

# CONSTITUTION OF CHATSWOOD HIGH SCHOOL P&C BUILDING FUND

## 1. NAME

This fund shall be known as the Chatswood High School P&C Building Fund (hereinafter called the "Fund"). The Fund is sponsored by the Chatswood High School Parents and Citizens Association Inc (the Association).

## 2. OBJECTS AND FUNCTIONS

The objects:

To receive gifts or donations from the public and provide these moneys for the acquisition, construction or maintenance of buildings used, or to be used, as a school or college by Chatswood High School.

The functions:

To invite the public, on a regular basis, to contribute to the Fund.

To conduct its affairs so that gifts and donations of \$2 or more to the Fund are allowable deductions as defined in the gift provisions of the *Income Tax Assessment Act* (the Act).

To provide funds for the acquisition, construction or maintenance of buildings and related expenses that are used for a purpose that is connected with the curriculum of the school and be used for such purposes for more than 50% of the time.

## 3. EXECUTIVE COMMITTEE

An Executive Committee shall be in operation at all times during the life of the Fund.

Membership of the Executive Committee shall at least comprise the Association President, the Chatswood High School Council President and the Principal of Chatswood High School. The Association may nominate others to join the Executive Committee provided the nominees are persons responsible to the public as described below.

### *3.1 Guidelines for identifying responsible persons:*

Persons who are considered to have a degree of responsibility to the community as a whole include: church authorities, school principals, judges, clergymen, solicitors, doctors, and other professional persons, mayors, councillors, town clerks and members of parliament. Generally, persons who are acceptable as

having a degree of responsibility to the community as a whole are known to a broad section of the community because they perform a public function or they belong to a professional body (such as the Institute of Chartered Accountants, State Law Societies and Medical Registration Boards) which has a professional code of ethics and rules of conduct. Other persons who are acceptable are appointees of a Chief Justice of the Supreme Court. Persons who have received formal recognition from the Government for their services to the community (for example, an Order of Australia award) will also be considered to have the requisite degree of responsibility.

#### **4. MEETINGS**

The Executive Committee shall meet at least once per school term. It shall conduct an annual self-review of the Fund's deductible gift recipient (DGR) status and inform the Australian Tax Office if the Fund ceases to be entitled to DGR endorsement.

#### **5. LIABILITY**

A member of the Executive Committee or an officer appointed to administer the fund is not, by reason of being such a member or officer, liable to contribute towards the payment of debts and liabilities of the Fund or the costs, charges and expenses of the winding up of the Fund.

#### **6. ADMINISTRATION.**

The Executive Committee shall govern the Fund. The role of the Executive Committee is to act as the trustee of the Fund and to ensure the Fund is administered in accordance with its constitution. The Executive Committee may appoint others to carry out the administration of the Fund.

Payments from the Fund for specific building purposes shall be made upon recommendations made by the Association. Approval for payments made from the Fund for specific building projects shall be given by resolution passed at an Association meeting. A notice of meeting, stating that such requests for payment by the Fund will be discussed and approval sought, will be advertised to the members of the Association at least 14 days prior to such meeting.

Receipts in the name of the Fund will be written in respect only of specific gifts to the Fund and all amounts shown on those receipts will be credited to and paid direct to the separate bank account of the Fund. No amount credited to the Fund will be transferred out of The Fund or disbursed other than for the purposes for which the Fund is established.

Any moneys received by the Association other than tax deductible donations to the Fund, e.g. government grants, other donations, other general fund raising etc., should be kept separate from the school building fund.

#### ***6.1 Accounts and Investments***

Moneys which have been paid or accrued directly or indirectly to the Fund as a result of a gift and which have not been applied for the purpose of the Fund, can only be invested in securities in which a trustee may, under any Commonwealth, State or Territory law, invest without special authorisation. This applies to moneys accruing from each particular gift. This restriction on investment applies not only to the amount of each particular deductible gift, but also to income derived by the fund from investment of deductible gifts made to it and to any amount representing proceeds of realisation of investment of moneys arising from the gift.

Two or more officers of the Association delegated in that behalf by the Association shall operate the bank account(s).

The Fund's financial accounts shall be audited annually along with those of the Association.

#### ***6.2 Administrative Expenses***

The Fund may make disbursements to meet proper administrative expenses. Proper and reasonable costs of establishing, promoting and managing the Fund include such items as bank charges, stationery costs and accounting and audit fees relating expressly to the fund.

#### ***6.3 Acceptable Receipts***

The Fund may receive specific gifts or donations of money of \$2 or more. The Fund may accept gifts other than money such as property (provided it was purchased during the 12 months before the gift was made) and trading stock (disposed of outside the ordinary course of business).

Money raised from general fund raising or social events are not gifts and are not tax deductible. Money from these sources must not be deposited with the Fund.

It should be noted that gifts to the general fund of a school or college are not deductible even if the sum donated is subsequently applied towards the cost of construction or maintenance of the school or college building. Similarly, gifts to the general funds of the Association do not qualify for an income tax deduction.

### **7. DISSOLUTION**

In the event of the Fund being wound up or dissolved or revocation of its deductible gift status (whichever occurs earlier), all surplus assets remaining in the Fund after the payment of just debts and liabilities shall be transferred to

another fund, authority or institution which has similar objects and to which income tax deductible gifts can be made. The Association is not permitted to transfer any surplus assets or property upon winding-up of the Fund, which has tax deductible gift status, to another part of the Association which does not have that status.

