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|  | **Name of Item**  Communication &  Policy report | **Agenda Item**  (office use only) |
| **Paper for the Board** | **From:** Harry Rolf (8/10/2018)  **Name of Sponsor:** The Board | |
| **Draft resolution(s):**  **That the Board:**  **Nominate a Board member to work with the CPO on matters relating to the incorporation of CAUL**  **Seek advice from one of our institutions’ legal departments, and seek independent legal advice on our constitutions compliance with the Associations Act 1991.**  **Review the Aims, Objectives and Purpose statement of CAUL and update them as necessary to ensure that they are adequate for incorporation.**  **Confirm UA’s commitment to receive its assets in the event that the association winds up.** | | |
| Preparation for CAUL’s Incorporation I have prepared a draft constitution for CAUL’s incorporation and setup an [information page](https://www.caul.edu.au/news/caul-incorporation) (**login first**) to facilitate consultation and the draft and which describes the process of incorporation.  At this stage I recommend that the Board nominate a Board member to work with the CPO on matters relating to the incorporation of CAUL. While I can facilitate the process, it is a project that ultimately is the Executive Committee’s responsibility and one which needs the Board’s oversight.  **Feedback from CAUL 2018/2**  At the CAUL meeting 2018/2 two important questions emerged from consultation with members, along with series of minor amendments.   1. The kind of membership – should this be the university librarian or equivalent (individual) or the university (the organisation)? 2. The objects of the association – do the aims, objectives and purpose adequately describe CAUL, can they in their current form be used to justify our activity or do they need revision? 3. Minor amendments include:    1. A category of membership for CONZUL – possibly called an associate membership.    2. Allowing the appointed Board members to be external persons.    3. Definition of the appointment process for members of the board.    4. Consistent use of policy and regulations (consider one set of rules for both).    5. Confirm Universities Australia’s willingness to be mentioned under Clause 5.3.5 which makes them the recipient of assets should CAUL windup.   Questions one **[1]** and two **[2]** require the Board’s attention, and I will explain below how I propose that these are addressed.  **[1] The kind of membership**  Membership of CAUL is described under part 2 of the constitution, section 2.1 clause 2.1.1 as being ‘open to the University Librarian (or equivalent) of institutions which have representation on Universities Australia.’ This is consistent with how CAUL currently operates.  The question that was put is, although we have individuals as members, our fees are indicative of organisational membership. For example, $13,000 for an individual membership may be considered unusual. In other similar incorporated associations such as CAUDIT members are the universities. So this raises the question - who should the CAUL member be? Is there a correct approach?  In my review of the issue I have not found any rule in the Associations Act 1991 which says who the member must be, and in reviewing the constitutions of other similar associations and corporations I have only found that incorporated associations tend to designate the organisations as member ([such as CAUDIT](https://www.caudit.edu.au/corporate-documents)), and in corporations it may vary, in some cases there are provisions for both, such as in the constitution of the [Australasian Society of Association Executives](https://ausae.org.au/Constitution).  As far as I can tell there is not a correct approach. But there may be some steps that we can take to determine the best approach for CAUL.  We should ensure that our membership structure:   * Is compatible with our universities’ legal and risk requirements. * Is aligned with our objectives as an association. * Is aligned with legal requirements inherent in the Associations Act 1991 and the prescribed reporting requirements. * Allow us to operate effectively and protect our members from any risks associated with participation in CAUL (indemnity etc.).   To address this I recommend that the Board seek advice from one of our institutions’ legal departments, and seek independent legal advice on our constitutions compliance with the Associations Act 1991.  **[2] The objects of the association**  *Do the aims, objectives and purpose adequately describe CAUL, can they in their current form be used to justify our activity or do they need revision?*  Incorporation requires that CAUL submits a set of objects (objectives and purpose statement) to Access Canberra, these will bind our activity as an association – particularly in relation to what we raise finances for and expend finances on. Those from our current constitution are listed under Section 1.3 Aims and Objectives, but it may be pertinent to review these against our new purpose statement and create one concise set.  My recommendation is that the Board review the Aims, Objectives and Purpose statement of CAUL and update them as necessary to ensure that they are adequate for incorporation.  **Process of incorporation**  A summary of process of incorporation proposed by the CPO is as follows:   1. **[**[**Draft constitution**](https://www.caul.edu.au/sites/default/files/documents/caul-doc/constitution2018draft-70918.doc)**[[1]](#footnote-1)]** The Communication and Policy Officer prepared a draft constitution. The draft incorporates the existing constitution and capture current practice within CAUL and comply with requirements set out in the Associations Incorporation Act 1991[[2]](#footnote-2). 2. **[**[**Consultation process underway**](https://www.caul.edu.au/news/caul-incorporation)**[[3]](#footnote-3)]** The draft constitution was circulated for feedback from members ahead of the CAUL 2018/2 meeting in September. 3. **[September 20th ]** The draft constitution along with subsequent feedback was presented at the CAUL 2018/2 meeting for discussion. 4. **[September 21st ]** [A briefing paper and motion](https://www.caul.edu.au/sites/default/files/documents/meetings/caul20182constitution-briefing.docx)[[4]](#footnote-4) was put to the AGM recommending members to set a date for considering a Special Resolution which:    1. Confirms the name of the association;    2. Adopts the new constitution;    3. Approves a statement of the objects of CAUL (this is a statement of CAUL’s purpose and objectives as an organisation);    4. Authorises a person (nominally the Executive Officer) to apply for the incorporation CAUL and appoints them to be the Public Officer; and    5. Appoints the inaugural committee (the Board as described in the new constitution); 5. **[October 2018]** Any further consultation on the new constitution can take place and a final draft prepared for approval by CAUL. 6. **[December?]** Once the Special Resolution is passed the Public Officer can lodge an application for incorporation with Access Canberra. 7. **[Hold an inaugural AGM]** CAUL’s inaugural AGM will need to take place within 18 months of its incorporation. | | |

1. <https://www.caul.edu.au/sites/default/files/documents/caul-doc/constitution2018draft-70918.doc> [↑](#footnote-ref-1)
2. <http://www.legislation.act.gov.au/a/1991-46/default.asp> [↑](#footnote-ref-2)
3. <https://www.caul.edu.au/news/caul-incorporation> [↑](#footnote-ref-3)
4. <https://www.caul.edu.au/sites/default/files/documents/meetings/caul20182constitution-briefing.docx> [↑](#footnote-ref-4)