



New South Wales

# University of Western Sydney By-law 1998

under the

University of Western Sydney Act 1997

His Excellency the Governor, with the advice of the Executive Council, has approved the following By-law made by the Board of Trustees of the University of Western Sydney under the *University of Western Sydney Act 1997*.

Paul Whelan, Acting

Minister for Education and Training

## Explanatory note

The object of this By-law is to provide for certain matters under the *University of Western Sydney Act 1997*, including the following:

- (a) the term of office of the Chancellor of the University,
- (b) the election by the Board of Trustees of the Chancellor of the University, the Chairs of the Councils of the University Members and an additional member of the Board,
- (c) the election by staff, students and former students of the University of the staff, student and graduate members of the Board of Trustees,
- (d) the membership of the Councils of the University Members and the terms of office of those members,
- (e) the making of rules by the Board of Trustees and officers of the University,

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Explanatory note

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- (f) the repeal of the *University of Western Sydney By-law 1992* (which was made under the *University of Western Sydney Act 1988* and continued in force by the 1997 Act),
- (g) transitional matters relating to the membership and terms of office of the new Board of Trustees of the University.

This By-law is made under the *University of Western Sydney Act 1997*, including section 40 (the general by-law making power), section 41 (relating to rules), clause 18 of Schedule 4 (relating to the continuation of by-laws) and the provisions referred to in this By-law.

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## University of Western Sydney By-law 1998

The Board of Trustees of the University of Western Sydney, in pursuance of the *University of Western Sydney Act 1997*, makes the following By-law:

### Part 1 Preliminary

#### 1 Name of By-law

This By-law is the *University of Western Sydney By-law 1998*.

#### 2 Definitions

(1) In this By-law:

*academic staff member* of the Board means the member of the Board referred to in section 12 (5) (a) of the Act.

*general staff member* of the Board means the member of the Board referred to in section 12 (5) (b) of the Act.

*graduate member* of the Board means the member of the Board referred to in section 12 (5) (e) of the Act.

*Office of the Vice-Chancellor* means the Vice-Chancellor, and the other members of staff of the University who assist the Vice-Chancellor to carry out his or her functions and who are not members of staff of any University Member.

*postgraduate member* of the Board means the member of the Board referred to in section 12 (5) (d) of the Act.

*the Act* means the *University of Western Sydney Act 1997*.

*undergraduate member* of the Board means the member of the Board referred to in section 12 (5) (c) of the Act.

(2) In this By-law, a reference to full-time employment, in relation to any staff position, is a reference to employment on a basis designated by the Board as a half-time or greater basis.

#### 3 Notes

The explanatory note, table of contents and notes in the text of this By-law do not form part of this By-law.

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Part 2 Chancellor

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**Part 2 Chancellor**

**4 Term of office**

- (1) For the purposes of section 13 (2) of the Act, the prescribed term of office for the Chancellor is as follows:
  - (a) in the case of a person elected to fill a vacancy in the office of Chancellor that arises because of the expiration of the term of office of the previous Chancellor, 4 years commencing on 1 January next following the election of the person,
  - (b) in any other case, the balance of the term of office of the previous Chancellor.
- (2) Despite subclause (1), the term of office for the person first elected as the Chancellor of the University after the commencement of section 13 of the Act is the period that commences on the date the Chancellor is declared elected and ends on 31 December 1999.
- (3) Subclause (1) does not apply in respect of the person holding office as Chancellor as referred to in clause 6 of Schedule 4 of the Act.

**Note.** Clause 6 of Schedule 4 of the Act is a transitional provision which provides that the person who held office as Chancellor under the *University of Western Sydney Act 1988* continues to do so until a new Chancellor is elected by the Board as constituted under this Act.

**5 Membership of committees**

The Chancellor may, without specific appointment, exercise the right of membership of any committee established by the Board.

**6 Appointment of acting Chancellor**

The Board is to establish a procedure for the appointment of a Deputy Chancellor to act in the place of the Chancellor during the absence or inability of the Chancellor or a vacancy in the office of Chancellor.

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## **Part 3 Election of Chancellor and other office holders**

### **7 Definition**

In this Part:

*close of nominations*, in relation to an election under this Part, means the date and time by which nominations must be received by the returning officer for the election (as specified in a notice under clause 11).

