum; and
 - (b) It is voted in favour by a majority of those members who vote.
- 10.2 All MONSU Peninsula bodies, and all office-bearers and governing bodies must give effect to binding decisions made by referendum.
- 10.3 Binding decisions of referendums override binding decisions of student general meetings.
- 10.4 Binding decisions remain in force until changed by a subsequent binding decision.

11. Notice of Referendum

- 11.1 A notice of referendum must be issued not later than 5 academic days before Student Council convenes a referendum.
- 11.2 The notice must state:
- (a) the question or questions to be put; and
 - (b) the dates, times and places of polling for the referendum; and
 - (c) the availability of postal voting.
- 11.3 Any notice of Referendums given is valid if given by:
- (a) a html link to the Notice of Referendum on the website of MONSU; or
 - (b) by electronic mail to students if feasible.

12. Voting

- 12.1 Voting in referendums shall be conducted by secret ballot.
- 12.2 Voting shall be held on campus:
- (a) on at least 3 consecutive academic days; and
 - (b) over no more than 2 weeks; and
 - (c) for at least 5 hours each day; and
 - (d) at one or more polling places on campus.
- 12.3 Student Council shall by regulation provide for postal voting by off-campus students.
- 12.4 Should technology allow Student Council may include electronic voting as part of the referendum regulations.

PART 4 – GENERAL MEETINGS

13. Annual General Meeting

- 13.1 Student Council must convene an annual general meeting each year to be held on an Academic day in March, April or May.
- 13.2 The ordinary business of the annual general meeting is:
- (a) to verify the minutes of:

- i. the last annual general meeting; and
 - ii. any special general meetings since the last annual general meeting;
- (b) to consider the annual report of Student Council on the activities of MONSU Peninsula during its last financial year; and
- (c) to consider the financial statements and the audit report; and
- (d) to consider such other reports as the Student Council determines to be presented to and inspected by members at least fourteen (14) academic days before the annual general meeting.

14. Special General Meetings

- 14.1 Student Council may by resolution passed by an absolute majority convene a special general meeting.
- 14.2 The only business that special general meetings may consider is special resolutions of which notice has been given in accordance with this Constitution i.e. to alter this Constitution.

15. Notice

- 15.1 At least 21 days' notice of annual general meetings and special general meetings must be given.
- 15.2 The notice must state:
 - (a) the date, time and place (or places) of the meeting; and
 - (b) if the meeting is to be held at more than one place – the technology that will be used as a means to convene such meeting;
 - (c) the agenda for the meeting, and
 - (d) if a special resolution is to be proposed at a Special General Meeting:
 - i. the proposed resolution; and
 - ii. that it is intended that the resolution be proposed as a special resolution.

16. Procedure

- 16.1 The quorum for general meetings is 30 members.
- 16.2 The President is entitled to chair general meetings. If the President is unable or unwilling to chair, the Student Council must elect another Member to chair.
- 16.3 Special resolutions may only be passed by a three-quarters majority of those present and voting.
- 16.4 Five or more members may demand a count.

16.5 A member is not entitled to appoint a proxy.

PART 5 – STUDENT COUNCIL

17. Status, Responsibility and Powers

17.1 The Student Council is the governing body of MONSU Peninsula.

17.2 The Student Council is responsible for the management and governance of MONSU Peninsula.

17.3 The Student Council may exercise all powers of MONSU Peninsula on its behalf.

17.4 The Student Council shall comprise of members elected in accordance with this Constitution.

17.5 A referendum may direct the Student Council on any matter within its responsibility and powers.

18. Membership

18.1 The Student Council has 11 annually elected student representatives:

- (a) The President – Chairperson and Spokesperson;
- (b) The Vice President – General Secretary;
- (c) The Education Officer;
- (d) The Welfare Officer;
- (e) The Volunteer Officer;
- (f) The Social Officer;
- (g) The Gender & Sexuality Officer;
- (h) The International Student Officer;
- (i) The General (Social) Officer;
- (j) The General (Welfare) Officer; and
- (k) The General (International) Officer;

18.2 As soon as practical after being elected or appointed to the Student Council, each Student Council member must familiarise themselves with the sections in this Constitution.

18.3 The Student Council members must exercise their powers and discharge their duties with:

- (a) reasonable care and diligence;
- (b) good faith and in the best interests of MONSU Peninsula; and

- (c) a proper purpose.

18.4 When:

- (a) A representative on the Student Council has a direct or indirect pecuniary interest in a contract or proposed contract with MONSU, that representative must disclose the nature and extent of his/her interest to the Student Council as soon as he/she becomes aware of the interest; and
- (b) If that representative is present at a meeting of the Student Council at which that contract or other arrangement is considered, that representative shall disclose the nature of the pecuniary interest to the meeting. That representative may participate in the discussion but may not vote on the matter.

18.5 A disclosure of pecuniary interest made under section 18.4 shall be recorded in the minutes of the meeting.

19. Frequency of Meetings

The Student Council must meet at least once each month.

