

CHARITABLE STATUS SUB-COMMITTEE REPORT

In February 2024, the Management Committee established a select sub-committee to prepare a detailed report examining the question of the Kentian Society seeking charitable status, and possible endorsement as a Deductible Gift Recipient (DGR).

Some people may consider that this question has already been thoroughly examined many years ago, and dismissed as being far too difficult to pursue. Others seem to think that the Kentian Society is simply one organisation comprising a group mostly involved with managing the school records/archives and Society membership and another smaller group which holds the bulk of funds so it can provide scholarships.

On this basis, it's felt by such people that the scholarship group is the logical one to be a charity and receive donations.

However, this view doesn't fully reflect the history of the Society since it began in the early 1990s, or the creation of the separate Scholarship Foundation in more recent years (see **Appendix One** for detailed background about the Society's history).

Moreover, given the Society's current lack of sustainable revenue and the poor prospects of increasing it through membership growth alone, the continued financial viability of the Society as an organisation is now seriously at risk.

On a more positive note, giving consideration to the question of the Society becoming a charity does provide an opportunity to articulate what it is really all about, now and into the future (see **Appendix Two** for information about the Society's possible key purposes).

Issues In Seeking to Become a Charity

To be endorsed by the ATO with DGR status (see **Appendix Three** for details about the steps needed to achieve this), an organisation must first be registered as a charity by the national charity regulator, the Australian Charities and Not-for-profits Commission (ACNC), which is responsible for deciding (in accordance with relevant legislation) if an organisation can be registered as a charity.

The law requires **all** of an organisation's purposes to be charitable, except for purposes that are "incidental or ancillary to" (that further or aid) the charitable purposes.

An organisation may have more than one purpose, and many activities, and still be a charity, as long as these all further the overall charitable purpose. However, if an organisation has non-charitable purposes and these do not further its charitable purpose(s), the organisation is unlikely to be registered as a charity.

The ACNC specifically says that a social club is unlikely to be considered a charity except where the social activities are provided to help meet a charitable purpose, for instance to help people who are socially isolated or disadvantaged. That's not the case with the Society.

The third object in the Society's current constitution ("to provide social benefits") is the type of statement specifically cited by the ACNC as being something that, while it might in fact benefit some members of the community, would not necessarily be charitable.

Moreover, the first two objects in the current Constitution are very vague and don't adequately address the two key charitable purposes the Society might wish to specify, namely, the advancement of both **education** and of **heritage and culture** in relation to the history of Kent Street Senior High School. A couple of examples can be given to illustrate this point.

First, the Society has long had an archives operation, but has not to date developed this into an ongoing public library or museum (either physically or digitally) which, given the significant history of the school, might seem to be a very attractive proposition.

Second, the possible development for instance of more active networking and mentoring among current and former staff and students, or support for research into (and publication of studies about) the history of public education in Victoria Park and its surrounds, as potential major activities of the Society in future would also be greatly assisted by explicitly linking such things to its purposes now.

In these instances, as well as the Society's other activities, a clear articulation of precisely how the educational and cultural purposes in its governing objects are paramount, and why any related social or recreational activities are merely incidental to those purposes, or simply a means of encouraging the involvement of alumni to further the Society's charitable aims, would greatly assist it being granted charitable status.

Suggested Structure for New Objects Rule in Constitution

Due to the diverse range of operations of an alumni group like the Kentian Society, there may be merit in a structure for the Objects section that captures that diversity while also ensuring that everything is still seen as meeting an overall charitable purpose.

To that end, the following three-part structure is recommended:

1. An explicit statement of the **Overarching Purpose** (or primary object) of the Society.
2. An outline of a sub-set of **Objects** that help further the primary object.
3. A detailed list of **Functions** that facilitate the various objects outlined.

Rather than simply fostering the "welfare" of alumni members (or providing "social benefits" to them), which for instance any social or sporting club could do, the objects should also explicitly be linked to clear charitable purposes and the wider public benefit.