### **8 Application of Part**

- (1) The Chancellor of the University is to be elected by the Board in the manner provided for by this Part.
- (2) A person appointed as Chair of a Council or as the member of the Board referred to in section 12 (6) of the Act is to be a person who is elected by the Board in accordance with this Part.

### **9 When is an election to be held?**

An election to fill a vacancy in the office of Chancellor, Chair of a Council or the member of the Board referred to in section 12 (6) of the Act, is to be held (if practicable):

- (a) in the case of a vacancy that arises because of the expiration of the term of office of the current office holder, before the term of office of the current office holder expires, or
- (b) in any other case, within 3 months after the vacancy arises.

### **10 Returning officer**

- (1) The Vice-Chancellor must from time to time appoint a returning officer to conduct an election.
- (2) The returning officer may, subject to this By-law, decide all matters relating to the procedure for conducting an election under this Part.

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- (3) Subject to the Act and this By-law, a decision of the returning officer relating to an election, including a decision relating to the eligibility of a candidate or a voter or the result of an election, is final.
- (4) The returning officer is entitled to attend meetings of the Board for the purpose of conducting an election under this Part.

### **11 Calling of election**

- (1) If an election is required to be held under this Part, the returning officer is to give notice of the election to the members of the Board at least 14 days before the meeting at which the election is to be held.
- (2) The notice must:
  - (a) state that an election is to be held for the position or positions concerned, and
  - (b) specify the term of office of the position or positions, and
  - (c) invite members of the Board to nominate candidates for election and specify how nominations are to be made, and
  - (d) specify the date and time by which nominations must reach the returning officer, and
  - (e) provide any other information about the election that the returning officer considers it appropriate to provide.

### **12 Making of nominations**

- (1) A nomination for election to the office of Chancellor, Chair of a Council or the member of the Board referred to in section 12 (6) of the Act must:
  - (a) be made in writing, and
  - (b) be signed by the candidate and 2 members of the Board (other than the candidate), and
  - (c) be received by the returning officer by the close of nominations.
- (2) There must be a separate nomination paper for each candidate and for each position.



- (3) A person may not nominate more than one candidate for each position. If a person nominates more than one candidate, the returning officer is to accept only the first nomination received by the returning officer from that person.
- (4) For the purposes of subclause (3), all of the persons who sign a nomination paper (as provided for by subclause (1) (b)), are taken to have nominated the candidate.

### **13 Dealing with nominations**

If, at the close of nominations for an election:

- (a) there are no valid nominations, the returning officer must report this to the next meeting of the Board and call an election again in the manner provided for by clause 11, or
- (b) there is only one valid nomination, the returning officer is to report this to the next meeting of the Board and the Board may declare the person nominated to be elected, or
- (c) there is more than one valid nomination, the returning officer must:
  - (i) ensure that the name of each person so nominated is on the agenda for the meeting of the Board at which the ballot is to be conducted, and
  - (ii) conduct a ballot at that meeting as provided for by this Part.

### **14 Distribution of ballot papers**

- (1) The returning officer is to ensure that ballot papers are issued to members of the Board:
  - (a) in person at the meeting at which the ballot is conducted, or
  - (b) by post before the meeting is conducted, but only to members of the Board who request the issue of a postal vote before the close of nominations for the election.
- (2) A separate ballot paper is to be issued for each position for which a ballot is to be conducted.

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- (3) The returning officer may issue a duplicate ballot paper to a member of the Board, if the returning officer is satisfied that a ballot paper has been lost or destroyed.

### **15 Contents of ballot papers**

- (1) A ballot paper is to contain the names of the candidates arranged in an order determined by the returning officer by lot.
- (2) A ballot paper is to include or be accompanied by instructions for voting.

### **16 Method of voting**

- (1) Members of the Board may vote in an election:
  - (a) in person at the meeting at which the ballot is conducted, or
  - (b) by post.
- (2) The ballot is to be conducted as a secret ballot.
- (3) Each member of the Board who wishes to vote is to mark a vote on his or her ballot paper by placing the figure "1" opposite the name of the candidate to whom the member wishes to give his or her first preference.
- (4) If the member of the Board wishes to show his or her order of preference for any or all of the remaining candidates, the member may do so by placing consecutive figures (starting with the figure "2") opposite the names of any of the remaining candidates so as to indicate, in numerical sequence, the member's preference for them.
- (5) The returning officer must collect all completed ballot papers from the members of the Board who are present at the meeting at which the ballot is conducted.
- (6) The returning officer is to determine the procedure for voting by post.

