

Reconsideration, Review and Appeals Policy

Approved by: Board

Approval date: October 2016

Next review: November 2018

Version: Current 4.0

A. GENERAL

1. POLICY ADOPTION

- 1.1 This Policy governs the conduct of all Reconsiderations, Reviews and Appeals undertaken by the College on and from the date of adoption of this Policy by the Board unless and until formally revoked, amended or repealed.

2. POLICY PURPOSE

- 2.1 The Board have adopted this Policy to describe the processes to be followed in any and all Reassessments undertaken by the College.
- 2.2 The purpose of this Policy is to establish:
- 2.2.1 an accessible, timely, fair and transparent mechanism for Reassessment of Original Decisions; and
 - 2.2.2 a reporting mechanism to assist the ongoing development of policy, procedure and conduct within the College.
- 2.3 This Policy does not prevent the College from seeking to resolve disputes associated with Original Decisions informally or pursuant to other approved college Policy and procedures.

3. REASSESSMENT PROCESS OVERVIEW

- 3.1 The Reassessment Process is commenced by written Application in accordance with **paragraphs 10.1, 16.1 or 24.1** of this Policy.
- 3.2 The Reassessment Process comprises three separate and distinct phases. Each phase is designed to operate as:
- 3.2.1 a stand-alone dispute resolution process; and
 - 3.2.2 part of a sequential dispute resolution process.
- 3.3 The Reconsideration Process provides Applicants with a mechanism for the reconsideration of an Original Decision by the Original Decision-maker culminating with a Reconsideration Decision.
- 3.4 The Review Process provides Applicants with a mechanism for a review of the Reconsideration Decision by the Review Panel culminating with a Review Decision.
- 3.5 The Appeal Process provides Applicants with a mechanism to appeal a Review Decision to the Appeals Committee culminating with an Appeal Decision.
- 3.6 The Reassessment Process can be stopped at any stage by written notice from the Applicant to the CEO confirming that the Applicant withdraws their Application.
- 3.7 Notwithstanding the withdrawal of an Application pursuant to **paragraph 3.6**, the Board may, at its discretion, determine to investigate the circumstances surrounding a withdrawn Application where it is in the College's best interest to do so.

- 3.8 All Reassessments subject to this Policy shall be conducted always:
 - 3.8.1 with procedural fairness and natural justice; and
 - 3.8.2 in compliance with the College’s Conflict of Interest Policy.
- 3.9 Where a Reassessment Body or person occupying a position on a Reassessment Body has a conflict of interest, that person must not take part in the Reassessment.
- 3.10 An Original Decision-maker conducting a Reconsideration shall not be deemed to have a conflict of interest solely because it made or was involved in the making of the Original Decision the subject of the Reconsideration.
- 3.11 For the purpose of the Conflict of Interest Policy, all Reassessments conducted pursuant to this Policy are considered “College Business”.
- 3.12 A Reassessment Body may only depart from this Policy to ensure procedural fairness and natural justice in a given case. This discretion is constrained and may only be exercised in consultation with and having regard to the opinion of the CEO in any given case.

4. RESPONSIBILITIES

- 4.1 The CEO:
 - 4.1.1 is responsible for the implementation of this Policy;
 - 4.1.2 will ensure that a Reassessment Body receives any and all necessary secretarial support; and
 - 4.1.3 may, at the request of a Reassessment Body and as and when reasonably required, engage legal advisors to provide legal advice and assistance to a Reassessment Body in connection with the implementation of this Policy.
- 4.2 Each Reassessment Body is responsible for:
 - 4.2.1 the conduct of all Reassessments conducted by them pursuant to this Policy;
 - 4.2.2 making any request to the CEO for legal advice and assistance pursuant to **paragraph 4.1.3**.
- 4.3 Responsibility for the conduct of Reassessments under this Policy shall not be delegated unless otherwise specified under this Policy.
- 4.4 Any advice received by a Reassessment Body from a legal advisor engaged pursuant to **paragraph 4.1.3** shall remain at all times confidential and privileged and shall not be disclosed to any person by the Reassessment Body and the College except under compulsion of Law or as directed by the Board.