The school has some unique advantages - a long history of public education, significant architectural features, a large intake area since its inception across the southern suburbs of Perth (and now even further afield), and an active archive operation and scholarship foundation developed over thirty years by its alumni group.

It's recommended that particular emphasis be given to continuing to develop the current archives into a library (of written records) and museum (for the display of physical artefacts) which is digitally or otherwise accessible by the wider community.

This all helps link the objects to the two most suitable charitable purposes of advancing education, and heritage and culture. The proposed amendments (together with a brief rationale for each change) are detailed in full at **Appendix Four**.

APPENDIX ONE: BACKGROUND

The Kentian Society was formed by past students and staff of Kent Street Senior High School following the school's highly successful 50th Anniversary celebrations in 1990. Like many other alumni groups, the initial impetus for establishing the Society was partly to provide social benefits to members.

For instance, when it was incorporated on 24 December 1992, becoming the first alumni association of a Western Australian Government high school south of the Swan River in Perth, three objects were specified in its constitution:

- iv. To support and assist Kent Street Senior High School;*
- v. To foster welfare of past, present and future students of Kent Street Senior High School; and*
- vi. To provide social benefits to members of the Society.*

However, from time to time other goals have become the focus of the Society's activities over the last thirty years. For instance, the Society's Strategic Plan endorsed late last year concentrates on four key pillars of the Society's current operations:

- **networking**, as part of its educational role supporting the current activities of the school, by facilitating more active mentoring and exchanges of information or services among current and former students and staff;
- **experiences**, by giving members the opportunity to volunteer in the archives or at school events, or to offer their expertise to the many services the Society provides, as another way to strengthen the Kent Street values (Respect for Learning, Resilience to Achieve, and Responsibility to our School and Community) its alumni all share;
- **giving back**, through volunteer experiences, or by supporting the Foundation's scholarship program, or by giving back to the broader community through social justice initiatives that align with Kent Street values; and
- **sharing stories**, to promote through all its communications greater knowledge of the history of the school and to inspire current and former staff and students by giving them examples of Kentians out in the world, making a difference, and thereby advancing education, heritage and culture.

Archiving began in 1994 soon after the Society was established. A small team of volunteers working in a spare office of the school's newly-opened Aviation Centre started collecting photos, pictures, programmes, textbooks, student uniforms and classroom material, departmental publications, and student enrolment forms. A digital database was later built using a computer purchased from a WA Lotteries grant.

In 2000, the archives moved to a storeroom (shared with Physical Education staff) that had been converted from the shower area of a former boys' change room. As the Society continued to acquire more donated storage equipment to hold old school records, it eventually became the sole occupant of the converted change room.

Meanwhile, some members of the Society had begun to think about using some of its surplus funds to provide scholarships to worthy students. This idea grew, and the first scholarship was awarded in 2004. This process continued over the next five years during which time the Society's funds grew considerably through alumni donations.

In 2009, a large endowment led to the setting up a scholarship trust overseen by a small sub-committee of Society office-holders and the school principal. However, as the Society was considered to be a social club by the Australian Taxation Office (ATO) due to the objects in its constitution, it was deemed ineligible to be granted charitable status.

A decision was eventually made to transfer a significant amount of the Society's funds to a new body called the Kentian Scholarship Foundation, with a separate board (the former sub-committee) managing the scholarship trust holding those funds.

The balance of the Society's funds were mostly earmarked to meet the cost of moving the archives to a converted storage area in the Science wing, along with the additional cost of furnishing an adjacent office provided by the school, as well as paying for the Society's planned involvement in the school's 70th Anniversary celebration in 2011.

It may have been assumed that the Society could simply replace (at least in part) the spending of those considerable funds with membership contributions. However, that scenario was and continues to be most unlikely as the vast majority of Society members (over 80 per cent) are original or society life members who simply paid \$100 each when they first joined and have contributed nothing more to membership revenue since then.

