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23<sup>rd</sup> August 2021

Charity Commission  
Via online submission

Re: Stradbroke Sports & Community Centre Charity No. 304823 (the Charity)

**1. A brief history of the Parish Council's involvement with the community centre**

- 1.1. Land was conveyed by the Parish Council to the Charity in 1965. The conveyance document serves as the current constitution and states that the land is held in trust for the purposes of a village hall. In 1994, an additional adjoining piece of land was conveyed to the Charity by the Parish Council to enable the existing Sports & Social Club to be incorporated into the plans for a new extended community centre.
- 1.2. The 1965 constitution states that the Management Committee is to be made up of 11 Trustees appointed by the village groups listed in the second schedule (the Parish Council being one of these), together with 5 Trustees elected at the AGM, and 3 Trustees Co-opted by the Management Committee, therefore 19 Trustees in total. In accordance with the constitution, additional groups/trustees have been added to the original list of village groups – 2 in 2009, including an additional appointee from the Parish Council, and another 4 nominating groups added at the 2021 AGM. The constitution was amended at the 2021 AGM to allow for the removal of the nominating groups that no longer exist, namely Stradbroke Youth Organisation and Stradbroke Young Farmers. Therefore, currently the maximum number of Trustees that could make up the Charity's Management Committee is 23 – although 5 village groups have not appointed a Trustee for some time.
- 1.3. There are currently 13 Trustees in post. 7 Trustees appointed by village groups, 5 Elected Trustees and 1 Co-opted Trustee. There are 2 village groups that have yet to appoint their Trustees for the coming year following the retirement of their appointed Trustees (table attached for reference - see page 5).

**2. Current matters**

- 2.1. Stradbroke Sports & Community Centre is currently operated as an unincorporated charity and is undertaking work to establish a CIO and to transfer the assets of the Charity to the new CIO.
- 2.2. The Parish Council supports the decision of the Trustees to convert to a CIO and welcomes the comments by the committee members leading on this project who stated

in their report to the AGM in June 2021: *“The changes are to modernise and the text is standard, **with minimum deviation from the original 1965 document**; prepared in the best interest of the Centre.”* (Copy of AGM report attached – see page 6).

2.3. The Parish Council would also like to see the 1965 constitution replicated as closely as possible. In a submission to the AGM the Parish Council recommended to the Charity that the best CIO constitution template for this would be the one published by ACRE and approved by the Charity Commission. However, the proposed constitution is based on the Foundation model template available from the Charity Commission, with amendments made.

2.4. Although the Parish Council acknowledges the changes made to the draft constitution following the representations at the AGM, some areas of concern raised in the Parish Council’s submission to the AGM remain outstanding and should be addressed at this stage. (Copy of Parish Council submission to AGM attached – see pages 7 & 8).

### 3. Areas of concern:

#### A. Clause 9.3 – Number of Trustees

The Charity’s current constitution lays out that over 60% of Trustees are appointed by village groups and if the original constitution is not to be deviated from then this ratio should be replicated as far as possible in the new constitution where the maximum number of Trustees is noted as 12.

To keep the ratio more aligned with the 1965 constitution the following amendment is necessary and would be in line with the wording in the Clause 9.3.3 (i), (ii) and (iii) of the ACRE template:

- Up to **three** trustees **elected**
- Up to **seven** trustees **appointed by nominating bodies**
- Up to **two** trustees **co-opted**

Proposals for how the Trustees are to be appointed are laid out in the proposed constitution in Clauses 10.1 to 10.3, and these will be addressed later in this document.

#### B. Clause 9.3.2.1

This clause contains a typing error: “... up to five charity trustees *appointed*” – this should read **elected** as it refers to Elected Trustees.

#### C. Clause 9.4 – First Charity Trustees

The first trustees listed in the draft constitution for the proposed CIO are only those “elected” to the predecessor Charity. This is an unequal treatment of the current trustees at the point of conversion. A more fair and equal course of action would be that the “first Trustees” are either a selection of appointed, elected and co-opted current Trustees or that all the Trustees in post at the time of conversion are appointed as “first Trustees” of the new CIO.

#### D. Clause 10 – Appointment of Trustees

##### Clause 10.1 – Elected Trustees

- Clause 10.1.1 contains a typing error – “Elected Trustees shall be appointed ...” It should read “Elected Trustees shall be elected...”
- Clause 10.1.1 states Elected Trustees serve a 3 year term.

- Clause 10.1.3 implies that a vote would only take place if there is more than 1 candidate. This clause should be amended to ensure that a vote always takes place, this would ensure that those present and voting at the AGM are able to determine whether the candidates are right for the role with the skills required to fulfil the objects of the CIO, even if there is only one candidate per vacancy.