**17 Informal ballot papers**

- (1) A ballot paper is informal if it has any mark or writing that, in the opinion of the returning officer, would enable any person to identify the voter.
- (2) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.
- (3) The returning officer is to reject any informal ballot papers and count the formal ballot papers.

**18 Counting of votes**

- (1) The returning officer must count the number of first preference votes for each candidate.
- (2) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the returning officer is to declare that candidate the successful candidate.
- (3) If no candidate has an absolute majority of votes, the returning officer must exclude the candidate who has received the fewest number of first preference votes and each of the ballot papers counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.
- (4) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by lot.
- (5) The process referred to in subclauses (3) and (4) is to be continued until:
  - (a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared the successful candidate, or
  - (b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared the successful candidate (even if the number of votes is below an absolute majority of votes). or

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- (c) there are only 2 continuing candidates who have an equal number of votes, in which case the returning officer is to determine the successful candidate by lot.
- (6) The returning officer is to report the name of the successful candidate to the Board and the Board may declare that candidate elected.
- (7) In this clause, a reference to a vote is a reference to a formal vote.

## Part 4 Staff, student and graduate members of Board

### 19 Definitions

- (1) In this Part:

*close of nominations*, in relation to an election, means the date and time by which nominations must be received by the returning officer for the election (as specified in a notice under clause 27 (5)).

*close of the ballot*, in relation to an election, means the date and time by which ballot papers must be received by the returning officer for the election (as specified in a notice under clause 30 (4)).

- (2) For the purposes of this Part, the Board may determine the members of staff who are to be designated as academic staff and the members of staff who are to be designated as general staff.

### 20 Application of Part

The elected members of the Board are to be elected in accordance with this Part.

**Note.** The elected members of the Board comprise:

- (a) the academic staff member,
- (b) the general staff member,
- (c) the undergraduate member,
- (d) the postgraduate member,
- (e) the graduate member.

### 21 When is an election to be held?

- (1) An election to fill a vacancy in the office of an elected member of the Board is to be held, if practicable, as follows:
- (a) in the case of an election for an academic staff member of the Board, the election is to be held no earlier than 4 months before the end of the current member's term of office and before that term of office ends,

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- (b) in the case of an election for a general staff member of the Board, the election is to be held no earlier than 4 months before the end of the current member's term of office and before that term of office ends,
  - (c) in the case of an election for an undergraduate member of the Board, the election is to be held in the month of October in the year in which the current member's term of office expires,
  - (d) in the case of an election for a postgraduate member of the Board, the election is to be held in the month of October in the year in which the current member's term of office expires,
  - (e) in the case of an election for a graduate member of the Board, the election is to be held in the month of October in the year in which the current member's term of office expires.
- (2) In the case of an election that is required because of a casual vacancy in the office of an elected member (see clause 39), the election is to be held as soon as practicable after the vacancy occurs.

## **22 Returning officer and polling officers**

- (1) The Vice-Chancellor must from time to time appoint a returning officer to conduct elections for the elected members of the Board.
- (2) The returning officer may, subject to this By-law, decide all matters relating to the procedure for conducting an election under this Part.
- (3) The returning officer must appoint a polling officer from each University Member to assist in the conduct of the election.
- (4) The election is to be conducted by the returning officer, with the assistance of the polling officers, and such other persons as the returning officer or a polling officer may appoint to assist in the conduct of the election.
- (5) A candidate for election may not act as a returning officer or polling officer in the election.

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- (6) A candidate for election may nominate a scrutineer to assist in ascertaining the result of the election. However, a candidate for election may not act as a scrutineer.
  - (7) Subject to the Act and this By-law, a decision of the returning officer relating to an election, including a decision relating to the eligibility of a candidate or a voter or the result of the election, is final.