The Foundation was successfully registered as a charity in 2012, and presented its first academic scholarship that year. Since then, the number of scholarships funded by it has grown considerably. Its structure changed on 20 January 2023 to become an incorporated association, with a management committee instead of a board, and it is now legally separate from the Society. As its sole purpose is as a charity, none of its funds can be paid or returned to the Society.

Following the move to the new area in the Science wing, the archives group began organising interactive displays of its historical artefacts as part of the school's annual orientation day for Year 7 students. Volunteers also undertook the huge task in 2018 of retrieving all the stored student enrolment forms for transfer to the Education Department until the end of the Royal Commission into Child Sexual Abuse, thereby relieving school staff of the need to do this additional work.

However, the impact of the Covid-19 pandemic on activities in the school since 2020 has brought greater awareness that the Society can and must be involved in more than simply providing social benefits to members.

Moreover, given the current lack of sustainable revenue and the poor prospects of increasing it through membership growth alone, the continued financial viability of the Society is now seriously at risk.

On a more positive note, giving consideration to the question of the Society becoming a charity does provide an opportunity to articulate what it is really all about, now and into the future.

APPENDIX TWO: POSSIBLE KEY SOCIETY PURPOSE

A proper consideration of the purpose of the Society really needs to take into account the relatively unique circumstances of Kent Street Senior High School, which has historical and cultural heritage significance for several important reasons that should underpin everything the Society does as an alumni group.

The Victoria Park district started its life as a small country town on the southern side of the Perth Causeway. Brick yards, pigsties, blacksmiths, timber yards and soap factories occupied land on either side of Albany Road then. By the 1930s, the suburb's character had taken shape, being described by Philip Masel in a 1937 detective novel (In A Glass Prison) as "a working man's district" because the land was cheap and the suburb was within easy distance of the city and close to the railway sheds and tramway terminus.

The Kent Street school when it opened was only the third secondary school facility in the State, and the first south of the Swan River in metropolitan Perth, to be built independent of an existing primary school. The place has long been valued by the local community, and by the community of its former students, for providing educational facilities since 1940 that have been innovative, and responsive to community expectations.

It has a long history of high academic standards. At the same time, the establishment of various specialist courses, such as formal pre-vocational training and an aeronautics course, provides evidence of State Government policy changes over time to address the increasing retention in the upper school of non-tertiary oriented students, an increase due largely to reduced employment prospects for school leavers.

The school still has many of its original group of buildings, which have a definite 'Art Deco' feel. The theme of the earlier buildings, with a red base and painted above, has been carried through into the later buildings, so, even though the styles are quite different, there is a cohesiveness to the whole complex and it is on the State Heritage Register.

This co-existence of old and new at the school also forms the central characteristic of the entire district of Victoria Park, with its modern units co-existing with Federation style homes and weatherboard cottages.

As a result, the Society is especially well-placed to promote knowledge of the history of the school (to respect the old while catering for the new) by making it available to the broader public community, including current and former staff and students, and thereby advancing education, heritage and culture. That might be said to be its key purpose.

APPENDIX THREE: STEPS NEEDED TO ACHIEVE ENDORSEMENT AS A DGR

Prior to the establishment on 3 December 2012 of the national charity regulator, the Australian Charities and Not-for-profits Commission (ACNC), it was the role of the Australian Tax Office (ATO) to decide if an organisation was a charity in order to assess eligibility for charity tax concessions.

While it is now the ACNC's responsibility to assess an organisation's eligibility for registration as a charity, the ATO remains responsible for deciding eligibility for charity tax concessions.

If an organisation is endorsed (officially recognised) by the ATO as a Deductible Gift Recipient (DGR), it has the following advantages:

- people who make gifts or donations to it are able to 'deduct' those gifts for their own income tax purposes (that is, the donor can claim the donation as a deduction when filing their personal income tax return); and
- it can receive funds from certain grant makers and philanthropic bodies, which are only able to give money to organisations that have DGR status.

