Controlled Entities Procedure

Section 1 - Purpose

Scope

(1) This Procedure applies to all officers and directors, members, employees, consultants and contractors of Macquarie University (the University) and its Controlled Entities (collectively referred to as the Macquarie University Group or Group).

(2) This Procedure should be read in conjunction with the Controlled Entities Policy. It provides guidance on the governance of all Controlled Entities of Macquarie University during their lifecycle, including:

a. circumstances in which a Controlled Entity may be established;
b. permitted activities of a Controlled Entity;
c. requirements for operations, governance and reporting during the life of a Controlled Entity to ensure effective systems of control and accountability; and
d. requirements for disestablishment of a Controlled Entity.

(3) The Controlled Entities Policy defines key roles and responsibilities in relation to Controlled Entities including for the University Council (Council) and Committees of Council, Controlled Entity Members, Controlled Entity Boards and management teams, and functional heads of University specialist support functions.

Section 2 - Policy

(4) Refer to the Controlled Entities Policy.

Section 3 - Procedures

Determining Control of a Controlled Entity

(5) The University regards itself as being able to control an entity where:

a. the University, directly or indirectly, owns most of the shares in a company;
b. the University is the sole member of a company limited by guarantee;
c. the University has power over more than half of the voting rights in the Controlled Entity;
d. the University has the power to cast the majority of votes at meetings of the Controlled Entity's Board;
e. the University has the power to appoint or remove the majority of the Controlled Entity's Board;
f. the University has the power to govern the financial and operating policies of the Controlled Entity; or
g. the University has the power to cast, or to control the casting of, a majority of the votes likely to be cast at a general meeting of the Controlled Entity.

(6) The above list is not exhaustive. An opinion as to whether an entity is within the University's control may require

detailed review of the circumstances. Where there is doubt, the General Counsel and the Vice-President, Finance and Resources will jointly determine whether the University considers an entity to be within its control.

Design Principles for Establishing a Controlled Entity

Core Principles

(7) Teaching and Research, being core to the mission of the University, are undertaken within the University, under the respective control of the Deputy Vice-Chancellor (Academic) and the Deputy Vice-Chancellor (Research), and the relevant Faculty Executive Dean.

(8) All academic staff are appointed by the University.

(9) All academic awards within the scope of the Australian Qualifications Framework are issued by the University and governed by Academic Senate.

(10) It is expected that most activities supporting the academic enterprise will also be conducted within the University. A Controlled Entity will only be considered as a vehicle to conduct non-teaching and non-research activity when the nature of the activity meets at least one of the following three requirements:

Industrial instruments	Taxation	Regulatory, Legal and Operational
It is more appropriate to employ staff under industrial instruments that are designed to address employment requirements for specific activities, and these conditions of work cannot be accommodated under the University Enterprise Agreement e.g. nursing staff.	Use of overseas Controlled Entity to receive donations which are tax-deductible for the donor in the country of origin.	Compliance with critical commercial, regulatory, legal or other critical operating imperatives can be more appropriately met if the activity is conducted in a separate entity e.g. medical accreditation.

(11) In addition to meeting at least one of the above three criteria, the anticipated size of a new Controlled Entity within three years of operation must justify the inherent costs incurred in establishing and managing a separate Controlled Entity.

Approval for a New Controlled Entity

(12) Council approves the establishment of a Controlled Entity, or the acquisition of an interest in a third-party entity that would become a Controlled Entity. A formal business case must be presented by the Vice-Chancellor to the Council in the approved format (as detailed in the Template Toolkit supporting the Controlled Entities Policy and this Procedure), with endorsement from the following University functional leaders: General Counsel, Vice-President, Finance and Resources, Chief People Officer, Chief Information and Digital Officer, Chief Risk Officer.

Governance Within Controlled Entities

(13) The responsibility for the governance of Controlled Entities resides with several key roles within the Macquarie University Group. These are detailed below by activity and included in the Controlled Entity's constitution and Board and Committee terms of reference.