5. THE REASSESSMENT REGISTER, THE ANNUAL REASSESSMENT REPORT AND GENERAL REPORTING

- 5.1 This Policy recognises that Reassessment data generation and analysis is essential to understanding and addressing the underlying reasons for Reassessment and Reassessment outcomes within the College.

- 5.2 The CEO must:
- 5.2.1 on and from the date of adoption of this Policy, maintain a Reassessment Register;
 - 5.2.2 on and from the date of adoption of this Policy, ensure that all Reassessments, including all specified details, are recorded in the Reassessments Register; and
 - 5.2.3 each year on the anniversary of adoption of this Policy, provide a de-identified Annual Reassessment Report to the Board.
- 5.3 The Board shall consider the Annual Reassessment Report with a view to addressing negative trends, any systemic issues and improving relevant College policy and practices, including this Policy, where necessary.
- 5.4 The Reassessment Register and Annual Reassessment Report shall remain the property of the College at all times and shall, unless otherwise compelled by Law or determined by the Board, only be used by the College in connection with:
- 5.4.1 referral to an External Agency pursuant to this Policy;
 - 5.4.2 legal action commenced by the College; and
 - 5.4.3 College policy and procedure development.
- 5.5 Subject to **paragraph 5.4**, any and all personal information contained in the Reassessment Register and the Annual Reassessment Report shall be kept confidential and subject to the Privacy Policy and all applicable Laws, including but not limited to, the *Privacy Act 1988* (Cth) (Australia) and the *Privacy Act 1993* (New Zealand).
- 5.6 In addition to maintaining the Reassessment Register and providing the Annual Reassessment Report, the CEO shall, at each Board meeting, inform the Board of any new Applications for Reassessment.

6. APPLICATIONS UNDER THIS POLICY

- 6.1 All Applications made pursuant to this Policy must be lodged with the College as follows:
- 6.1.1 by Post, addressed to:
The CEO
RANZCO
94-98 Chalmers Street
Surry Hills, NSW, 2010
 - 6.1.2 by Email, addressed to the CEO care of reassessments@ranzco.edu
- 6.2 All Applications must:
- 6.2.1 be lodged with the College strictly in accordance with the following timeframes:
 - 6.2.1.1 Applications for Reconsideration must be lodged by the Applicant with the College within thirty (30) days of the date of the Original Decision;

- 6.2.1.2 Applications for Review must be lodged by the Applicant with the College within thirty (30) days of the date of the notification of the Reconsideration Decision pursuant to **paragraph 14.1**;
- 6.2.1.2 Applications for Appeal must be lodged by the Applicant with the College within thirty (30) days of the date of the notification of the Review Decision pursuant to **paragraph 21.1**;
- 6.2.2 Include complete details required for the relevant Application as follows:
 - 6.2.2.1 Applications for Reconsideration must include complete details as specified in **paragraph 10.1**.
 - 6.2.2.2 Applications for Review must include complete details as specified in paragraph 16.1.
 - 6.2.2.3 Applications for Appeal must include complete details as specified in **paragraph 24.1**.
- 6.2.3 be in the form of the *Application for Reconsideration, Review and Appeal* published on the RANZCO website
- 6.3 An Application shall not be deemed lodged with the College unless it is complete.
- 6.4 An Application, complete or otherwise, lodged outside the relevant timeframes specified **paragraph 6.2.1**, will not be accepted by the College.
- 6.5 If no Application is received within the relevant timeframes specified **paragraph 6.2.1**, the Applicant will be deemed to have accepted the Original, Reconsideration or Review Decision as the case may be.
- 6.6 An Application shall be deemed incomplete until all of the relevant details as specified in **paragraph 6.2.2** are lodged with the College.
- 6.7 Any dispute concerning the date of lodgment or the completeness of any Application shall be determined by the CEO having regard to all information in their possession at the required lodgment time. The CEO's decision shall be final and not subject to Reassessment of any form.
- 6.8 The Applicant bears the onus of proof in respect of establishing the successful lodgment and completeness of any Application in accordance with this Policy.
- 6.9 The CEO shall have regard to **paragraph 37** when determining any dispute as to the date of Lodgment pursuant to **paragraph 6.7**.
- 6.10 The CEO shall have regard to the extent of substantial compliance with **paragraph 6.2.2** when determining any dispute as to the completeness of any Application pursuant to **paragraph 6.7**.
- 6.11 The College will not consider Applications, or parts thereof, that a Reassessment Body reasonably considers to be Vexatious, Trivial or Lacking Merit. Any such determination by a Reassessment Body may be made at any time and shall be final and not subject to a Reassessment in any form.
- 6.12 Any Application, or parts thereof, subject to a determination pursuant to **paragraph 6.11** shall be deemed immediately withdrawn by the Applicant.