So, when one sees the wording 'donations over \$2.00 are tax deductible', it's worth remembering that the organisation offering this as an incentive to the donor has first been 'endorsed' by the ATO as a DGR.

It's important to be aware that ACNC registration and DGR registration are two separate processes. Even if a not-for-profit registers as a charity, it does not necessarily mean it will have DGR status and vice-a-versa.

So, although the ACNC will collect information in respect of an application and pass this on concurrently to the ATO for possible DGR endorsement, it will not make the decision as to whether it will be approved or not.

'Charity' now has a technical legal meaning, which is set out in the *Charities Act 2013 (Cth)* (the Charities Act). When the ACNC registers an organisation as a charity, it registers it with one or more charity 'subtypes' provided for in the Charities Act.

These subtypes are categories that reflect the charity's charitable purpose – for example 'advancing education' or 'advancing health'. A charity's purpose is the reason it has been set up, or what its activities work towards achieving.

The Charities Act clarifies that to be recognised as a charity, an organisation must have only charitable purposes that are for the public benefit. A charity's purpose is considered to be for the public benefit if achieving that purpose would be of benefit to the general public, or to a 'sufficient section of the general public'. The definition maintains that certain purposes (for example, advancing education or religion, or relieving poverty) are, in the absence of evidence to the contrary, for the public benefit.

It must be remembered that the ACNC looks not only at an organisation's governing documents, but also at the activities undertaken by the organisation when determining what its **true** purpose is.

Generally, the ACNC will decide what an organisation's purposes are by looking at:

- the organisation's governing documents (for example, its constitution, rules or deed) – these usually set out its purpose or 'objects'; and
- other types of evidence, such as the organisation's activities, annual reports, financial statements and corporate documents.

Nevertheless, the objects specified in an organisation's constitution are an important starting point for the ACNC when deciding whether to register it as a charity.

Consumer Protection, which is the State Government agency that oversees all incorporated associations like the Society, recommends that they regularly review their rules to ensure they are relevant and compliant.

So, if there is any potential for confusion (and possible rejection of an application for charitable status), then it is often better to clarify matters by reviewing the constitution and then amending it if need be by putting a special resolution to the membership.

If passed, the constitutional changes then need to be lodged with Consumer Protection for approval before they can take effect.

In summary, the Society will need to take the following steps:

1. Amend its constitution to meet the ACNC requirements regarding charitable purposes.
2. Get the amended constitution approved by Consumer Protection.
3. Then lodge an application with the ACNC to be registered as a charity.
4. The ACNC will forward the application to the ATO for concurrent consideration for endorsement as a DGR.

APPENDIX FOUR: PROPOSED AMENDMENTS TO CONSTITUTION

Outlined below is a range of proposed amendments to the Society's constitution, together with a brief rationale (underlined and in italics for each alteration), to give effect to the changes needed to help the Society achieve charitable status.

To avoid confusion, and possible rejection of an application for charitable status, it would be better to specify the Society's objects more clearly and comprehensively in terms of their intended charitable purpose, and more closely aligned with the many activities of the Society (both now and in the future).

In doing so, a clearer articulation to the effect that any related social or recreational activities are merely incidental to the key charitable purposes, or simply a means of encouraging the involvement of alumni to further the Society's charitable aims, would also greatly assist it being granted charitable status.

Amendment 1

That PART 1 - NAME be changed from the following:

'The name of the Association is the Kentian Society (Inc), here after referred to as the Society.'

by the insertion of a new rule 1 to read as follows:

'1. Name

The name of the Association is the Kentian Society (Inc), hereafter referred to as the Society.'

New rule 1

At present, PART 1 - NAME and PART 2 - OBJECTS of the constitution do not have numbered rules.

To bring them in line with the format followed in the rest of the constitution (particularly as it is proposed that the Objects section will have a new multi-part structure as outlined earlier), it is recommended that these rules should now be numbered, and all subsequent rules would then be re-numbered accordingly.

A minor typo or spelling mistake, 'here after' (sic), is also corrected.