### **23 Rolls for University Members**

- (1) The returning officer is to ensure that the following rolls are kept for each University Member:
  - (a) a Roll of Academic Staff containing the names of the members of the full-time academic staff employed at the University Member and who have accepted and started duty in a position with tenure of one year or more,
  - (b) a Roll of General Staff containing the names of the members of the full-time general staff employed at the University Member and who have accepted and started duty in a position with tenure of one year or more, but whose names are not entered on a Roll of Academic Staff,
  - (c) a Roll of Undergraduate Students containing the names of the students who are enrolled at the University Member as candidates proceeding to an undergraduate degree, diploma or certificate, but whose names are not entered on a Roll of Academic Staff or a Roll of General Staff,
  - (d) a Roll of Postgraduate Students containing the names of the students who are enrolled at the University Member as candidates proceeding to a postgraduate degree, diploma or certificate, but whose names are not entered on a Roll of Academic Staff or a Roll of General Staff,
  - (e) a Roll of Graduates containing the names of graduates of the University, but whose names are not entered on a Roll of Academic Staff or a Roll of General Staff.
- (2) The returning officer must ensure that the rolls are available for each University Member by the close of nominations for an election.

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### **24 Graduates of University to be invited to enrol**

- (1) At least 6 months before the conduct of an election for a graduate member, the returning officer for the election is to publish a notice inviting graduates of the University or its predecessor institutions to register to vote in the election.
- (2) The notice is to be published in such newspapers or other publications as the returning officer considers appropriate.
- (3) The notice is to include information on how to register to vote.

### **25 Rolls for Office of Vice-Chancellor**

- (1) The returning officer must keep the following rolls:
  - (a) a Roll of Academic Staff containing the names of the members of the full-time academic staff employed in the Office of the Vice-Chancellor and who have accepted and started duty in a position with tenure of one year or more,
  - (b) a Roll of General Staff containing the names of the members of the full-time general staff employed in the Office of the Vice-Chancellor and who have accepted and started duty in a position with tenure of one year or more, but whose names are not entered on a Roll of Academic Staff.
- (2) The returning officer must ensure that the rolls are available for the Office of Vice-Chancellor by the close of nominations for an election.

### **26 Qualifications for candidates and voters**

- (1) The qualifications for election and voting for a member of the Board are as follows:
  - (a) **Academic staff member**

The qualifications for election as an academic staff member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Academic Staff at the close of nominations for the relevant election.



(b) **General staff member**

The qualifications for election as a general staff member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of General Staff at the close of nominations for the relevant election.

(c) **Undergraduate member**

The qualifications for election as an undergraduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Undergraduate Students at the close of nominations for the relevant election.

(d) **Postgraduate member**

The qualifications for election as a postgraduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Postgraduate Students at the close of nominations for the relevant election.

(e) **Graduate member**

The qualifications for election as a graduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on a Roll of Graduates at the close of nominations for the relevant election.

- (2) A person may not stand for election for more than one position as a member of the Board, even if his or her name is entered on more than one Roll kept under this By-law.
- (3) An election is not invalid merely because of the failure or refusal of a returning officer or other person assisting a returning officer to issue voting papers to, or to accept a vote from, a person who is not included in the relevant Roll.

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### **27 Calling of election**

- (1) If an election for an elected member of the Board is required to be held, the returning officer is to publish a notice referred to in subclause (5) on such official noticeboard or noticeboards of the University as the returning officer considers appropriate.
- (2) The returning officer may publish the notice in such other places or in such other manner as the returning officer considers appropriate, such as by use of ordinary mail or the University's internal mail system.
- (3) The notice is to be published no less than 7 days before the day nominations close in the election.
- (4) If practicable, the election is to be completed, and the result of the election declared, no later than 8 weeks after publication of the notice.
- (5) The notice must:
  - (a) state that an election is to be held for the position or positions concerned, and
  - (b) specify the term of office of the position or positions, and
  - (c) invite people to stand for election to the position or positions, and
  - (d) specify how nominations for election are to be made, and
  - (e) specify the date and time by which nominations must reach the returning officer or one of the polling officers, and
  - (f) specify the qualifications for election and for voting in the election, and
  - (g) provide any other information about the election that the returning officer considers it appropriate to provide.

### **28 Making of nominations**

- (1) A nomination of a candidate for an election of a member of the Board must:
  - (a) be made in writing, and
  - (b) be signed by the candidate and 2 other people who are eligible to vote in the election, and

- (c) be received by the returning officer by the time and date specified for the close of nominations.
- (2) There must be a separate nomination paper for each candidate and for each position.
- (3) A person may not nominate more than one candidate for the same position on the Board. If a person nominates more than one candidate, the returning officer is to accept only the first nomination received by the returning officer from that person.
- (4) For the purposes of subclause (3), all of the persons who sign a nomination paper (as provided for by subclause (1) (b)), are taken to have nominated the candidate.