#### Clause 10.2 – Nominated Trustees (all clauses)

- Clause 10.2.1 describes what constitutes a “Nominating Body”, but continues that Trustees are to agree to the “Nominating Body”. The wording of this section would result in the current Trustees not only selecting on an annual basis which groups could become “nominating bodies” (Clause 10.2.1), but also enabling the same Trustees to select their preferred candidates from those “nominated” annually (Clause 10.2.3).
- This entire method of selecting trustees is confusing and undemocratic. There is no independence given to the nominating bodies to appoint their own preferred candidate.
- Both the Charity Commission and ACRE model templates make reference to Nominated Trustees and these templates are clear that it is the nominating bodies themselves who are responsible for appointing Trustees. The wording in either Clause 10 – Option 2 paragraph 3 (a) to (f) of the Charity Commission’s Foundation model or Clause 9.5 of the ACRE model is more suitable than the wording included in the proposed constitution. The Clauses from the model templates are more aligned to the current constitution which all parties agree should, where possible, be replicated and not deviated from.
- In addition to the Parish Council, there are 4 other village groups named in the original 1965 constitution which are still active and regularly appoint Trustees to the Charity’s Management Committee (Women’s Institute, Over-Sixty Club, Tennis Club and Bowls Club) and these groups, as a minimum, should be named in the proposed constitution as Nominating Bodies, this would reflect the current constitution.
- This class of Trustee is only permitted to serve a 1 year term (Clause 10.2.4). This suggested term of office is an unequal treatment of Trustees given that Clause 10.1.1 states that Elected Trustees will serve a 3 year term.

#### Clause 10.3 – Co-opted Trustees

- There is a typing error in Clause 10.3.1 – the term “Appointed” Trustees should be Nominated Trustees.
- Clause 10.3.3 states that Co-opted Trustees will be appointed for a 1 year term. This is an unequal treatment of Trustees as it is proposed that Elected Trustees will serve 3 year terms.

#### **E. Clause 12 – Retirement and Removal of Charity Trustees**

Currently, the proposed constitution allows Elected Trustees to serve two consecutive 3 year terms (Clause 12.3). There is no guarantee that a Nominated or Co-opted Trustee will be able to serve longer than a one year term given the method of selection highlighted in Clause 10.2 and 10.3. This is not a fair and equal treatment of all classes of Trustee.

#### **F. Clause 4 – Powers**

A word may be missing from sub clause 4.1.1 as the clause does not make sense. As written the Power grants permission for CIO is to hire its own property:

*“4.1 ..... In particular, the CIO has the power to: (4.1.1) Hire the CIO’s property.”*

#### **G. No clause number – casual vacancies**

There is no mention in the proposed constitution of how casual vacancies are to be filled and the wording in Clauses 9.8 and 9.10 in the ACRE model would be appropriate to include and would rectify this omission.

#### **H. Leases**

There are two leases in existence for parts of the premises. The first being a lease between the Charity and the Stradbroke Sports & Social Club, this document leases the Sports Club building (currently known as the Club Room) to the Sports & Social Club for 99 years from 1995. The second lease is between the Charity and the Parish Council for the Play Park adjacent to the Centre, the play park being leased to the Parish Council in 2017 for a period of 25 years. Agreement will be needed from both the Stradbroke Sports & Social Club and the Parish Council to enable the current leases to be assigned to the new CIO before the Charity can transfer its assets across to the CIO and close, subject to the conditions laid out in the 1965 constitution.

#### **4. Recommendation**

The Parish Council is seeking support from the Charity Commission in addressing the areas of concern within the draft constitution for the proposed CIO, and in particular the unequal treatment of existing Trustees of the current Charity and future Trustees of the CIO.

The Parish Council recommends that the draft constitution is reviewed and that Clauses 9.3, 9.4, and 10 in the proposed constitution are reviewed and updated.

The Parish Council also recommends that Clauses 9.8 and 9.10 from the ACRE model template are added.

These amendments will ensure that the 1965 constitution is fully considered and reflected in the proposed constitution for the CIO.

The suggested amendments will provide protection to the existing Trustees of the Charity and ensure that all current Trustees are treated fairly and equally at the point of conversion and that all Trustees of the proposed CIO will also be treated equally in the future.