20. Regulations

- 20.1 The Student Council may by resolution passed by an absolute majority make Regulations to give effect to this Constitution.
- 20.2 Each representative of the Student Council must be given at least 7 days' notice of any proposal to make or change Regulations, including the text of the proposed Regulations.
- 20.3 Notice must be given:
 - (a) by email to all representatives of the Student Council; or
 - (b) on the MONSU website
- 20.3 No motion for the making or amendment of any Regulation may be considered unless the notice requirements relating to regulations in this section 20 have been met.
- 20.4 Members must at all times comply with the Regulations as if they formed part of this Constitution.
- 20.5 All Regulations, including any amending Regulations (together with the relevant dates), must be posted on the MONSU website as soon as they have been approved in accordance with this Constitution.

PART 6 – THE EXECUTIVE SUBCOMMITTEE

21. Status, Responsibilities and Powers

- 21.1 The Executive Subcommittee is a subcommittee of the Student Council, exercising delegated powers from the Student Council.
- 21.2 The Executive Subcommittee is responsible on behalf of the Student Council for:
- (a) the employment of staff by MONSU Peninsula;
 - (b) monitoring the finances of MONSU Peninsula; and
 - (c) any other matters delegated by the Student Council.

The powers of the Student Council shall be exercised by a special committee known as the Summer Executive during the end of year break (approximately 1 November to 28 February of each year). Student Council will appoint the Summer Executive Committee before the last Student Council meeting for the year.

22. Membership

- 22.1 The Executive Subcommittee has five (5) members, comprised as follows:
- (a) The President – Chair;
 - (b) The Vice President – General Secretary
 - (c) Three other members of the Student Council.

23. Frequency of Meetings

The Executive Subcommittee should meet at least once each month if active.

PART 7 – OFFICERS AND COMMITTEES

24. Officers

- 24.1 The annually elected officers of MONSU Peninsula shall be:
- (a) The President – Chairperson and Spokesperson;
 - (b) The Vice President – General Secretary;
 - (c) The Education Officer;

- (d) The Welfare Officer;
- (e) The Volunteer Officer;
- (f) The Social Officer;
- (g) The Gender & Sexuality Officer;
- (h) The International Student Officer;
- (i) The General (Social) Officer;
- (j) The General (Welfare) Officer; and
- (k) The General (International) Officer;

- 24.2 The provisions set out in Part 8 of this Constitution shall apply to the election of persons to any of the offices referred to in section 24.1.
- 24.3 The Student Council may at its discretion pay an officer a reasonable fee for filling a vacancy of a directly elected position.
- 24.4 Elected officers, including those paid an honorarium, are not considered as employees of MONSU Peninsula.
- 24.5 The Student Council may by resolution passed by an absolute majority:
- (a) grant leave of absence (unpaid) to any paid officer for a period of not more than 3 months;
 - (b) elect a member of MONSU Peninsula to hold the position for that period; and
 - (c) pay the officer so elected.

25. Responsibilities

The Student Council must by regulation prescribe:

- (a) the responsibilities of each Officer; and
- (b) which MONSU Peninsula bodies may direct each other.

26. Establishment of Committees

- 26.1 The Student Council may by regulation or resolution establish committees, including portfolio and faculty committees.
- 26.2 The Student Council may by regulation or resolution establish standing and ad hoc committees as necessary.
- 26.3 Other MONSU Peninsula bodies may by resolution establish committees as necessary.

26.4 Regulations and resolutions must specify:

- (a) the terms of reference of the committee;
- (b) any powers delegated to the committee;
- (c) the membership of the committee; and
- (d) who the chair of the committee is to be, or how the chair and members are to be elected or appointed.

27. Delegation

MONSU Peninsula bodies may by resolution delegate their powers as they think appropriate.

28. Duties

28.1 All former and current officers and members of MONSU Peninsula bodies owe MONSU Peninsula a duty to:

- (a) act honestly and in good faith; and
- (b) exercise reasonable care and diligence.

28.2 All former and current officers and members of MONSU Peninsula bodies must not knowingly or recklessly make improper use of:

- (a) their position; or
- (b) information acquired by virtue of their positions,
- (c) to gain, directly or indirectly, any financial benefit or material advantage for themselves or any other person; cause detriment to MONSU Peninsula.

29. Indemnity

MONSU Peninsula indemnifies officers and members of MONSU Peninsula bodies against any liability incurred by them in that capacity, unless the liability is caused by or contributed by the wilful act, negligence or breach of duty of that officer or member.

30. Validity of Acts and Decisions

The acts and decisions of MONSU Peninsula bodies and officers are not invalid by reason only that there was a vacancy in the membership of the body or that it is subsequently discovered that there was:

- (a) a defect or irregularity with the election or appointment of a member or officer; or
- (b) a defect or irregularity with the election of the chair of a meeting.

PART 8 – ELECTIONS

31. Annual Elections

Student members must elect officers and members of MONSU Peninsula bodies at the annual elections, held each year in Semester 2. Student Council will appoint the Returning Officer in Semester 1 each year. The Returning Officer is responsible for the conduct of the election and may decide all matters not provided for in the Constitution or election procedures only subject to the Electoral Tribunal.

32. Conduct

32.1 The Student Council must make regulations for the conduct of elections.

32.2 All elections must be conducted by secret ballot.

32.3 Electors may vote:

(a) at any Campus Polling Place if voting is conducted in person;

(b) on-line if voting is conducted electronically; or

(c) by post if a valid postal vote application has been submitted by the Elector within the timeframe if the elections are not being conducted electronically.