Controlled Entity Boards – Composition, On-boarding, Training and Remuneration

Initial composition	The proposed initial Board composition for a new Controlled Entity will be included in the business case proposal to Council (both numbers and personnel). Existence within the proposed Board of both general and specialised skillsets as noted below must be evidenced in the recommendation of Board composition.
Ongoing monitoring of composition	Controlled Entity Board composition will be subject to annual assessment as prescribed in the Controlled Entity's terms of reference. Each Controlled Entity Board will assess the appropriateness of their Board composition annually and report it to the Council's Nominations and Remuneration Committee, via the Vice-Chancellor. The annual review will include such matters as: 1. the composition, diversity, tenure and succession planning for each Controlled Entity Board; 2. developing senior leaders within the Macquarie University Group for Board positions; 3. a skills matrix of Directors, to ensure the Board has the collective governance experience and commercial acumen necessary for the Controlled Entity and its activities; and 4. the mix of internal and external Directors. External Directors will only be appointed where it is necessary to adhere to regulatory requirements, or to bring relevant industry or other technical expertise to the Board.
Appointment of Directors	Where Directors are to be appointed to a Controlled Entity, the appointment should be made in accordance with the Controlled Entity's constitution. Initial Directors will be included in the business case for the new Controlled Entity. Procedural steps for appointment of subsequent directors: 1. Controlled Entity Board will submit a recommendation to Nominations and Remuneration Committee for consideration, via the Vice-Chancellor; 2. Nominations and Remuneration Committee to consider the submission, and if it agrees, recommend the appointment to the Council for approval. If Nominations and Remuneration Committee disagrees with the recommendations, further options for appointment will be discussed with the Vice-Chancellor; 3. Council will consider the Nominations and Remuneration Committee recommendation and approve. If Council disagrees, further options for appointment will be discussed with Nominations and Remuneration Committee and the Vice-Chancellor; and 4. additionally, if, under the Controlled Entity's constitution, Member approval for the appointment is also required, and Council will submit its recommendation to the Member for co-approval.
Resignations and removal or Directors	A Director may voluntarily resign, or the Council, the Vice-Chancellor or the Controlled Entity's Chair may recommend the removal of a Controlled Entity Director. The Controlled Entity must then follow the requirements of the Controlled Entity's constitution in relation to the removal of a Director.
On-boarding and training for Board members	The Governance and Compliance Services will oversee a formal on-boarding program for each new Board member of a Controlled Entity, including: 1. provision of key strategic and operational information about the Controlled Entity; 2. details of Directors and Officers insurance and Deeds of Indemnity provided by the University; 3. completion of externally provided entry-level directorship course covering an introduction to governance, finance, strategy and risk from a Board perspective; and 4. completion of Health and Safety officer, Privacy, and Whistle-blower training.
Remuneration	Board members who also have paid employment within the Macquarie University Group will not be eligible for additional remuneration for their role on a Controlled Entity's Board. External Board members will generally not be paid. Exceptions will be recommended by the Vice-Chancellor to Nominations and Remuneration Committee, for discussion and recommendation to, and ultimate approval by, Council.

Controlled Entity Constitution and Members

(14) The initial Controlled Entity constitution must be developed under the direction of the General Counsel, in the approved format (as detailed in the Template Toolkit).

(15) The Controlled Entity's constitution, and any subsequent material amendments, must be approved by Council. Member approval may also be required (depending on the individual Controlled Entity's constitution).

(16) Further, a Controlled Entity's constitution can only be amended in accordance with the requirements of the constitution.

(17) Where the University is the sole shareholder or the sole voting member of a Controlled Entity, the Vice-Chancellor may appoint University representatives to attend and vote at Controlled Entity member meetings.

Controlled Entity Board Terms of Reference

(18) Each Controlled Entity Board will have a terms of reference, in the approved format (as detailed in the Template Toolkit), which clearly defines the roles, responsibilities and authorities of the Board (both individually and collectively) and the Controlled Entity's management in setting the direction, management and control of the organisation.

(19) Board terms of reference will be approved by Council at the same time as the Controlled Entity establishment is approved.

(20) Controlled Entity Boards will formally review their terms of reference annually. Any material recommended amendments must be approved by Council. Minor amendments that do not change the scope, intent or application of the terms of reference may be approved by the Vice-Chancellor.

(21) In the event of any inconsistency between a Controlled Entity's constitution and the Controlled Entity Board terms of reference, the constitution will prevail.

Controlled Entity Board Meetings

(22) Council requires each Controlled Entity Board to balance their time monitoring both compliance and performance, with both an internal and external focus[1].

[1]In accordance with generally agreed Board governance best practice e.g. Robert Tricker, International Corporate Governance, 1994.

(23) The Board of each Controlled Entity will develop an annual rotational Board agenda, in the approved format (as detailed in the Template Toolkit) ensuring each element of Board accountability is covered as set out in the Controlled Entity's constitution and Board terms of reference as amended from time to time.

(24) The Vice-Chancellor or their nominated representative has ex-officio rights to receive papers and attend Controlled Entity Board meetings as an observer.