- 6.13 Any determination pursuant to **paragraph 6.7 or 6.11** shall be notified to the Applicant and the Original-Decision-maker, where the Original-Decision-maker is not the Reassessment Body, within seven (7) days of the determination.

7. APPLICATION RESPONSE

- 7.1 Within twenty (20) days of the Original Decision-maker's receipt of a referral pursuant to **paragraphs 12.1, 19.1.1 and 27.1.1**, the Original Decision-maker must confirm by written Application Response to the CEO:

7.1.1 in respect of each Reassessment Ground advanced in the relevant Application:

7.1.1.1 Acceptance of the Reassessment Ground; or

7.1.1.2 Denial of the Reassessment Ground.

7.1.2 where the Original Decision-maker is a collective of individuals, the person nominated by the Original-Decision-maker to make representations and submissions and in the case of an Application for Appeal, to appear on its behalf.

- 7.2 Where the Original Decision-maker denies a Reassessment Ground in its Application Response, the relevant Reassessment Process will proceed on the basis that the relevant Reassessment Ground must be determined during the relevant Reassessment Process in accordance with this Policy.

- 7.3 Where the Original Decision-maker in its Application Response:

7.3.1 accepts a Reassessment Ground; or

7.3.2 fails to specify either acceptance or denial of a Reassessment Ground, the relevant Reassessment Ground shall be deemed accepted by the Original Decision-maker; and

7.3.2.1 no submission shall be required to be made by the Applicant or the Original Decision-maker in relation to the accepted Reassessment Ground; and

7.3.2.2 the relevant Reassessment Decision shall confirm that the relevant Reassessment Ground was accepted by the Original Decision-maker.

- 7.4 A Reassessment Body shall only accept representations and submissions from the Original Decision-maker if made by the Original Decision-maker or the Original Decision-maker's nominated representative as confirmed in the Application Response.

8. APPLICATIONS SUBJECT TO EXTERNAL AGENCY INVESTIGATION, LITIGATION OR CONFLICT RESOLUTION PROCESS.

- 8.1 If, at the time, an Application is made in accordance with this Policy or at any time prior to determination of an Application pursuant to this Policy, the subject matter of the Application, or any part of it, becomes the subject of an External Agency investigation, Litigation or conflict resolution process enacted by another entity, the Reassessment Process shall:

- 8.1.1 be immediately stayed pending the outcome of the External Agency investigation, Litigation or conflict resolution process enacted by another entity as the case may be; and
- 8.1.2 not be recommenced until after the outcome of the relevant External Agency investigation, Litigation or conflict resolution process, unless the Reassessment Body determines, at its unfettered discretion, that the Reassessment Process is to proceed.
- 8.2 Where the subject matter of any Application has been referred to an External Agency or another entity by the College pursuant to a College policy, the CEO shall liaise with the External Agency or other entity, as the case may be, to obtain confirmation of the cessation of any relevant investigation, Litigation or conflict resolution process.
- 8.3 Where the facts, matters or issues of the Application have been referred to an External Agency or another entity by an Applicant, or those facts, matters or issues are the subject of Litigation, the College shall not recommence a Reassessment Process pursuant to **paragraph 8.1.2** until the College is provided with satisfactory evidence from the Applicant that any relevant investigation or Litigation has concluded.
- 8.4 The Reassessment Body shall advise the Applicant and the Original Decision-maker in writing if the Reassessment Process is to proceed within ten (10) days of a determination under **paragraph 8.1.2**.
- 8.5 If a determination is made under **paragraph 8.1.2** that the Reassessment Process is not to proceed, the Reassessment Body shall advise the Applicant and Original Decision-maker in writing of the determination within ten (10) days.