Yours sincerely

*Odile Wladon*

Miss Odile Wladon

Clerk to the Council

#### **Appendices:**

1. Table of Trustees (page 5)
2. Report to AGM on CIO Constitution (page 6)
3. PC comments to AGM (pages 7 & 8)

## Stradbroke Sports and Community Centre

Make up of “Committee of Management” as per 1965 Constitution, as amended in 2009 and 2021.

|    | Type / Appointing Body                              | Year position included in constitution | Trustee as per AGM June 2021<br>( <i>Elected Officer</i> )    |
|----|---|--|---|
| 1. | Elected at AGM                                      | 1965                                   | Jane Merritt ( <i>Chair</i> )                                 |
| 2. | Elected at AGM                                      | 1965                                   | Don Darling ( <i>Vice Chair</i> )                             |
| 3. | Elected at AGM                                      | 1965                                   | Richard Alexandre ( <i>Treasurer &amp; Bookings Manager</i> ) |
| 4. | Elected at AGM                                      | 1965                                   | Gillian Rennie-Dunkerley ( <i>Secretary</i> )                 |
| 5. | Appointed to fill casual vacancy at July 21 meeting | 1965                                   | Nick Stones   |

|     |                                     |      |                              |
|-----|-------------------------------------|------|------------------------------|
| 1.  | Appointed: Parish Council           | 1965 | Toni Wisbey                  |
| 2.  | Appointed: Parish Council           | 2009 | Kamal Ivory                  |
| 3.  | Appointed: Senior Football          | 1965 | Mary Ellis                   |
| 4.  | Appointed: Tennis Club              | 1965 | Mary Ellis                   |
| 5.  | Appointed: Bowls Club               | 1965 | Mary Ellis                   |
| 6.  | Appointed: W.I.                     | 1965 | <i>Vacancy since June 21</i> |
| 7.  | Appointed: Over 60s                 | 1965 | Neale McConnell              |
| 8.  | Appointed: Table Tennis             | 2021 | <i>Vacancy since June 21</i> |
| 9.  | Appointed: Stradbroke All Stars     | 2021 | Julia Nowell                 |
| 10. | Appointed: Youth Football           | 2021 | Lucinda Cockerill            |
| 11. | Appointed: Everyone Active          | 2021 | Maria Smith                  |
| 12. | Appointed: Royal British Legion     | 1965 | <i>Long Term Vacancy</i>     |
| 13. | Appointed: Parochial Church Council | 1965 | <i>Long Term Vacancy</i>     |
| 14. | Appointed: Baptist Church           | 1965 | <i>Long Term Vacancy</i>     |
| 15. | Appointed: Contact Club             | 2009 | <i>Long Term Vacancy</i>     |

|    |                       |      |                  |
|----|-----------------------|------|------------------|
| 1. | Co-opted by committee | 1965 | Roger Turkington |
| 2. | Co-opted by committee | 1965 | <i>Vacancy</i>   |
| 3. | Co-opted by committee | 1965 | <i>Vacancy</i>   |

|    | Appointing village group      | Year removed from constitution | Reason            |
|----|-------------------------------|--------------------------------|-------------------|
| 1. | Stradbroke Youth Organisation | 2021                           | Ceased to operate |
| 2. | Stradbroke Young Farmers      | 2021                           | Ceased to operate |

## **AGM June 2021 Report from the CIO Working Party – RT, RA, DD and JM**

The Committee started investigating conversion to a CIO at the beginning of 2021. The final draft reflects decisions made by the Committee and advice received from our Solicitor.

Conversion to a CIO is a significant change. It gives us the opportunity to update and modernise our constitution. It's important to note, however, that the vast majority of the document is standard Charity Commission text.

Creation of the CIO, transfer of assets and closure of the current Charity will take many months to complete and the Community Centre will continue to operate under the existing Constitution until that happens.

The new Constitution will allow for the creation of sub-committees as well as alternative membership categories enabling, for example, compliance with licensing regulations or the operation of a social club.

Just as now, all Trustees will have equal rights and responsibilities and must at all times act in the best interests of the Community Centre. We will continue to aspire to recruit Trustees with the necessary experience and skills.

This draft was finalised following decisions by the Committee and advice from our Solicitor. The draft Constitution has been presented to all previous Trustees, the Secretary (MS) has written to all Organisations and through publicity we have done our best to make the Village aware of the proposed changes.

The draft prepared reflects the advice from the Solicitor. The changes are to modernise and the text is standard, with minimum deviation from the original 1965 document; prepared in the best interest of the Centre.

## **Stradbroke Parish Council's response to Stradbroke Sports & Community Centre's Proposed Draft CIO Foundation Constitution**

The Parish Council has twice given land to the Community Centre's Management Committee in trust, once in 1965 when it was the Village Hall Trust and again in 1994 when it became the Stradbroke Sports & Community Centre. This trust is reflected in the 1965 Conveyance which acts as the Community Centre's current constitution.