32.4 The election procedure is set out in the Schedule of this Constitution.

33. Eligibility to Stand and Vote

All student members except for Honorary members, Associate members and members of staff may stand and vote in elections.

34. Eligibility to Hold Positions

A member may stand for more than one position in simultaneous annual elections, but may not hold more than one position at the same time.

35. Term of Office

35.1 Officers and members of MONSU Peninsula bodies elected at the annual elections hold those positions from 1 December in the year elected, until 30 November of the following year, unless their position becomes vacant sooner in accordance with this Constitution.

35.2 Officers and members of MONSU Peninsula bodies not elected at the annual elections hold office from the time of their election or appointment until their successor is elected or appointed, in accordance with this Constitution.

36. Vacancies

- 36.1 The position of an officer or member of a MONSU Peninsula body becomes vacant if the officer or member:
- (a) resigns in writing given to the Vice President (General Secretary) or, in the case of the General Secretary, to the President;
 - (b) is removed by referendum;
 - (c) ceases to be a student;
 - (d) becomes a permanent member of staff of MONSU Peninsula or the University;
 - (e) is removed by resolution of Student Council passed by an absolute majority on the basis that the officer or member has been certified by a registered medical practitioner to be incapable of carrying out the responsibilities of the position by reason of injury, illness or incapacity, absence from duty or any other reason;
 - (f) dies; or
 - (g) without being granted leave by a MONSU Peninsula body, fails to attend a meeting on **three** consecutive occasions (within 30 minutes from the time a meeting was scheduled to commence) after being given seven days' notice in writing of each meeting.
- 36.2 A position elected by a MONSU Peninsula body becomes vacant if:
- (a) the person holding the position is removed by resolution passed by an absolute majority due to a breach of their duties to MONSU Peninsula; or
 - (b) it is withdrawn by the MONSU Peninsula body.
- 36.3 Any officer or member of a MONSU Peninsula body may be removed from their position by a resolution passed by a four-fifth's majority of the Student Council provided that:
- (a) The Student Council has provided the officer or member with particulars of the breach; and
 - (b) The officer or member has been given a fair opportunity in writing, and through the use of any advocate or agent (but not an employee of MONSU Peninsula) or in person, to defend himself/herself;
- 36.4 Vacancies that occur between annual elections shall be referred to as casual vacancies. Casual vacancies should be filled no later than the first Student Council meeting held after the vacancy arises. In the event of a casual vacancy in any positions, Student Council may appoint one of its members to the vacant office by election at a Student Council meeting subject to the candidate meeting the requirements of this Constitution.
- 36.5 Casual vacancies not filled internally should be advertised within five academic days of the vacancy arising.
- (a) Nominations for vacant offices or positions must remain open for ten academic days from the date of the advertisement of the vacancy

- (b) The Student Council must by regulation determine the procedure for election of candidates to fill vacant positions from the nominations received.

36.7 MONSU Peninsula bodies may continue to act despite vacancies in their membership.

PART 9 – MEETINGS

37. Applicability

This part applies to all meetings convened by MONSU Peninsula bodies, unless otherwise provided by this Constitution. This part does not apply to Part 4 - General Meetings convened by Student Council.

38. Convening

Meetings may be convened by:

- (a) the chair of any MONSU Peninsula body;
- (b) one-third or more of the members of a MONSU Peninsula body; or
- (c) the Vice President – General Secretary.

39. Notice

39.1 All members of MONSU Peninsula must be provided with 7 days' written notice of impending meetings except in cases of urgency.

39.2 Written notice must be given:

- (a) to each Member by sending it to the electronic mail address or postal address notified by that member to MONSU Peninsula; or
- (b) by posting the notice on the MONSU Peninsula website; or
- (c) in such additional manner as set out in the Regulations.

39.3 In cases of urgency, a meeting may be held without the notice required according to section 39.1, provided that:

- (a) as much notice as practicable is given by whatever means will reach each member; and
- (b) no resolution may be passed except by an absolute majority.

39.4 The notice must state:

- (a) the date, time and place (or places) of the meeting; and
- (b) if the meeting is to be held at more than one place – the technology that will be used

- 39.5 The notice need not include the agenda for the meeting.
- 39.6 All members of MONSU Peninsula bodies must give MONSU Peninsula their address for notice, and provide any updates to any address changes.
- 39.7 The address for notices may include an electronic mail address and a facsimile number.
- 39.8 Notices sent by prepaid post are taken to have been given on the second day after posting that is not a Saturday, Sunday or public holiday at that address.
- 39.9 Notices sent by electronic mail or facsimile are taken to have been sent on the first day after sending that is not a Saturday, Sunday or University holiday at that address.
- 39.10 The accidental failure to give notice to a member of the body does not invalidate the meeting.

40. Use of Technology

Meetings may be held at more than one (1) place, provided that the technology used enables each member of the body present at all places where the meeting is held to clearly and simultaneously communicate with every other such member.

41. Quorum

- 41.1 Quorum is the presence in person, or electronically of more than half of the members of the body at the time.
- 41.2 If a quorum is not present within 30 minutes of the time of which notice has been given, no meeting may proceed.