**29 Dealing with nominations**

- (1) If 2 or more nominations of persons for election to the same position on the Board are accepted by the returning officer, there must be a ballot for the position concerned.
- (2) If only one nomination of a person for election to a position on the Board is accepted by the returning officer, the returning officer is to declare the person nominated to be elected.
- (3) If there are no valid nominations for election to a position on the Board, the returning officer is to call an election again in accordance with clause 27.

**30 Notice of ballot**

- (1) If a ballot is required, the returning officer is to publish a notice referred to in subclause (4) on such official noticeboard or noticeboards of the University as the returning officer considers appropriate.
- (2) The returning officer may publish the notice in such other places or in such other manner as the returning officer considers appropriate, such as by use of ordinary mail or the University's internal mail system.
- (3) The notice is to be published not less than 14 days before the day the ballot closes.

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- (4) A notice of ballot must:
  - (a) state that there will be a ballot for the position or positions concerned, and
  - (b) specify how people may vote in the ballot (including how ballot papers will be distributed to eligible voters), and
  - (c) specify the date and time by which ballot papers must reach the returning officer or one of the polling officers, and
  - (d) provide any other information about the ballot that the returning officer considers it appropriate to provide.

### 31 Conduct of ballot

- (1) Ballot papers may be distributed by post or by requiring eligible voters to attend a specified place or places managed or controlled by the University, at a specified time, in order to receive a ballot paper and vote in the election.
- (2) In the case of a ballot that is conducted by requiring eligible voters to attend a place:
  - (a) the returning officer is to ensure that each eligible voter who attends the specified place at the specified time receives a ballot paper, and
  - (b) the returning officer is to ensure that each eligible voter who applied for a postal vote before the close of nominations is posted a ballot paper.
- (3) In the case of a ballot conducted by post, the returning officer is to ensure that a ballot paper is posted to each eligible voter no less than 14 days before the ballot closes.
- (4) The returning officer may, on receipt of a written application, issue a duplicate ballot paper to an eligible voter, if the returning officer is satisfied that a ballot paper has been lost or destroyed.
- (5) The fact that a person whose name is on the relevant Roll of the University did not receive a ballot paper does not invalidate the election.
- (6) In this clause, a reference to an eligible voter is a reference to a person whose name is on the relevant Roll of the University at the date of the close of nominations for the elections.

**32 Material to accompany ballot papers**

Each ballot paper is to be accompanied by:

- (a) instructions for voting, and
- (b) a form of declaration of identity and entitlement to vote, and
- (c) 2 envelopes, one marked "Voting paper" and the other addressed to the returning officer or to a polling officer.

**33 Contents of ballot paper**

- (1) Each ballot paper is to contain the names of the candidates in the order determined by the returning officer.
- (2) The returning officer is to determine the order of the candidates on the ballot paper by lot.

**34 Method of voting**

- (1) Each voter who wishes to vote is to mark a vote on the ballot paper by placing the figure "1" opposite the name of the candidate to whom the voter wishes to give his or her first preference.
- (2) If the voter wishes to show his or her order of preference for any or all of the remaining candidates, the voter may do so by placing consecutive figures (starting with the figure "2") opposite the names of any of the remaining candidates so as to indicate, in numerical sequence, the voter's preference for them.
- (3) The voter must then:
  - (a) place his or her ballot paper, without anything else, in the envelope marked "Voting paper", and
  - (b) place this envelope, and the declaration of identity and entitlement to vote, in the envelope that is addressed to the returning officer or a polling officer, and
  - (c) send or deliver the envelopes to the returning officer or a polling officer by the close of the ballot.

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### **35 Procedure when ballot is closed**

When the ballot is closed, and not before, the returning officer or a polling officer must, in the presence of those scrutineers that choose to be present:

- (a) open all the envelopes addressed to the returning officer or a polling officer, and
- (b) confirm that each declaration of identity and entitlement to vote has been signed by an eligible voter, and
- (c) separate those declarations from the envelopes containing the ballot papers, and
- (d) open all the envelopes containing ballot papers and take out the ballot papers, and
- (e) count the votes, and find out the result of the ballot, in the manner referred to in clause 37.