B. THE RECONSIDERATION PROCESS

9. WHO CAN APPLY FOR A RECONSIDERATION

- 9.1 An Applicant may, in accordance with **paragraphs 6, 9 and 10**, apply to the College for reconsideration of an Original Decision if:
 - 9.1.1 they are dissatisfied with the Original Decision; and
 - 9.1.2 the Applicant's interests are alleged to be directly and adversely affected by the Original Decision; and
 - 9.1.3 the Original Decision is alleged to be inconsistent with an approved College policy or processes; or
 - 9.1.4 there are allegedly pertinent matters of fact that existed at the time of the Original Decision that were not known to the Original Decision-maker; or
 - 9.1.5 the Original Decision is alleged not to have been made in accordance with natural justice or in the absence of procedural fairness.
- ("Reconsideration Grounds")**
- 9.2 New, different or additional Reconsideration Grounds must not be raised in the Application for Reconsideration or during the Reconsideration.

10. FORM OF THE APPLICATION FOR RECONSIDERATION

- 10.1 An Application for Reconsideration must under separate paragraph headings:
- 10.1.1 specify the full name, postal address, telephone number and email address of the Applicant;
 - 10.1.2 specify the identity of the Original Decision-maker;
 - 10.1.3 specify the date of the Original Decision;
 - 10.1.4 specify what part or parts of the Original Decision the Applicant requires to be reconsidered;
 - 10.1.5 specify the Reconsideration Grounds relied upon by the Applicant;
 - 10.1.6 contain all relevant materials, documents and evidence that the Applicant considers relevant to all Reconsideration Grounds;
 - 10.1.7 specify what redress or resolution the Applicant is seeking in the Reconsideration;
 - 10.1.8 confirm whether the subject matter of the Reconsideration has been referred to any other entity, person or External Agency or is the subject of any Litigation;
 - 10.1.9 include a written submission by the Applicant in support of the Application that the Applicant requires the Original Decision-maker to consider during the Reconsideration;
 - 10.1.10 be signed and dated by the Applicant; and
 - 10.1.11 be in the form of the *Application for Reconsideration, Review and Appeal* published on the RANZCO website.
- 10.2 An Application for Reconsideration must not concern any of the following matters:
- 10.2.1 Any interim decision of an Original Decision-maker;
 - 10.2.2 Any decision of an Original Decision-maker which College policy expressly specifies as not being subject to any form of Reassessment;
 - 10.2.3 A Review or Appeal Decision;
 - 10.2.4 A decision of the Board concerning an application to admit a Fellow on the basis of eminence.
- 10.3 To the extent to which an Application for Reconsideration concerns matters specified in **paragraph 10.2**, those matters shall be deemed not part of the Application for Reconsideration and shall not be considered in the Reconsideration.
- 10.4 An Application for Reconsideration lodged in accordance with this Policy shall, on and from the date of lodgment, stay the effect of the Original Decision until the earlier of:
- 10.4.1 withdrawal of the Application pursuant to **paragraph 3.6**; or
 - 10.4.2 affirmation of the Original Decision pursuant to **paragraph 13.1.1**.

- 10.5 The Original Decision shall remain operative and enjoy full force and effect until stayed by lodgment of an Application for Reconsideration in accordance with this Policy.

11. ACKNOWLEDGEMENT OF APPLICATION FOR RECONSIDERATION

- 11.1 Within ten (10) days of lodgment of a complete Application pursuant to **paragraphs 6, 9 and 10**, the CEO shall by written notice to the Applicant and the Original Decision-maker:
- 11.1.1 acknowledge receipt of the Application;
 - 11.1.2 inform the Applicant and the Original Decision-maker that the Application shall proceed to Reconsideration; and
 - 11.1.3 request any additional information that the CEO reasonably considers relevant to the Reconsideration.
- 11.2 If a request is made by the CEO pursuant to **paragraph 11.1.3**:
- 11.2.1 the CEO shall specify a date by which the additional information must be provided being a period of not more than fifteen (15) days;
 - 11.2.2 no further steps in the Reconsideration shall be taken for fifteen (15) days from the date of the request.