Committees of Boards

(25) Controlled Entity Boards may choose to delegate certain roles and responsibilities to Controlled Entity Board Committees. In such circumstances:

a. Controlled Entity Board Committees will formally report to their Controlled Entity Board and will be chaired by a Controlled Entity Director.
b. It is expected that Controlled Entity Committee structures will mirror the accountabilities of University Committees of Council. The roles and responsibilities of two or more University Committees of Council may be included in one Controlled Entity Board Committee if the size of the Controlled Entity does not warrant multiple Board Committees.
c. The Controlled Entity Board will develop Controlled Entity Board Committee terms of reference in the approved

format (as detailed in the Template Toolkit), and endorse the proposed membership of Controlled Entity Board Committees, for initial approval and annual review by the Nominations and Remuneration Committee, via the Vice-Chancellor.

d. Controlled Entity Board terms of reference must give the following roles ex-officio membership to Controlled Entity Board Committees:

Controlled Entity Board Committee	Ex-officio membership
Controlled Entity Audit and Risk Committee (or equivalent)	Vice-President, Finance and Resources or their nominated representative Chief Risk Officer or their nominated representative Chief Information and Digital Officer or their nominated representative General Counsel or their nominated representative
Controlled Entity Finance and Facilities Committee(or equivalent)	Vice-President, Finance and Resources or their nominated representative Executive Director, Property Services or their nominated representative
Controlled Entity Nominations and Remuneration Committee	Chief People Officer or their nominated representative

Controlled Entity Board Authority Delegated to Management

(26) Each Controlled Entity Board will delegate authority to Controlled Entity management through a formal written Delegations of Authority Policy and Delegations of Authority Register, in the approved format (as detailed in the Template Toolkit), which will be developed under advice from Governance and Compliance Services. The Controlled Entity Delegations of Authority Policy and Delegations of Authority Register will be formally reviewed by the Board annually and must be consistent with the principles of the Macquarie University Delegations of Authority Policy.

Controlled Entity Management Attestations to Controlled Entity Boards

(27) Controlled Entity management will provide an annual attestation to their Board, covering critical operating controls and adherence to Group and/or local policies, in the approved format (as detailed in the Template Toolkit) as part of the preparation of the Controlled Entity's financial statements.

Oversight of Controlled Entities by the University

Macquarie University - Executive Group Oversight

(28) The Chief Executive Officer (or equivalent) of a Controlled Entity will have a reporting line to a member of the University Executive Group.

Council Reporting

(29) Each Controlled Entity will provide an annual report to Council in the approved format (as detailed in the Template Toolkit).

Reporting to Committees of Council

(30) Controlled Entities will provide information requested by the University Executive Group members and functional specialist leaders, to fulfil Macquarie University Group reporting to Council Committees.

(31) An annual attestation covering key operating controls and adherence to policies, in the approved format (as detailed in the Template Toolkit) will be provided by Controlled Entity Boards to the Council's Audit and Risk Committee as part of submission of year-end accounts.

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(32) At the request of the Chair of any of the Committees of Council, the Chair and/or Chief Executive Officer of a Controlled Entity will attend and present on areas of interest to that Committee of Council.

University Specialist Support Functions

(33) To ensure consistent quality and transparency of specialist functional expertise across the Group, all specialist support functions required by Controlled Entities will be provided by the University.

(34) Roles performing specialist services will:

a. report to and be supervised by the relevant University functional leaders, including performance management and approval of remuneration; and
b. have a dotted reporting line to the Controlled Entity's management team that they support.

(35) Specific rights and responsibilities of the functional specialist areas are included in Clause 44.

Operational Policies

(36) All policies and procedures across the Group will meet the quality thresholds prescribed by the University Policy Framework Policy and will be published on Policy Central.

(37) By default, Controlled Entities will comply with University policies. As a principle, University policies will be written to accommodate the needs of both the University and Controlled Entities, to minimise the need for local policies. The existence of local policies is only permitted in the following circumstances.

Challenge for Controlled Entity in adopting University policy	Authority to issue local Controlled Entity policy
University policy does not exist, due to specialised nature of topic e.g. certain hospital medical policies.	Policy may be approved by local Controlled Entity Board
University policy is deemed inappropriate by the Controlled Entity Board and the relevant University functional leader and cannot feasibly be changed.	Local Policy must be developed in consultation with Governance and Compliance Services and must follow policy development advice on Policy Central. Local policy will require co-approval by Controlled Entity Board and relevant University functional lead.

(38) Controlled Entity Boards have responsibility for ensuring adherence to University policies within their Controlled Entity. An attestation regarding adherence to University policies and the existence of any local policies will be included in the annual attestation to Audit and Risk Committee.