### **36 Informal ballot papers**

- (1) A ballot paper is informal if it has any mark or writing that, in the opinion of the returning officer, would enable any person to identify the voter.
- (2) A ballot paper is informal if it has not been initialled by the returning officer or a polling officer.
- (3) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.
- (4) The returning officer is to reject any informal ballot papers and count the formal ballot papers.

### **37 Counting of votes**

- (1) Votes must be counted by the returning officer, with the assistance of the polling officers, in accordance with this clause.
- (2) The returning officer must count the number of first preference votes for each candidate.

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- (3) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the returning officer is to declare that candidate elected.
  - (4) If no candidate has an absolute majority of votes, the returning officer must exclude the candidate who has received the fewest number of first preference votes and each of the ballot papers counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.
  - (5) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by lot.
  - (6) The process referred to in subclauses (4) and (5) is to be continued until:
    - (a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared elected, or
    - (b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared elected (even if the number of votes is below an absolute majority of votes), or
    - (c) there are only 2 continuing candidates who have an equal number of votes, in which case the candidate to be elected is to be determined by lot and the successful candidate is to be declared elected.
  - (7) In this clause, a reference to a vote is a reference to a formal vote.

### **38 Terms of office of elected members**

- (1) The term of office of a person elected as an academic staff member, a general staff member, an undergraduate member or a postgraduate member of the Board is 2 years commencing on 1 January next following his or her election.
- (2) The term of office of a person elected as a graduate member of the Board is 4 years commencing on 1 January next following his or her election.

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Part 4 Staff, student and graduate members of Board

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- (3) If the office of an elected member of the Board becomes vacant otherwise than because of the expiration of the term of office of the office holder, and a person is appointed or elected to fill the vacancy, the term of office of that person is the residue of that term.

### 39 Filling of casual vacancy

- (1) If there is a casual vacancy in the office of academic staff member, general staff member, undergraduate member or postgraduate member of the Board, the following provisions apply:
- (a) if the vacancy occurs within the first 18 months of the term of that office, a person is to be elected in accordance with this By-law to hold the office for the residue of the term, and
  - (b) in any other case, the Board must appoint a person who is qualified to hold that office to hold the office of that member for the residue of the term.
- (2) If there is a casual vacancy in the office of graduate member of the Board, the Board must appoint the runner up in the most recent election for that position to hold the office of that member for the residue of the term. However, if the office cannot be filled in that way, the following provisions apply:
- (a) if the casual vacancy occurs within the first 36 months of the term of office of the graduate member, a person is to be elected in accordance with this By-law to hold the office for the residue of the term, and
  - (b) in any other case, the Board must appoint a person who is qualified to hold that office to hold the office of that member for the residue of the term.
- (3) In this clause:

*casual vacancy* in an office means a vacancy that occurs in that office otherwise than because of the expiration of the term of office.

*runner up* in an election means the person who, in the vote counting process at the election, was the last remaining candidate for election aside from the person who was declared elected.



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## **Part 5 Councils of University Members**

### **40 Membership of Councils**

A Council of a University Member is to consist of:

- (a) official members, and
- (b) appointed members, and
- (c) elected members.

### **41 Official members**

The official members of the Council of a University Member comprise:

- (a) the Chair of the Council (if the Chair of the Council is not otherwise a member), and
- (b) the principal executive officer of the University Member, and
- (c) the Chair of the Academic Board of the University Member.

### **42 Appointed members**

(1) The appointed members of the Council of a University Member comprise:

- (a) 8 persons appointed by the Board:
  - (i) who, in the opinion of the Board have an interest in Greater Western Sydney and its development or an interest in the students or other clients of the University Member, and
  - (ii) who, in the opinion of the Board, bring to the Board suitable levels of knowledge, skills and experience in matters such as strategic planning, human resources or educational or financial matters, and
  - (iii) at least two of whom are graduates of the University Member or any predecessor of the University Member, and

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Part 5 Councils of University Members

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- (b) one person appointed by the Board who is a member of staff or a student of the University Member, but not the principal executive officer of the University Member or the Chair of the Academic Board of the University Member.
- (2) The persons appointed as appointed members of the Council:
  - (a) must be chosen by the Board from candidates recommended by the Vice-Chancellor following consultation with the principal executive officer of the University Member, and
  - (b) except in the case of the person appointed under subclause (1) (b), must not be students of the University or members of staff of the University.
- (3) A person may not hold office as both an appointed member of a Council and a member of the Board.