12. THE RECONSIDERATION

- 12.1 Subject to **paragraph 11.1.3 and 11.2**, within fifteen (15) days of lodgment of a complete Application, the CEO shall refer the Application for Reconsideration to the Original Decision-maker.
- 12.2 The Original Decision-maker shall endeavor to conduct the Reconsideration and deliver its Reconsideration Decision to the CEO pursuant to **paragraph 13.3** within thirty (30) Days of the referral to it of the Application for Reconsideration pursuant to **paragraph 12.1**. Where, in the reasonable opinion of the Original Decision-maker, the Reconsideration Decision requires further time, the Original Decision-maker shall advise the CEO and the CEO shall advise the Applicant in writing as soon as practicable.
- 12.3 The Original Decision-maker shall conduct the Reconsideration having regard to:
- 12.3.1 all relevant College policy and procedures;
 - 12.3.2 all material and documentation considered by the Original Decision-maker when making the Original Decision;
 - 12.3.3 all material and documentation supplied by the Applicant in the Application;
 - 12.3.4 all additional information provided by the Applicant pursuant to any request made pursuant to **paragraph 11.1.3**;
 - 12.3.5 subject to **paragraphs 12.4 and 12.5**, any additional material and documentation considered relevant by the Original Decision-maker;
 - 12.3.6 any accepted advice received from a legal advisor engaged pursuant to **paragraph 4.1.3**.

- 12.4 The Original Decision-maker must not take into account evidence of facts, matters and issues occurring after the date of the Original Decision when conducting the Reconsideration.
- 12.5 Where material and documentation in **paragraphs 12.3.2 and/or 12.3.5** includes information which is, in the reasonable opinion of the Original Decision-maker, adverse to the Applicant, the Applicant will be provided with the relevant information and shall be given a reasonable period, as determined by the Original Decision-maker, to respond to the information by way of written submission.
- 12.6 The Applicant does not have the right to attend any meetings of the Original Decision-maker or, subject to **paragraphs 10.1.9 and 12.5** to make any submissions to it, either personally or through any other party.
- 12.7 Applications for Reconsideration of an Original Decision will be conducted by the Original Decision-maker that made the Original Decision unless:
- 12.7.1 the Original Decision maker is a natural person and that person no longer has relevant authority to make the Original Decision, in which case, the person with the relevant authority to make the Original Decision at the time of the Application for Reconsideration shall conduct the Reconsideration and shall be deemed the Original Decision-maker for the purpose of this Policy;
 - 12.7.2 the Original Decision maker is a Committee, the Council or the Board, in which case the Chair of the relevant Committee, Council or Board as the case may, shall elect that the Reconsideration be conducted by:
 - 12.7.2.1 the Chair; or
 - 12.7.2.2 a subgroup of the relevant Committee, the Council or the Board as the case may be.
- 12.8 Where, pursuant to **paragraph 12.7.2.2**, the Original Decision is to be conducted by a subgroup:
- 12.8.1 the subgroup shall have three (3) members;
 - 12.8.2 the Chair of the relevant Committee, Council or Board as the case may be, shall appoint a Chair to the relevant subgroup;
 - 12.8.3 the subgroup may meet in person or by telephone to conduct the Reconsideration;
 - 12.8.4 the quorum of the subgroup shall be three (3) and all determinations shall be by simple majority.
- 12.9 Any Original Decision-maker or Chair or subgroup conducting a Reconsideration shall be deemed the Original Decision-maker for the purpose of this Policy.
- 12.10 Subject to **paragraph 12.11**, the Original Decision-maker conducting the Reconsideration may exercise all of the powers and discretions that it was able to exercise when it made the Original Decision and it is not subject to the rules of evidence.
- 12.11 When conducting the Reconsideration, the Original Decision-maker shall not:
- 12.11.1 hold a hearing;

- 12.11.2 interview a person;
 - 12.11.3 request a person to attend a meeting of the Original Decision-maker;
 - 12.11.4 seek documents or information from any person or entity other than the Applicant via the CEO;
 - 12.11.5 seek submissions from the Applicant other than pursuant to this Policy;
 - 12.11.6 broaden the Reconsideration to determination of issues other than the Reconsideration Grounds.
- 12.12 All Original Decision-maker meetings shall be minuted. Those minutes shall not be disclosed except in accordance with this Policy and the Law.