Closure or Major Change of Objectives for a Controlled Entity

(39) Tax, legal and constitutional implications must be completed with oversight from General Counsel before any proposed material changes to Controlled Entity operations are enacted.

Deregistration or Liquidation of a Controlled Entity

(40) Council approval is required to deregister or liquidate a Controlled Entity. Member approval may also be required (depending on the individual Controlled Entity's constitution).

(41) Where it is deemed appropriate by a Controlled Entity Board to deregister or liquidate a Controlled Entity, the approved Deregistration Checklist, (as detailed in the Template Toolkit), must be completed and provided with the request for approval.

Transfer of Controlled Entity's Activities to Another Entity within the Macquarie University Group

(42) Where it is proposed to integrate all or a material part of a Controlled Entity's activities with those in another area within the Macquarie University Group, a project team will be convened by the Board to manage and report on the integration in line with the approved procedure (as detailed in the Template Toolkit). Such a team will include operational leaders from the current Controlled Entity, from the impacted Controlled Entity or University area that the activity is transitioning to, and from relevant functional specialist areas.

(43) Transfers of activities within the Macquarie University Group will be approved as follows:

Scenario	Approver
Transfer requires alteration to the constitutional objects of an impacted Controlled Entity	Council on recommendation from Vice-Chancellor
Transfer does not require alteration to the constitutional objects of an impacted Controlled Entity. Note that, if the transfer involves transfer of employment between Controlled Entities and/or the University, an impact assessment from the Chief People Officer will be provided to the Vice-Chancellor.	Vice-Chancellor

Rights and Responsibilities for Functional Specialist Support Areas in Relation to Controlled Entities

(44) The following table lists the rights and responsibilities for functional specialist support areas in relation to Controlled Entities.

Activity	Function Lead and other functional specifics
Company secretariat services	A company secretariat function, as appointed by the Vice-Chancellor, will provide services across the Group. Supplementary company secretariat services may be sought in local jurisdictions where a Controlled Entity is registered outside Australia. Services will include: 1. maintenance of a Group-wide register of Controlled Entity Members, Directors and Committees; 2. support to Controlled Entity Boards in the creation and review of Board and Committee terms of reference, Board agendas, Board and Committee minutes, lodgments with the Australian Securities and Investments Commission (ASIC); 3. maintain best practice templates for Controlled Entity Board agenda, terms of reference and Committee templates; 4. ensure Controlled Entity Board and Committee terms of references are compatible with University equivalents; and 5. ensure Controlled Entity reporting to Council and Audit and Risk Committee as stipulated in this Policy is included in relevant annual agendas.
Legal services	All lawyers across the Group report directly to General Counsel or their nominee. All potential or real legal action against a Controlled Entity must be promptly referred to General Counsel by the Controlled Entity Chief Executive Officer, who will co-ordinate provision of internal and external advice as required. Controlled Entities must not engage external legal advisors without prior approval of General Counsel. All potential Independent Commission Against Corruption (ICAC) matters across the Group will be referred to General Counsel.