### 43 Elected members

- (1) The elected members of the Council of a University Member comprise:
  - (a) two persons:
    - (i) who are members of the academic staff of the University Member, and
    - (ii) who have such qualifications as may be prescribed by rules made by the Board, and
    - (iii) who are elected by members of the academic staff of the University Member in the manner prescribed by rules made by the Board, and
  - (b) one person:
    - (i) who is a member of the general staff of the University Member, and
    - (ii) who has such qualifications as may be prescribed by rules made by the Board, and
    - (iii) who is elected by members of the general staff of the University Member in the manner prescribed by rules made by the Board, and

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- (c) one person:
- (i) who is an undergraduate student of the University Member, and
  - (ii) who has such qualifications as may be prescribed by rules made by the Board, and
  - (iii) who is elected by undergraduate students of the University Member in the manner prescribed by rules made by the Board, and
- (d) one person:
- (i) who is a postgraduate student of the University Member, and
  - (ii) who has such qualifications as may be prescribed by rules made by the Board, and
  - (iii) who is elected by postgraduate students of the University Member in the manner prescribed by rules made by the Board.
- (2) A person may not hold office as both an elected member of a Council and a member of the Board.

#### **44 Chancellor and Vice-Chancellor may act as members of Council**

The Chancellor and Vice-Chancellor may, without specific appointment, exercise a right of membership of each Council.

#### **45 Terms of office of members**

Subject to this By-law, a member of a Council holds office:

- (a) in the case of an official member, while the member holds office by virtue of which he or she is a member, and
- (b) in the case of an appointed member, for such term (not exceeding 2 years) as may be specified in the member's instrument of appointment, and
- (c) in the case of an elected member, for such term (not exceeding 2 years) as may be prescribed by rules made by the Board.

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Part 5 Councils of University Members

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### 46 Limited tenure in certain positions

- (1) This clause applies in respect of the following positions:
  - (a) appointed member of a Council,
  - (b) elected member of a Council.
- (2) A person who holds office in a position to which this clause applies for 2 consecutive terms is not eligible for re-election, or re-appointment to that position, if such re-election or re-appointment would result in the person holding office in that position for 3 consecutive terms.
- (3) However, the Board may grant a person an exemption from this clause, so as to enable the person to be re-elected or re-appointed to the position for a third consecutive term of office.
- (4) If so re-elected or re-appointed, the person is not eligible to be re-elected or re-appointed to the position for a fourth consecutive term of office.
- (5) If the office of a position to which this clause applies becomes vacant otherwise than because of expiration of the term of office of the office holder, and a person is appointed or elected to fill that office for the remainder of that term, that term of office of the person is not to be counted for the purposes of this clause, unless the remaining term exceeds the period of 1 year.

## Part 6 Rules

### 47 Rules

- (1) The Board may make rules for or with respect to any or all of the matters for or with respect to which rules may be made under the Act.
- (2) The Vice-Chancellor may make rules (not inconsistent with the rules of the Board) for the good conduct of the University.
- (3) Each Council and each principal executive officer of a University Member may make rules (not inconsistent with the rules of the Board or the Vice-Chancellor) for the good conduct of the relevant University Member.

**Note.** Section 41 (1) of the Act provides that the by-laws may empower any authority (including the Board) or an officer of the University to make rules (not inconsistent with the Act or the by-laws) for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 12 (5), 13 (2), 22 (1) (e) and (f) and 40 (1) (b) of the Act and clauses 1 (d) and (e) and 3 of Schedule 1 to the Act.

### 48 Publication of rules

- (1) If the Board makes a rule the Board must ensure that:
  - (a) the rule is published as follows:
    - (i) by means of a notice displayed on each of the official notice boards of the Office of the Vice-Chancellor and of each of the University Members,
    - (ii) by means of any relevant electronic method within the University (such as electronic mail or the Internet), and
  - (b) copies of the rule are made available for inspection at the Office of the Vice-Chancellor and the office of each principal executive officer.