13. RECONSIDERATION DECISION

- 13.1 The Original Decision-maker may make any one of the following Reconsideration Decisions:
- 13.1.1 where a Reconsideration Ground specified in paragraphs 9.13, 9.14 or 9.15 is not upheld by the Original Decision-maker, affirm its Original Decision;
 - 13.1.2 where a Reconsideration Ground specified in paragraphs 9.13, 9.14 or 9.15 is upheld by the Original Decision-maker and after conducting a Reconsideration on the merits:
 - 13.1.2.1 affirm its Original Decision;
 - 13.1.2.2 vary its Original Decision; or
 - 13.1.2.3 set aside its Original Decision and make a new decision.
- 13.2 Any varied or new decision pursuant **paragraphs 13.1.2.2 and 13.1.2.3** respectively shall apply in place of the Original Decision on and from the date of the Reconsideration Decision unless and until overturned on Review.
- 13.3 Within ten (10) days of making the Reconsideration Decision, the Original Decision-maker must provide the CEO with:
- 13.3.1 the Reconsideration Decision;
 - 13.3.2 the Reconsideration Decision Reasons; and
 - 13.3.3 any and all information considered in the Reconsideration including any and all information requested pursuant to **paragraph 11.1.3.**
- (“Reconsideration Material”)**
- 13.4 The Reconsideration Decision shall:
- 13.4.1 include a determination concerning each of the specified Reconsideration Grounds;
 - 13.4.2 where a Reconsideration Ground specified in paragraphs 9.13, 9.14 or 9.15 is upheld, include a determination of the Original Decision on the merits; and
 - 13.4.3 not make findings of fact beyond those relevant to determination of the Reconsideration Grounds and determination of the Original Decision on the merits.

- 13.5 The Reconsideration Decision Reasons will:
- 13.5.1 specify all material considered by the Original Decision-maker;
 - 13.5.2 provide reasons for acceptance or rejection of all Reconsideration Grounds; and
 - 13.5.3 include the reasons supporting any varied or new Original Decision.
- 13.6 Subject to paragraphs **13.7, 19.1** and knowledge of impending Litigation, the CEO must store the Reconsideration Material for a period of one (1) year where after the Reconsideration Material is to be destroyed. Where the CEO has knowledge of impending Litigation, the CEO shall retain the Reconsideration Material.
- 13.7 The Reconsideration Material shall not be disclosed by the College except by compulsion of Law.
- 13.8 Notwithstanding the balance of this **paragraph 13**, the CEO may require that the Original Decision-maker make amendments to its Reconsideration Decision and/or Reconsideration Decision Reasons prior to notification pursuant to **paragraph 14** provided that such amendments do not alter the Original Decision-maker's ultimate determination concerning any Reconsideration Grounds or the Original Decision. For the purpose of this Policy, the ultimate form of the Reconsideration Decision and/or Reconsideration Decision Reasons following any amendments made pursuant to this paragraph shall be taken to be the Reconsideration Decision or Reconsideration Decision Reasons for the purpose of **paragraphs 13.3, 13.4 and 13.5** regardless of any departure from the requirements imposed by **paragraphs 13.4 and 13.5** in substance or form. Any amendment to the Reconsideration Decision and/or proposed Reconsideration Reasons pursuant to this paragraph shall constitute compliance with this Policy and shall not be subject to any form of Reassessment or constitute valid grounds for any subsequent Application for Reassessment of any form

14. NOTIFICATION OF RECONSIDERATION DECISION

- 14.1 The CEO shall by written notice and on a confidential basis:
- 14.1.1 provide the Applicant with the Reconsideration Decision and Reconsideration Decision Reasons within ten (10) days of the CEO receipt of the same pursuant to **paragraph 13.3**; and
 - 14.1.2 advise the Applicant of their right to seek a Review of the Reconsideration Decision.
- 14.2 Subject to **paragraphs 13.3, 14.1 and 19.1**, the Reconsideration Decision and reconsideration Decision Reasons shall not be communicated to any other person or entity unless otherwise determined by the Board.
- 14.3 A Reconsideration Decision and/or Reconsideration Decision Reasons is not subject to further Reconsideration or Appeal.

C. THE REVIEW PROCESS

15. WHO CAN APPLY FOR A REVIEW

- 15.1 An Applicant may, in accordance with **paragraphs 6, 15 and 16**, apply to the College to have a Reconsideration Decision reviewed if they remain dissatisfied with the Reconsideration Decision.