42. Chairing

- 42.1 The member of the body specified as the chair in this Constitution, or the regulation or resolution establishing the committee is entitled to chair meetings of the body.
- 42.2 If that member is not present, or does not wish to chair, the meeting shall elect another member of the body to chair.
- 42.3 The chair of the meeting has a deliberative vote and a casting vote.

43. Attendance

- 43.1 Meetings of MONSU Peninsula bodies may only proceed *in camera* to consider confidential personal, employment, contractual and legal matters.

44. Voting

- 44.1 Each member of the body has one vote, unless provided for in this Constitution. Delegates from another body do not have a vote.

44.2 Members may vote by proxy and may only hold a maximum of two proxies.

44.3 Voting is by show of hands, unless the meeting is held using technology.

44.4 If,

- (a) the chair of the meeting is in any doubt as to the result of the initial show of hands; or
- (b) more than one-third of the members of the body present demand a count immediately after the declaration of the result of the initial show of hands;

the chair must:

- (c) call for another show of hands; and
- (d) conduct a count of the hands.

44.5 If the meeting is held with technology, voting must be by the chair conducting:

- (a) if practicable – a roll call of the members present; or
- (b) otherwise – a poll (including a poll by electronic means).

44.6 The declaration by the chair of the meeting is conclusive evidence of the result of the vote.

45. Conflict of Interest

Members of MONSU Peninsula bodies who have a personal or financial interest (whether direct or indirect) in a matter that is to be considered at a meeting of the body:

- (a) must not be present while the matter is being considered; and
- (b) must not vote on the matter.

46. Resolutions without Meeting

A resolution set out in a document signed by all members of the body at the time entitled to vote stating that they are in favour has the same effect as a resolution passed at a meeting of the body.

47. Minutes

The Student Council must ensure that minutes are taken and kept of all meetings and resolutions without meetings.

PART 10 – FINANCIAL AND LEGAL

48. Fund Sources

All MONSU Peninsula funds may be derived from:

- (a) University grants;
- (b) fees collected from students by the University; and
- (c) any other sources approved by Student Council.

49. Financial Year

The financial year of MONSU Peninsula is from 1 January to 31 December in each year.

50. Fund Management

- 50.1 The Student Council is responsible for the fund management of MONSU Peninsula.
- 50.2 MONSU Peninsula must maintain adequate and accurate accounting records of all financial transactions.

51. Cheques

- 51.1 The Student Council must make regulations for the drawing and signing of cheques.
- 51.2 All cheques must be signed by at least two approved persons pursuant to the regulations, one of whom should be a staff member.

52. Audit

- 52.1 The Student Council must arrange for the accounts for the last financial year to be audited before submitting to each annual general meeting.

53. Records

- 53.1 The Student Council shall ensure the safe keeping of all MONSU Peninsula records.
- 53.2 Members may inspect the records of MONSU Peninsula at any reasonable time except for confidential personal, employment, contractual and legal matters (unless they are members of the Student Council).

53.4 The Student Council shall ensure that copies of the Constitution and regulations are freely available to members.

54. Publication of Material

54.1 All persons producing material for MONSU Peninsula publications must make every effort to ensure that the material is not defamatory.

54.2 The President and/or nominee:

- (a) is entitled to have access to all material prior to publication; and
- (b) may stop publication of any material deemed defamatory or inappropriate.

54.3 MONSU Peninsula reserves the right to join any officer or members if they are associated with any defamatory action taken against MONSU Peninsula publication.

55. Common Seal

55.1 Under section 14(2) of the Associations Act MONSU, Peninsula may have a common seal.

55.2 Clauses 55.3 and 55.4 only apply if MONSU Peninsula has a common seal.

55.3 The Common Seal of MONSU Peninsula may only be affixed in accordance with a resolution of the Student Council, and its affixing must be witnessed by two members of Student Council.

55.4 Student Council is responsible for the safe keeping of the Common Seal of MONSU Peninsula.

56. Public Officer

56.1 The Student Council must appoint the Operations Manager a Public Officer for the purposes of the Act.

57. Registered Address

57.1 The registered address of MONSU Peninsula for the service of documents is the address of the MONSU Peninsula office.

57.2 MONSU Peninsula shall notify the Registrar within fourteen (14) days of any change of registered address.

58. Amendment of Constitution

58.1 The Constitution may only be amended by special resolution at a special general meeting.

59. Winding Up

- 59.1 MONSU Peninsula may be wound up voluntarily by special resolution at a special general meeting.
- 59.2 If MONSU Peninsula is
- (a) wound up:
 - (i) voluntarily; or
 - (ii) by a court; or
 - (b) Its incorporation is cancelled;
- The remaining assets of MONSU Peninsula shall not be distributed to any member.
- 59.3 The remaining assets shall be given to a body, trust or fund nominated by Student Council that:
- (a) has a similar purpose to MONSU Peninsula;
 - (b) is also charitable; and
 - (c) also prohibits the distribution of profit, income and assets to its members.
- 59.4 If MONSU Peninsula is wound up voluntarily, the Student Council must by resolution passed by an absolute majority decide the body, trust or fund to which its surplus assets are to be given.