Amendment 2

That PART 2 - OBJECTS be changed from the following:

'The objects of the Society are:

- (i) to support and assist Kent Street Senior High School;*
- (ii) to foster welfare of past, present and future students of Kent Street Senior High School; and*
- (iii) to provide social benefits to members of the Society'*

by the insertion of a new rule 2 to read as follows:

'2. Objects and Functions

- (1) The Society is established to be a charity whose primary object is to advance education, heritage and culture and thereby benefit the community as a whole by:
 - (a) supporting and assisting Kent Street Senior High School (the School);
 - (b) fostering the welfare and learning of past, present and future students of the School; and by
 - (c) promoting knowledge of the history of the School by working towards the establishment of, and then operating, a Kentian Society Library and Museum which is digitally or otherwise accessible by the wider community.
- (2) Without limiting rule 2(1), each of the following objects and purposes shall be regarded as furthering the primary object of the Society:
 - (a) to preserve and enhance the reputation and traditions of the School by raising awareness in the wider community of the important role the School has played, and continues to play, in the Western Australian community and the contributions to Australian society made by the School's alumni;
 - (b) to support the current activities of the School and of present students and staff, and to encourage and facilitate similar support by former students and staff, by encouraging and assisting former students and staff to renew and maintain their associations with the School and by facilitating contact and communication among former students and staff;
 - (c) to preserve and maintain records and archives of the School and its students and staff, and to encourage and facilitate the recording of the history of the School and its students and staff, and the primary and secondary schools which have fed into it over time, for the benefit of the wider community;
 - (d) to promote and support the Kentian Society Library and Museum, and the Kentian Scholarship Foundation (Inc); and
 - (e) to do anything incidental or ancillary to carry out any of the above objects.

- (3) In order to achieve its objects, the Society shall establish structures and ensure resourcing to facilitate the following functions:
- (a) using the ethos and values of the School as a means of promoting the various activities of the Society and ensuring that the name, reputation and traditions of the School are upheld within the School and the community;
 - (b) encouraging the involvement of former students and staff as volunteers and mentors in the activities of the School, and promoting and providing support for reunions and other meetings of former students and staff, with the view to supporting present students and staff and enabling students to develop their full potential;
 - (c) ensuring that, consistent with relevant legislation dealing with the privacy of personal information, the records of the School are preserved and the history of the School and its students and staff is preserved, interpreted and published for the benefit of the wider community, by:
 - (i) acquiring, either by purchase, donation or otherwise, and preserving records and artefacts of any description, that may be relevant to the history of the School;
 - (ii) collecting and making available to the wider community biographical and statistical information regarding former students and staff;
 - (iii) compiling and making available to the wider community oral and written histories of former students and staff during their time at the School and after their departure;
 - (iv) identifying and interpreting the historical significance to the original owners of the land on which the School is located for the wider understanding of the community;
 - (v) undertaking research and collecting, analysing, classifying and making available to the wider community data and information in relation to the history of the School, including, without limitation, its buildings and grounds, educational methods, selection criteria and processes, subjects offered, results achieved and other related matters;
 - (vi) aiding the advancement of knowledge through research into collections, and into such other matters, and by publishing the results of such research;
 - (vii) aiding the work of universities, State and Commonwealth institutions and schools, and independent schools by making available the collections, displays, publications and oral and written histories of the Kentian Society Library and Museum;
 - (viii) training employees and volunteers of the Society in the making, repair, caring for, researching into, recording and displaying of collections of the Kentian Society Library and Museum;

- (d) encouraging donations and bequests to the Kentian Society Library and Museum, and to the Kentian Scholarship Foundation (Inc), for the benefit of the School and School activities;
- (e) liaising regularly, and where appropriate collaborating, with other official bodies that form part of the School, including but not limited to the School Board and the School Parents & Citizens' Association (Inc); and
- (f) initiating projects and processes incidental or ancillary to any of the above objects, purposes and functions.'

New rule 2(1)

This is a statement of the Overarching Purpose (or primary object) of the Society.