The Parish Council supports the decision by Trustees to convert to a CIO only where the 1965 constitution is replicated. The measures that are important to this support include:

1. that all Trustees are equal,
2. that proper governance is adhered to, and
3. that any consequences of a variation to the current Constitution are fully addressed.

The most important aspect to the Parish Council's support is that the conversion should not lead to any Trustee being given more power or status than any other Trustee, nor should any current Trustee be placed at a disadvantage from any conversion or constitutional change.

### Proposed Constitution

The tabled draft constitution is based on the Charity Commission's model template for a foundation CIO. However, there have been significant alterations made to this model to enable it to reflect the workings of a village hall or community centre committee.

The most notable changes which give the Parish Council cause for concern are as follows:

#### **A.** Clause 4 has been altered and is now overly complicated and wordy.

**Impact:** The revised wording may not be acceptable to the Charity Commission as it varies significantly from their model.

#### **B.** Clause 9 has been amended as follows:

- Clause 9.3.1 notes there will be a maximum number of 12 Trustees.
- Clause 9.3.2 states that these 12 Trustees will consist of up to: 5 "elected", 4 "appointed" and 3 "co-opted" Trustees.
- Clause 9.4 notes that the "first charity trustees" will be those "elected" to the predecessor Charity.

**Impact:** The suggested wording significantly changes the intention of the original 1965 Constitution where 19 Trustee positions are classified, with Appointed Trustees making up approximately 60% of the committee. If there are to be a maximum of 12 Trustees, a ratio that would better reflect the current constitution is: up to 7 "appointed", 3 "elected" and 2 "co-opted" Trustees. With regards to the "first charity trustees" only the current "elected" Trustees are mentioned and this is unacceptable and an unequal treatment of all the current Trustees at the point of conversion.

#### **C.** Clause 10 has been rewritten and is confusing.

- Clause 10.1.1 states that "elected" Trustees shall be *appointed* at the Annual Meeting.
- Clauses 10.2.1 to 10.2.3 lay out the procedure for "Appointed Trustees".
- Terms of office: The "elected" Trustees will be appointed for a term of three years; all other Trustees will have one year terms.

**Impact:** “Elected” Trustees should always be elected by a majority vote and not appointed. Clauses 10.2.1. to 10.2.3 give some Trustees more power and influence than others. The clauses state that all Trustees will decide which groups will be considered as a “nominating body” but that it is only the “elected” Trustees who will annually decide which candidates will be “appointed” from these nominating bodies. Not only is this undemocratic, it may lead to a lack of proper governance as it could give rise to a situation where no Trustees can be “appointed” should there be no “elected” Trustees in position. To avoid this situation, the nominating bodies should be named in the Constitution; thus enabling Trustees to be appointed by these bodies and the work of the Community Centre to continue. There is no explanation as to why “elected” Trustees should have a longer term of office than any other Trustee.

**D.** Clause 12.1.4 has been added and is not included in the template.

**Impact:** This clause could lead to a situation where any Trustee could be removed from office at a meeting called at short notice with only two other Trustees required for the meeting to be quorate.

**E.** Clause 16 has had to be added to accommodate an Annual Meeting to allow for the “election” of Trustees etc.

#### Recommendations:

The Parish Council recommends that the Management Committee does not proceed with the current draft constitution but instead looks to adopt the model template for converting a Village Hall or Community Centre Charity to a CIO which was prepared by ACRE in 2016 with the approval of the Charity Commission. This model template reflects the current constitution and already includes the clauses required to hold an AGM at which Trustees can be elected, it allows for nominating bodies to be named in the constitution and for co-options to take place. It also allows for Trustees to be removed at members’ meetings if necessary. The Parish Council reiterates the request that the current ratio of Trustees is maintained in any new constitution. The ACRE model allows for all Trustees to be treated equally in terms of naming “first trustees” from the predecessor Charity and their subsequent length of terms of office. If required, Clause 17 from the model template for a foundation CIO could be added, this would allow for non-voting members (or associates) to be included.

Finally, the Parish Council questions the need to be undertaking such a significant change in governance during a global pandemic when an appropriate level of consultation with village and user groups has clearly proved to be challenging, as many people seem to be either unaware of the plans or have little understanding of what is being decided.

**Odile Wladon (Clerk to Stradbroke Parish Council)**

*The review of the draft constitution has taken place under the Parish Council’s Scheme of Delegation.*