- 15.2 A Review may be sought on the following grounds:
- 15.2.1 some or all of the Reconsideration Grounds specified in the original Application for Reconsideration; and
 - 15.2.2 the Reconsideration Decision was not made in accordance with this Policy.
- (“Review Grounds”)**
- 15.3 New, different or additional Review Grounds must not be raised in the Application for Review or during the Review.

16. FORM OF THE APPLICATION FOR REVIEW

- 16.1 An Application for Review must:
- 16.1.1 specify the full name, postal address, telephone number and email address of the Applicant;
 - 16.1.2 specify the date of the Reconsideration Decision;
 - 16.1.3 specify what part or parts of the Reconsideration Decision the Applicant requires to be Reviewed;
 - 16.1.4 specify the Review Grounds relied upon by the Applicant;
 - 16.1.5 contain all relevant materials, documents and evidence that the Applicant considers relevant to the Review Grounds;
 - 16.1.6 specify what redress or resolution the Applicant is seeking in the Review;
 - 16.1.7 confirm whether the subject matter of the Review has been referred to any other entity, person or External Agency or is the subject of any Litigation;
 - 16.1.8 include a written submission by the Applicant in support of the Application that the Applicant requires the Review Panel to consider during the Review;
 - 16.1.9 be signed and dated by the Applicant; and
 - 16.1.10 be in the form of the Application for Reconsideration, Review and Appeal published on the RANZCO website.
- 16.2 An Application for Review must not concern any of the matters specified in **paragraph 9.2**.
- 16.3 To the extent to an Application for Review concerns matters specified in **paragraph 9.2**, those matters shall be deemed not part of the Application for Review and shall not be considered in the Review.
- 16.4 An Application for Review lodged in accordance with this Policy shall, on and from the date of lodgment, stay the effect of the Reconsideration Decision until the earlier of:
- 16.4.1 withdrawal of the Application pursuant to **paragraph 3.6**; or
 - 16.4.2 affirmation of the Original Decision pursuant to **paragraph 20.1.1**.

17. ACKNOWLEDGEMENT OF APPLICATION FOR REVIEW

- 17.1 Within ten (10) days of lodgment of a complete Application pursuant to **paragraphs 6, 15 and 16** the CEO shall by written notice to the Applicant and the Original Decision-maker:
- 17.1.1 acknowledge receipt of the Application;

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- 17.1.2 inform the Applicant and the Original Decision-maker that the Application shall proceed to Review;
- 17.1.3 request any additional information that the CEO reasonably considers relevant to the Review;
- 17.1.4 in the case of the Applicant only, provide any and all information referred to in **paragraph 13.3.3**.
- 17.2 If a request is made by the CEO pursuant to **paragraph 17.1.3**:
 - 17.2.1 the CEO shall specify a date by which the additional information must be provided being a period of not more than fifteen (15) days;
 - 17.2.2 no further steps in the Review shall be taken for fifteen (15) days from the date of the request.

18. REVIEW PANEL

- 18.1 Subject to **paragraph 18.2** and after consultation with the Board Chair, within ten (10) days of the notice in given by the CEO pursuant to **paragraph 17.1**, the CEO shall convene the Review Panel. The Review Panel shall comprise three Fellows appointed by the CEO and approved by the Board Chair (collectively, the “**Members**”) with one of those Members appointed as the Panel Chair.
- 18.2 The Review Panel shall not include a Member who:
 - 18.2.1 participated in the Original Decision; or
 - 18.2.2 participated in the Reconsideration Decision; or
 - 18.2.3 has a conflict of interest as defined in the Conflict of Interest Policy.
- 18.3 If at any time during a Review prior to the handing down of a Review Decision, a Member cannot complete the Review or stands down in accordance with the Conflict of Interest Policy:
 - 18.3.1 the Review is immediately stayed;
 - 18.3.2 within fifteen (15) days of the stay of the Review pursuant to **paragraph 18.3.1**, the CEO shall appoint a replacement Member in accordance with **paragraph 18.1**;
 - 18.3.3 the replacement Member appointed pursuant to **paragraph 18.3.2** shall take the place of the departing Member and shall, on and from the date of appointment, be taken to be a Member of the Review Panel for the purpose of this Policy; and
 - 18.3.4 the Review shall continue on and from the date of the appointment of the replacement Member in accordance with this Policy subject to any resulting and commensurate adjustment to specified timeframes as reasonably determined by the Review Panel.
- 18.4 The appointment of a Member pursuant to **paragraphs 18.1 and 18.3.2** shall be final and not subject to Reconsideration, Review or Appeal.