60. Definitions & Interpretation

- 60.1 In this constitution, unless the contrary intention appears:
- (a) “absolute majority” means a majority of the votes of all members of the body at the time entitled to vote, whether or not those members are present at the meeting, and whether or not they vote;
 - (b) “academic day” means a day in first or second semester on which according to the University calendar lectures may be held, and which is not a Saturday, Sunday or University holiday;
 - (c) “the Act” means the *Associations Incorporation Reform Act 2012*;
 - (d) “committee” includes sub-committee, working party or any similar groups;
 - (e) “convene” means call and arrange to hold, and includes:
 - i. in the case of meetings – setting the date, time and place of the meeting; and
 - ii. in the case of referendums – setting the dates, items and places of polling and discussion forums;

- (f) “member” means unless inconsistent with the context, Student, Associate and Honorary Life members of MONSU Peninsula;
- (g) “MONSU Peninsula” has the meaning given in section 1.1;
- (h) “MONSU Peninsula body” means Student Council, and other committees established in accordance with this Constitution;
- (i) “officer” means an officer of MONSU Peninsula set out in section 24.1;
- (j) “Peninsula campus” means the Peninsula campus of Monash University;
- (k) “member of staff” means a person employed as a staff member of any company or entity providing any student services at any campus of Monash University, and excludes:
 - i. officers who are paid according to s24.3.;
 - ii. people employed directly by the university in a casual position for not more than 40 hours per semester; or
 - iii. people employed by the University for the specific purpose of providing student input into a particular project or program.
- (l) “Regulations” means regulations of MONSU Peninsula made under s20 and the word “Regulation” is taken to have a corresponding meaning;
- (m) “special resolution” means a resolution:
 - i. to amend this Constitution;
 - ii. to change the name of MONSU Peninsula;
 - iii. to amalgamate MONSU Peninsula with another association; or
 - iv. to wind up MONSU Peninsula;which may only be passed at a general meeting where:
 - (a) at least 21 days notice of the proposed resolution has been given to members;
 - (b) the notice specifies that it is intended that the resolution be proposed as a special resolution; and
 - (c) at least three-quarters of the members who vote at the meeting, vote in favour.
- (n) “student” means:
 - i. a student enrolled in a course leading to an award of the University; or
 - ii. a paid officer
- (o) “summer executive” means:
 - i. The outgoing President;

- ii. The incoming President; and
 - iii. Three other members of the outgoing or incoming Executive to be nominated by the outgoing Student Council.
- (p) “the University” means Monash University, and the word “University” is taken to have a corresponding meaning.
- 63.2 Unless the contrary intention appears:
- (a) expressions used in this Constitution have the same meanings as in the legislation of the University; and
 - (b) this Constitution is to be interpreted in accordance with the *Interpretation of Legislation Act 1984* (Vic) as if this Constitution were an Act of the State of Victoria.
- 63.3 The headings form part of this Constitution.
- 63.4 In this Constitution if notice period is expressed in days:
- (a) it will include the day notice is given; but
 - (b) will not include the day the meeting is held or referendum commences.
- 63.5 A notice of a referendum, meeting or election given by advertisement in accordance with the regulations is to be taken to have been given to every member, regardless of whether the member sees the advertisement.
- 63.6 Student Council is responsible for the interpretation of the Constitution and regulations.

SCHEDULE: ELECTION PROCEDURE – STUDENT UNION

SECTION 1. INTERPRETATION

In this By-law unless inconsistent with the context:

“absolute majority of votes” in any count means a number of votes greater than one half the total number of valid votes (excluding ballot papers which are deemed to be exhausted) cast at the relevant election;

“Academic Day” shall mean a day during semester, not being a Saturday, Sunday or Public Holiday observed by the University. In calculating the period of Academic Days, neither the day on which notice is given nor the day on which a meeting is held shall be counted;

“continuing candidate” means a candidate not already elected or excluded from the count;

“member” means a member of the Monash University Student Union Peninsula Inc. as defined in Part 2 – Membership of the MONSU Constitution;

“University” means the Monash University;

“prescribed” means prescribed by this By-law;

“Personal Contact” means communication between persons who are physically in the same local area and excludes contact by telephone or other electronic means;

“Returning Officer” means the Union Officer or other person appointed by the MONSU Student Council and includes a Deputy Returning Officer appointed to assist the Returning Officer;

“MONSU Peninsula” means the Monash University Student Union Peninsula Inc.

Unless the context otherwise requires, words importing the singular include the plural.

SECTION 2. ROLL OF ELECTORS

- 2.1 For the purpose of electing members to MONSU Peninsula or any other election, the Returning Officer shall obtain a roll of electors in respect of each election or series of elections conducted together from the relevant office of the University.
- 2.2 The electoral roll shall include all voters as defined in the MONSU Peninsula Constitution, including all students enrolled at Monash Peninsula and office bearers of MONSU Peninsula at the time when polling. To be eligible to stand for office and vote in a MONSU Peninsula election a person must be included on the MONSU Peninsula electoral roll, from the start of the semester in which the election is to be conducted.