## **8. ACCEPTABLE USES OF THE FUND'S MONEY**

### ***8.1 School Buildings***

The word 'building' means a permanent structure usually with walls and a roof. This may range from a one room building to a group of buildings. It includes a part of a building and additions to buildings. It is considered that fixtures fall within the definition of a building for the purposes of the Fund. To qualify as a school or college building for the purposes of the Fund, the building or group of buildings must be used for a purpose which is connected with the curriculum of the school. A multi-purpose building is taken to be used as a school or college if the primary and principal use of the building is as a school or college. In the case of a proposed building, the test is satisfied if the building is proposed to be used as a school or college more than 50% of the time. Where a school or college building fund is maintained for an existing school or college, the building must be used as a school or college for more than 50% of the time.

### ***8.2 Disbursements from a school building fund***

Only disbursements from a school building fund that are directly and essentially related to the acquisition, construction or maintenance of a building used, or to be used, as a school or college are legitimate charges against that fund. Disbursements on capital improvements and maintenance, as well as installation and maintenance of fixtures to a building used, or to be used, as a school or college are legitimate charges against a school or college building fund. Items that are not acceptable as a 'building' include furniture, training equipment, laboratory equipment and computers, etc., unless they form an integral part of the building, i.e., fixtures. An outdoor swimming pool is also not a building. However, an indoor swimming pool (surrounded by walls and a roof) that is an integral part of a building which is used as a school or college would qualify as a school building. The purchase of land which represents the first step towards the acquisition or construction of buildings to be used as a school or college is an acceptable use for the purposes of a school building fund. Moneys from a school building fund must not, however, be used to purchase land for the purpose of providing recreational space, such as sports grounds (since these do not involve a building) or other facilities which are not essentially for use in connection with the normal curriculum of a school.

The fees paid for professional direction of a planned giving or fundraising program are a legitimate charge against the fund. In a combined fundraising appeal (or multiple purpose appeal), however, the Fund should only bear the proportion of the costs of fundraising equal to its share of the total amount raised in the appeal.

### ***8.3 Multi-purpose buildings***

If a building is used for more than one purpose, it will be a question of fact whether its principal use is for the purposes of study or instruction. A building will be accepted as being primarily and principally used as a school or college if the building is used as a school or college more than 50% of the time. For example, a building used as a school or college every weekday and a place of worship on Sundays will qualify as a school or college.

Where a multi-purpose building has a common area, which is shared by the school with other 'tenants', the Fund can only use its funds to contribute towards the cost of the common area where the area is used primarily or principally as a school or college (this could be determined on a time basis).

### ***8.4 Acquisition costs***

Expenditure on the acquisition of a building includes the costs incurred in negotiating, completing and financing the purchase of the building. The repayment of the capital of a loan and the payment of interest charges incurred in the purchase of a building to be used as a school or a college are expenditures on the acquisition of a building.

The cost of purchasing land on which there are definite plans to construct a building to be used as a school or college is also included as part of the cost of acquiring a building.

Only so much of the cost of the land as is directly required for the construction of the buildings to be used as a school or college would be a proper expenditure of the Fund.

### ***8.5 Maintenance costs***

The term 'maintenance' is not defined in the gift provisions of the Act so it should be given its ordinary meaning. Maintenance of a building means to keep the building and fixtures in proper or good condition. It does not include the general operating costs of a school or college or the general upkeep costs of furnishings. The Taxation Commissioner has accepted maintenance costs of a school or college building include:

\_ the cost of cleaning the building including its floor coverings and windows, but not extending to playgrounds or sports fields;

\_ janitors' and cleaners' salaries and wages to the extent they directly relate to maintaining the building in good condition;  
\_ insurance premiums for the building and fixtures (but not premiums relating to the contents of the building);  
\_ the purchase of equipment used exclusively for maintaining the school or college building (e.g., vacuum cleaner); and  
\_ repairs, painting and plumbing works on the building and fixtures.  
Overall, the costs must be readily perceived as relating to the actual building and fixtures and their maintenance. The maintenance of a school or college building does not extend to disbursements on sports equipment, playgrounds, sports fields, landscaping or car parks.

The fact that such items are required by a local government to obtain approval of building plans does not make those items 'buildings to be used as a school or college' within the meaning of the relevant section of the Act.

Maintenance also does not include general running costs such as water, gas, electricity, sewerage, contents insurance, teaching staff salaries, etc.  
Where costs relate, in part, to the maintenance of the building used as a school or college, only the appropriate proportion attributable to those purposes are a legitimate charge against the school or college building fund.

#### **8.6 Security costs**

The costs of installing and maintaining security alarms and lighting, window and door security (such as grills, etc.,) are legitimate disbursements if the security equipment forms a fixture to the building used as a school or college. Maintenance of this equipment will similarly be legitimate disbursements. Expenditure on security guards, guard dogs, mobile communications, etc., are not related to the acquisition, construction or maintenance of a building used, or to be used as a school or college. These costs are not legitimate disbursements from a school or college building fund.

Costs that cannot be paid by the Fund include running expenses of Chatswood High School, teachers salaries, furniture (that is not a fixed part of a building), materials and maintaining sports grounds and car parks.

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