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Clause 48 University of Western Sydney By-law 1998

Part 6 Rules

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- (2) If the Vice-Chancellor makes a rule, the Vice-Chancellor must ensure that:
- (a) the rule is published as follows:
    - (i) by means of a notice displayed on each of the official notice boards of the Office of the Vice-Chancellor and of each of the University Members,
    - (ii) by means of any relevant electronic method within the Office of the Vice-Chancellor and within the University (such as electronic mail or the Internet), and
  - (b) copies of the rule are made available for inspection at the Office of the Vice-Chancellor and the office of each principal executive officer.
- (3) If a Council or a principal executive officer makes a rule, the Council or principal executive officer must ensure that:
- (a) the rule is published as follows:
    - (i) by means of a notice displayed on each of the official notice boards of the relevant University Member,
    - (ii) by means of any relevant electronic method within the University Member, and
  - (b) copies of the rule are made available for inspection at the office of the principal executive officer.

**Note.** Section 41 (2) of the Act provides that a rule takes effect on the day on which it is published or on such later day as may be specified in the rule.

### 49 What if rules are inconsistent?

- (1) If the Vice-Chancellor, a Council or a principal executive officer of a University Member makes a rule that is inconsistent with a rule made by the Board, the rule made by the Board prevails to the extent of the inconsistency.
- (2) If a Council or a principal executive officer of a University Member makes a rule that is inconsistent with a rule made by the Vice-Chancellor, the rule made by the Vice-Chancellor prevails to the extent of the inconsistency.

- (3) If a principal executive officer of a University Member makes a rule that is inconsistent with a rule made by the Council of the University Member, the rule made by the Council prevails to the extent of the inconsistency.

**Note.** Section 41 (3) of the Act provides that in the event of any inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

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Clause 50 University of Western Sydney By-law 1998

Part 7 Miscellaneous

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## Part 7 Miscellaneous

### 50 Repeal of former By-law

- (1) The *University of Western Sydney By-law 1992*, made under the *University of Western Sydney Act 1988* and continued in force by clause 18 of Schedule 4 to the *University of Western Sydney Act 1997*, is repealed.
- (2) Any act, matter or thing that had effect under that By-law is taken to have effect under this By-law.
- (3) In particular, any rule made pursuant to a provision of the repealed By-law is taken to have been made pursuant to the corresponding provision of this By-law (subject to clause 19 of Schedule 4 to the Act).

**Note.** Clauses 18 and 19 of Schedule 4 to the Act continued in force the by-laws and rules made under the *University of Western Sydney Act 1988*.

### 51 Transitional—undergraduate and postgraduate members of Board

- (1) Clause 38 (1) does not apply to the term of office of the current undergraduate member of the Board and the current postgraduate member of the Board.
- (2) An election for an undergraduate member of the Board and a postgraduate member of the Board is to be held in accordance with this By-law in the month of April 1998 to replace the current undergraduate member and current postgraduate member of the Board, despite clause 21.
- (3) Despite clause 38 (1), the term of office of a person so elected as an undergraduate member or postgraduate member of the Board (*a new member*):
  - (a) commences the day after the term of office of the current undergraduate member or postgraduate member (as appropriate) expires or, if that occurs before the new member is elected, the day on which the new member is declared elected, and
  - (b) expires on 31 December 1999.



- (4) In this clause:

*current undergraduate member* of the Board means the person holding office as undergraduate member of the Board or postgraduate member of the Board by virtue of clause 5 (5) of Schedule 4 to the Act.

*current postgraduate member* of the Board means the person holding office as postgraduate member of the Board by virtue of clause 5 (6) of Schedule 4 to the Act.

**Note.** Clause 5 of Schedule 4 to the Act dissolved the Board of Governors of the University of Western Sydney. Under the Act, it was replaced by a Board of Trustees. Clause 5 (5) and (6) of Schedule 4 continued the term of office of the persons elected as undergraduate student member and postgraduate student member of the Board.

## 52 Transitional—graduate member of Board

- (1) The term of office of the person elected as the first graduate member of the Board is the period commencing on the date the person is declared elected and ending on 31 December 2001, despite clause 38 (2).
- (2) If at the commencement of this By-law an election for a graduate member of the Board has not been held:
- (a) the election is to be held in accordance with this By-law as soon as practicable after the commencement of this By-law, despite clause 21 (1) (e), and
  - (b) the notice referred to in clause 24 is to be published by the returning officer for the election as soon as practicable after the commencement of this By-law.

**Note.** Clause 13 of Schedule 4 to the Act allowed an election for the first graduate member of the Board to be called by the Vice-Chancellor before the commencement of section 12 to the Act. This clause makes provision for an election to be held if such an election was not called.