SECTION 3. NOTICE OF ELECTIONS

- 3.1 Notice of Elections must be given 5 weeks before the dates set for the annual elections.
- 3.2 Notice of Elections shall include the following information:
 - a) the positions for which nominations are invited;

- b) eligibility requirements for nominators and nominees as set out by these Election Procedures and the Constitution;
 - c) the availability of nomination forms;
 - d) the places and means of lodging nomination forms;
 - e) the date and time of the closing of nominations;
 - f) the date and time by which a nominee shall be required to submit any photograph and/or Election Statement as described at clause 11(1); and
 - g) the dates and all methods by which Electors may vote.
- 3.3 Notice of Elections should be advertised through means of physical notices on relevant MONSU Peninsula noticeboards, digital notices on MONSU Peninsula plasma screens, virtual notice via the MONSU Peninsula website and social media channels and by distributing the notice via the Monash University bulk e-mail facilities where available.

SECTION 4. NOMINATIONS OF CANDIDATES

- 4.1 Nominations for positions open at 9.00am on the Monday 4 weeks before the dates set for the annual elections and will remain open for two weeks.
- 4.2 For a nomination to be valid, the nomination must be received by the Returning Officer not later than 12 noon on the last day of the nomination period referred to in section 3.2 above.
- 4.3 Nomination forms shall be made available from the MONSU Peninsula website and from the MONSU Peninsula Service Desk.
- 4.4 The nomination form shall be accompanied by a document prepared by Student Council containing information about the elected positions in accordance with the Constitution and the Student Representative Guide.
- 4.5 The nomination form may be accompanied by supplementary information and documents prepared or approved by the Returning Officer.
- 4.6 Nomination forms must contain the statement: "I affirm my right to campaign vigorously for election into office. I respect the rights of others to campaign just as vigorously. In opposing those whose viewpoint is different from mine, I may criticise their plans and policies, but I shall refrain from personal abuse and from questioning their honesty or their integrity. I acknowledge that the elections are conducted pursuant to the Election By- Law. I also acknowledge that I must abide by the University's discrimination and harassment policy in the conduct of my campaign".
- 4.7 In addition to any qualifications prescribed for the position for which a candidate has been nominated, each candidate shall qualify as an elector at each election.
- 4.8 Each nomination of a qualified person shall be made by two persons entitled to vote and shall contain the written consent of the nominated candidate.

- 4.9 A candidate may, within 48 business hours after the close of nominations, withdraw his/her nomination by giving a signed written notice to the Returning Officer and this shall have the effect of cancelling their nomination.
- 4.10 If the number of valid nominations does not exceed the number of vacancies to be filled, the candidates are successful in the election. The Returning Officer shall, after counting all votes and contacting successful candidates, declare the candidates duly elected.
- 4.11 In cases where the number of valid nominations received exceeds the number of vacancies to be filled, a poll shall be conducted.
- 4.12 Where the Returning Officer finds that there appears to be grounds for rejecting a person's nomination, the Returning Officer shall notify the person to:
- (a) remedy a defect in the nomination form, or,
 - (b) provide evidence to the contrary.

The Returning Officer shall reject the nomination if any defects are not remedied by a specified time.

SECTION 5. REGISTRATION OF A GROUP

- 5.1 If a number of individuals wish to stand for election on a common platform, one of those individuals may apply to register a group name with the Returning Officer.
- 5.2 Registration of a Group shall be by means of a form as prepared by the Returning Officer.
- 5.3 Registration forms for Groups shall be lodged with the Returning Officer in printed or electronic form by the close of deadline set by the Returning Officer.
- 5.4 No candidate may be registered in more than one Group. Any candidate who registers for more than one Group shall be removed from all Groups. If only one candidate remains in a Group after this action, the remaining candidate shall not be treated as a Group.

SECTION 6. CONDUCT OF A POLL

- 6.1 Every poll for election shall be held by secret ballot.
- 6.2 Prior to the close of nominations, Student Council shall determine that polling shall be conducted either:
- (a) in person; and/or
 - (b) electronically.
- 6.2 Electors may vote:
- (a) at any Campus Polling Place if voting is conducted in person;

(b) on-line if voting is conducted electronically; or

(c) by post if a valid postal vote application has been submitted by the Elector within the timeframe if the elections are not being conducted electronically.

6.3 If voting is conducted in person:

(a) the Returning Officer shall establish a Campus Polling Place in the Student Lounge of Building U

(b) the Campus Polling Place shall be open for at least four hours between 10:00am and 3:00pm on three consecutive teaching days.

(c) the Returning Officer or a poll clerk appointed by the Returning Officer shall be responsible for the Campus Polling Place.

6.4 If voting is conducted electronically, online polling shall be open:

(a) for a period of no less than 72 consecutive hours;

(b) for a period that includes at least three consecutive teaching days

SECTION 7. ELECTION STATEMENTS

7.1 Each nominee may submit a supporting written statement by the due date as set by the Returning Officer. The statement must not exceed 500 words and may include a photograph of the nominee.

7.2 A statement is defective if it exceeds 500 words, is defamatory or otherwise contrary to the provisions of this by-law or the law.

7.3 Where a statement is found to be defective the Returning Officer will request the nominee to remedy the defect within a specified time failing which the Returning Officer shall delete the defective statement.

7.4 The Returning Officer may distribute a copy of the statements with the ballot materials.

7.5 Statements by candidates must not claim to introduce actions, which are not within the authority of Monash University Student Union Peninsula Inc.

SECTION 8. BALLOT PAPERS

8.1 Every ballot paper shall set out the names of all nominated candidates arranged in an order determined by the Returning Officer and specify the method by which voters shall signify their votes.