Activity	Function Lead and other functional specifics
Finance	All Controlled Entity Finance staff will report to the Vice-President, Finance and Resources or their nominee. The annual accounts of each Controlled Entity will be reported in the consolidated accounts of the University as required in accordance with the relevant accounting standards. The General Ledger system used by Controlled Entities must be approved by the Vice-President, Finance and Resources. The University General Ledger will generally be used by all Controlled Entities, unless a critical operational requirement of a Controlled Entity cannot be met by the University General Ledger. Controlled Entities may not incur external borrowings or issue bank guarantees.
Procurement	All Controlled Entity Procurement staff will report to the Chief Procurement Officer or their nominee.
IT	All Controlled Entity IT staff will report to the Chief Information and Digital Officer or their nominee. The systems and IT environment used by Controlled Entities must be approved by the Chief Information and Digital Officer. Common IT systems, environments and suppliers will be used across the Group unless a critical need of the Controlled Entity cannot be met.
HR	All Controlled Entity HR staff will report to the Chief People Officer or their nominee. The HR and payroll system used by Controlled Entities must be approved by the Chief People Officer. All Controlled Entity employee deeds of release and terminations of employment will be approved by the Chief People Officer or their nominated delegate. All industrial instruments in use by Controlled Entities will be negotiated by the Chief People Officer or their nominated delegate. The Chief People Officer will approve all Controlled Entity remuneration frameworks, pay increments and loadings. Any bonuses payable to Controlled Entity employees require approval of the Controlled Entity Board, the Chief People Officer and the Vice-Chancellor.
Property and facilities	All Controlled Entity Property and Facilities staff will report to the Executive Director, Property Services or their nominee. The Executive Director, Property Services will oversee the following activities across the Macquarie University Group: 1. commercial and retail leasing; 2. space utilisation and planning; 3. building regulatory and safety compliance; 4. utilities, security, landscaping and cleaning; 5. repairs and maintenance; and 6. capital works, including building, fixtures and fittings, leasehold improvements.
Risk	All Controlled Entity Risk staff will report to the Chief Risk Officer or their nominee. All Controlled Entity activities must adhere in substance to the Macquarie University Risk Appetite Statement. Controlled Entity risk management maturity, as well as monitoring of specific Controlled Entity risks, will be reported to Controlled Entity Boards and the Audit and Risk Committee.
Health and safety	All Controlled Entity Health and Safety staff will report to the Chief Risk Officer or their nominee.
Advancement and engagement	All Controlled Entity Advancement, Corporate Engagement, Marketing and Events staff will report to the relevant Head of Office or their nominee as listed below: 1. Advancement – Executive Director of Advancement 2. Corporate Engagement – Executive Director, Corporate Engagement 3. Marketing – Chief Marketing Officer 4. Strategic Events – Director, Events and Domestic Protocol
Insurance	All insurance needs, including Directors and Officers insurance, will be overseen by the Chief Risk Officer, who will ensure insurance cover is consistent with the University risk appetite and profile.

Activity	Function Lead and other functional specifics
Governance services	All development of Controlled Entity policy and Delegations of Authority will be completed under advice from the Director, Governance and Compliance and will follow policy development requirements as detailed on Policy Central. University and local Controlled Entity policies will be made available on Policy Central. Governance and Compliance Services will advise each Controlled Entity Board and relevant functional lead when local Controlled Entity policies are due for review.
External audit	All Controlled Entities will be audited by the auditors of the University (currently the Audit Office of NSW).
Internal audit	Internal auditors for all Controlled Entities will be appointed by the Audit and Risk Committee. The annual internal audit program for each Controlled Entity will be approved by the Audit and Risk Committee, after consultation with the Chairs of local Controlled Entity Audit and Risk Committee. The internal auditor will issue findings and progress status reports regarding local Controlled Entity internal audits to: 1. local Controlled Entity Boards and Controlled Entity Audit and Risk Committee; and 2. the Audit and Risk Committee.

Template Toolkit

(45) The following list of templates will be made available to support this Procedure.

Document topic	Document owner
Formation documents	
Business case to establish a Controlled Entity	Vice-President, Finance and Resources
Controlled Entity constitution	General Counsel
Terms of reference 1. Controlled Entity Board 2. Controlled Entity Audit and Risk Committee 3. Controlled Entity Finance and Facilities Committee 4. Controlled Entity Nominations and Remuneration Committee	Governance and Compliance Services
Controlled Entity Delegations of Authority Policy and Delegations of Authority Register	Director, Governance and Compliance
Deed of Indemnity from University to Controlled Entity Officers	General Counsel
Ongoing documents	
Controlled Entity Annual report to Council	Governance and Compliance Services
Controlled Entity annual attestations to Audit and Risk Committee	Chair Audit and Risk Committee, under advice from Vice-President, Finance and Resources and Chief Risk Officer
Controlled Entity Board and Committee annual calendar and agendas	Governance and Compliance Services
Controlled Entity Board induction pack checklist	Governance and Compliance Services
Controlled Entity Board and Committee skills matrix	Governance and Compliance Services
Ongoing documents	

Checklist for transfer of activities to another entity within the Macquarie University Group or in preparation for a Controlled Entity to cease operational trading.	Director, Financial Control and Treasury
Winding up documents	
Controlled Entity deregistration or liquidation checklist	Governance and Compliance Services

Section 4 - Guidelines

(46) Nil.

Section 5 - Definitions

(47) Words and phrases used in this Procedure and not otherwise defined in this document have the meanings they have in the Controlled Entities Policy.

a. Nominations and Remuneration Committee is a committee of Council. Refer Nominations and Remuneration Committee Terms of Reference.
b. University specialist support function means specialist support offices, including but not limited to those listed in Clause 44 this Procedure.

Status and Details

Status	Historic
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Approval Date	14th June 2018
Expiry Date	21st June 2024
Responsible Executive	S. Bruce Dowton Vice-Chancellor
Responsible Officer	Sophie Buck Director, Governance Services
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