It explicitly notes that:

- the Society is established as a charity;
- its primary object is to advance education, and heritage and culture, which are both legislated purposes; and
- this is intended to be for the benefit of the wider community (not just members).

New rule 2(1)(a)

Captures part 1 of the old objects ("support and assist the school").

New rule 2(1)(b)

Captures part 2 of the old objects ("foster welfare of alumni").

New rule 2(1)(c)

Replaces part 3 of the old objects ("provide social benefits to members") with an explicit statement about the centrality of the intended development of the Society's archives into a library and museum, again for the benefit of the wider community.

New rule 2(2)

This is an outline of a sub-set of objects that further the primary object.

Again, it emphasises how the educational and cultural purposes in the governing objects are paramount.

Importantly, it doesn't do away with social or recreational activities but correctly notes that they are incidental and intended to be a means of encouraging the involvement of alumni to further the Society's charitable aims.

Sub-rules 2(2)(a)-(e) are intended to reflect the wide range of activities (both now and into the future) currently covered for instance in the Society's Strategic Plan, as shown below.

New rule 2(2)(a)

This focuses on raising awareness in the wider community of the significance of the school and the contributions made by its alumni.

New rule 2(2)(b)

This focuses on the role of alumni in supporting the school by re-connecting with it through volunteer activities, communications, and other experiences. The emphasis is on social interaction to help achieve the overarching charitable purposes.

New rule 2(2)(c)

This focuses in particular on the benefit to the wider community from the preservation of records in the archives, and promotion of the history of the school, its alumni, and the wider school catchment area.

New rule 2(2)(d)

This focuses on support for two important arms of the Society (a proposed library and museum, and the separate scholarship foundation). The emphasis again is on social interaction being a means to help achieve the overarching charitable purposes.

New rule 2(2)(e)

This is a general statement that incidental or ancillary activities may also be undertaken, but only if they help achieve the overarching charitable purposes.

New Rule 2(3)

This is a detailed list of functions to help achieve the various objects. The emphasis is on the structures and resourcing needed to give effect to the Society's charitable aims.

New rule 2(3)(a)

This focuses on giving effect to rule 2(2)(a) by using the values of the school as a means of promoting the society

New rule 2(3)(b)

This focuses on giving effect to rule 2(2)(b) by encouraging the involvement of alumni in activities to further the Society's charitable aims

New rule 2(3)(c)

This focuses on giving effect to rule 2(2)(c) by development of the Society's archives into a public library and museum, again for the benefit of the wider community.

It breaks things down into a number of specific activities (as outlined below).

New rule 2(3)(i)

Acquisition and preservation of records and artefacts.

New rule 2(3)(ii)

Information about alumni - databases, analysis and information.

New rule 2(3)(iii)

Oral and written histories.

New rule 2(3)(iv)

History of original land owners (including First Nations people).

New rule 2(3)(v)

Undertaking research on wide range of matters.

New rule 2(3)(vi)

Aiding research by others, for publication by Society.

New rule 2(3)(vii)

Specifically aiding research by educational institutions.

New rule 2(3)(viii)

Training workers in proper archival and historical methods.

New rule 2(3)(d)

This focuses on giving effect to rule 2(2)(d) by encouraging donations and bequests.

New rule 2(3)(e)

This focuses on giving effect to rule 2(2)(a)-(d) by liaison with other school bodies.

New rule 2(3)(f)

This focuses on giving effect to rule 2(2)(e) by again making a general statement that incidental or ancillary activities may also be undertaken, but only if they help achieve the overarching charitable purposes.

Amendment 3

That, following the insertion of new rules 1 and 2, all subsequent rules be re-numbered accordingly.

This is simply a procedural amendment. As noted earlier, PART 1 - NAME and PART 2 - OBJECTS of the constitution do not have numbered rules at present.

To bring them in line with the format followed in the rest of the constitution, it is recommended that their rules should now be numbered, and then all subsequent rules re-numbered accordingly.