8.2 After the contents of the ballot paper have been determined, the Returning Officer shall make known the format of all ballot papers to any candidate on request.

8.3 Each printed ballot paper should contain the initials of the poll clerk.

SECTION 9. ELECTIONEERING BY CANDIDATES

- 9.1 Electioneering material shall be presented for approval to the Returning Officer who will allot an approval number to approved material.
- 9.2 Printed or photocopied electioneering material is to show the Returning Officer's approval number and the name of the authorising candidate and printed and photocopied material printed on paper must show a statement to encourage recycling of campaign material to the effect of "Please recycle this how to vote card".
- 9.3 In determining whether electioneering material should be approved the Returning Officer shall consider whether the material is defamatory, libellous, indecent, contrary to this by-law or the law. Before disallowing material, the Returning Officer shall seek and be guided by the opinion of MONSU Peninsula's solicitor. No 'how to vote' material shall be approved which shows a method of voting which includes marks other than figures or which would, if followed, lead to an informal vote.
- 9.4 The Returning Officer's approval is for the content of the electioneering material. Separate authorisation from the appropriate authorities must be obtained to use facilities such as controlled notice board space.
- 9.5 No electioneering material is to be placed in, near, or around any MONSU Peninsula Inc. office or service outlet.
- 9.6 Candidates, clubs and individuals may not use MONSU Peninsula owned property for electioneering purposes, except when contacting the Returning Officer.
- 9.7 All persons wishing to distribute campaign material on the Peninsula campus of Monash University must:
- (a) be approved by the returning officer;
 - (b) wear a registered campaigner sticker at all times
 - (c) be entitled to vote and have their name appear on the MONSU Peninsula electoral roll.

SECTION 10. METHOD OF VOTING

- 10.1 Every voter shall mark their vote on the ballot paper by either:
- (a) placing the number 1 against the name of the candidate of first preference and consecutive higher numbers against the names of as many other candidates of lower preference in order as they wish;
 - (b) placing the number 1 against the name of a Group
- 10.2 Each voter shall indicate at least a first preference. It shall not be compulsory to rank all candidates.

- 10.3 Each voter shall indicate their preferences by numerals, except that the Returning Officer may accept a mark where there is only one vacancy to be filled in the relevant position and only one box on the form has been marked.

SECTION 11. PROCEDURE AT CLOSE OF POLL

- 11.1 The counting of votes shall take place as soon as is practicable after the close of voting. The Returning Officer's decision on the validity of any vote or acceptance of ballot paper shall be final.
- 11.2 Each candidate for election shall be entitled to appoint in writing a person (other than a candidate) to act as a scrutineer on their behalf. The appointment shall be advised to the Returning Officer in writing before the close of the ballot. Scrutineers may not handle ballot papers nor impede the conduct of the ballot. Scrutineers must obey the directions of the Returning Officer. A scrutineer so appointed and whose appointment has been advised to the Returning Officer may attend the counting of votes to check the accuracy of the ballot paper and may inspect each ballot paper to verify that it has been validly included in or excluded from the count. Scrutineers must be members of MONSU Peninsula.

SECTION 12. ASCERTAINMENT OF RESULT OF POLL

12.1 Procedure where there are only two candidates

At an election where only one person is to be elected and there are two candidates, the result of the poll shall be ascertained as follows:

- (a) The candidate who has received the greater number of first preference votes (including the casting vote of the Returning Officer to be exercised if necessary by lot) shall be declared duly elected; and
- (b) If two candidates have received an equal number of votes, the Returning Officer shall in such case exercise the casting vote by lot.

12.2 Procedure where there are more than two candidates

12.2.1 PROCEDURE WHERE ONLY ONE PERSON IS TO BE ELECTED

At any election where only one person is to be elected and there are more than two candidates, the result of the poll shall be ascertained as follows:

- 12.2.1.1 If no candidate has an absolute majority of first preference votes, the Returning Officer shall:-
- (a) declare the candidate who has received the fewest first preference votes to be a defeated candidate;
 - (b) distribute each of the ballot papers counted to such defeated candidate amongst the continuing candidates next in order of preferences marked on the ballot paper;
 - (c) after such distribution again ascertain the total number of votes given to each continuing candidate.

The candidate who after such distribution has received the greatest number of votes, if such number constitutes an absolute majority of votes (including the casting vote of the Returning Officer exercised if necessary by lot), shall be declared duly elected.

12.2.1.2 If no candidate has an absolute majority of votes (including the casting vote of the Returning Officer exercised if necessary by lot) the process of declaring the candidate with the fewest votes to be a defeated candidate and distributing the ballot papers counted to such defeated candidate amongst the continuing candidates next in order of the voter's preference shall be repeated and the votes shall be recounted after every such redistribution until one candidate has received an absolute majority of votes (including the casting vote of the Returning Officer exercised if necessary by lot) and such candidate shall be declared duly elected.

12.2.1.3 If on any count, two or more candidates have an equal number of votes and one of them is declared a defeated candidate, the Returning Officer shall decide by lot which is a defeated candidate and if on the final count two candidates have received an equal number of votes, the Returning Officer shall exercise the casting vote by lot.

12.2.2 PROCEDURE WHERE MORE THAN ONE PERSON IS TO BE ELECTED:

At any election where two or more persons are to be elected, the result of the poll shall be ascertained as follows:

12.2.2.1 After opening the ballot box, the Returning Officer shall count all valid ballot papers to determine the quota. The quota is determined by dividing the total number of first preference votes in the count by one more than the number of candidates elected and by increasing the quotient so obtained (disregarding any remainder) by one;

12.2.2.2 The Returning Officer shall then arrange the ballot papers by placing in a separate parcel all those on which a first preference is indicated for the same candidate, omitting papers which must be rejected according to s 7.2, and count all first preference votes for each candidate;

12.2.2.3 Any candidate who has received a number of first preference votes equal to or greater than the quota, shall be declared elected;

12.2.2.4 Where a candidate or candidates so elected have received a number of votes in excess of the quota, a number of votes equal to the surplus shall be transferred to other candidates remaining in the count in the manner described in the following section:

- (a) The Returning Officer shall sort the ballot papers of the first elected candidate or candidates into parcels according to each voter's preference to determine the proportion in which the surplus votes are to be transferred;
- (b) The surplus votes are then transferred in their correct proportion, to the continuing candidates.
- (c) After the surplus votes have been distributed, any candidate who has reached the quota shall be declared elected and the candidate's surplus votes (i.e. that portion received from the previously elected candidate over and above the number required to reach the quota) shall be distributed in the correct proportion to the continuing candidates in the order of the voter's preferences;

- (d) If, after the distribution of the surplus votes to all elected candidates, fewer candidates than the number of vacancies have been elected, the candidate with the least number of votes in the count shall be declared excluded and the candidate's ballot papers shall be transferred, in accordance with the next preference thereon, to the continuing candidates.
- (e) If no candidate is elected, or if fewer than the required number of candidates have been elected, the process of excluding candidates is continued until a further candidate is elected, in which case (unless all vacancies have now been filled), the surplus votes of the elected candidate are then transferred, in the correct proportion, to continuing candidates;
- (f) If necessary, the process of excluding candidates one by one shall be continued until all vacancies are filled;
- (g) If on any count two or more candidates have an equal number of votes, the Returning Officer shall decide, by lot, which candidate shall be elected or the order of their election, as the case may be.

SECTION 13. DECLARATION OF POLL

- 13.1 At the conclusion of every election, the Returning Officer shall declare the poll and advise in writing the result to the MONSU Peninsula Student Council and to the candidates. The result shall be declared as soon as practicable after the scrutiny has been completed and any re-counts required by the Returning Officer carded out.
- 13.2 Within 10 academic days of the declaration of results, the full result, including total votes and preference distributions shall be posted on MONSU Peninsula notice boards, plasma screens, website and relevant social media channels.

SECTION 14. RIGHT OF REFERRAL BY RETURNING OFFICER

- 14.1 It shall be the right but not the obligation of the Returning Officer to refer to the Electoral Tribunal for its decision on any question touching the validity of an election.

SECTION 15. APPEAL AGAINST DECLARATION

- 15.1 Within five academic days, of the publishing of the full results as outlined in section 10.2, a candidate may appeal in writing to the Returning Officer against such declaration, setting out the grounds for such appeal.
- 15.2 A valid appeal must consist of the words "I am appealing the declaration of the following position(s)" and set out either a precedent or reason(s) for appeal.
- 15.3 The Returning Officer shall acknowledge the receipt of the appeal, by phone, within 24 hours or within 1 academic day.
- 15.4 If the appeal or grounds for the appeal are ambiguous, the Returning Officer shall seek clarification, even after the expiration of section 12.1.
- 15.5 The Returning Officer shall investigate the matter and, within ten academic days from the date of receipt of the appeal:

- (a) dismiss the appeal; or
- (b) order a new election; or
- (c) overturn a declaration and declare the losing candidate as having been elected.

15.6 Notice of the Returning Officer's decision shall be exhibited on MONSU Peninsula notice boards and a copy forwarded in writing to the appellant as soon as practicable after the decision is made.

SECTION 16. APPEALS TO THE ELECTORAL TRIBUNAL

16.1 A candidate may appeal to the Electoral Tribunal against the decision of the Returning Officer within five academic days of the date of the notice. The appeal shall be in writing and set out the grounds of the appeal.

16.2 The members of the Electoral Tribunal are:

16.2.1 two members of the academic staff of the Faculty of Law of the University nominated by the Dean of that Faculty who have been admitted to practice as a barrister and solicitor of the Supreme Court of Victoria for at least 5 years, one of whom must be nominated as the Chair of the Tribunal; and

16.2.2 The Equal Opportunity Manager of the University, or nominee.

16.3 Members of the Electoral Tribunal must not:

16.3.1 be candidates in the election;

16.3.2 be currently enrolled students of the University; and

16.3.3 have contested any MONSU Peninsula election in the two academic years prior to the year of election.

16.4 The Electoral Tribunal shall, within twenty-one (21) academic days of receipt of the appeal, meet to determine the appeal. Notice of the time and place of the hearing shall be given to the appellant, the Returning Officer and the candidates affected by the appeal at least seven days before the date of the appeal.

16.5 All questions resulting from the hearing of the appeal shall be decided by a majority of votes. In the event that there is an equality of votes on any question, the person presiding shall have a casting vote.