19. THE REVIEW

- 19.1 Subject to **paragraph 18.3**, within five (5) days of convening the Review Panel pursuant to **paragraph 18.1**, the CEO shall:
 - 19.1.1 refer the Application for Review to the Review Panel; and
 - 19.1.2 provide the Review Panel and the Original Decision-maker with a complete copy of:

- 19.1.2.1 the complete Application for Review;
 - 19.1.2.2 all Reconsideration Material; and
 - 19.1.2.3 all additional information provided by the Applicant pursuant to any request made by the CEO pursuant to **paragraph 17.1.3**.
- 19.2 The Review Panel shall endeavor to conduct the Review and deliver its Review Decision to the CEO pursuant to **paragraph 20.1** within thirty (30) days of the referral to it of the Application for Review pursuant to **paragraph 19.1.1**. Where, in the reasonable opinion of the Review Panel, the Review Decision requires further time, the Review Panel shall advise the CEO and the CEO shall advise the Applicant and Original Decision-maker in writing as soon as practicable.
- 19.3 The Review Panel shall conduct the Review having regard to:
- 19.3.1 all relevant College policy and procedures;
 - 19.3.2 the Application for Review;
 - 19.3.3 the Reconsideration Material;
 - 19.3.4 all additional information provided by the Applicant pursuant to any request made pursuant to **paragraph 17.1.3**; and
 - 19.3.5 subject to **paragraphs 19.4 and 19.5**, any additional material and documentation considered relevant by the Chair of the Review Panel;
 - 19.3.6 any accepted advice received from a legal advisor engaged pursuant to **paragraph 4.1.3**
- 19.4 The Review Panel must not take into account evidence of facts, matters and issues occurring after the date of the Original Decision when conducting the Review.
- 19.5 Where any material and documentation in **paragraph 19.3.5** includes information which is, in the reasonable opinion of the Review Panel, adverse to the Applicant, the Applicant will be provided with the relevant information (if not already provided) and shall be given a reasonable period, as determined by the Review Panel, to respond to the information by way of written submission.
- 19.6 The Applicant and the Original Decision-maker do not have the right to attend any meetings of the Review Panel or, subject to **paragraphs 16.1.8 and 19.5**, to make any submissions to it, either personally or through any other party.
- 19.7 Subject to **paragraphs 19.8, 19.9 and 19.10**, the Review Panel conducting the Review may exercise all of the powers and discretions that the Original Decision-maker was able to exercise when it made the Original Decision and it is not subject to the rules of evidence.
- 19.8 The Review Panel shall meet in person or by telephone to conduct the Review.
- 19.9 When conducting the Review, the Review Panel shall not:
- 19.9.1 hold a hearing;
 - 19.9.2 interview a person;
 - 19.9.3 request a person to attend a meeting of the Review Panel;

- 19.9.4 seek documents or information from any person or entity other than the Applicant or the Original Decision-maker pursuant to this Policy;
 - 19.9.5 seek submissions from the Applicant other than pursuant to this Policy;
 - 19.9.6 broaden the Review to determination of issues other than the Review Grounds.
- 19.10 The Review Panel quorum shall be three (3) and all determinations shall be by simple majority.
- 19.11 All Review Panel meetings shall be minuted. Those minutes shall not be disclosed except in accordance with this Policy and the Law.

20. REVIEW DECISION

- 20.1 The Review Panel may make any one of the following Review Decisions:
- 20.1.1 where a Review Ground specified in **paragraphs 9.13, 9.14, 9.15** (referred to therein as a Reconsideration Ground) or **15.2.2** is not upheld by the Review Panel, affirm the Original Decision;
 - 20.1.2 where a Review Ground specified in **paragraphs 9.13, 9.14, 9.15** (referred to therein as a Reconsideration Ground) or **15.2.2** is upheld by the Review Panel and after conducting a Review on the merits:
 - 20.1.2.1 affirm its Original Decision;
 - 20.1.2.2 vary its Original Decision; or
 - 20.1.2.3 set aside its Original Decision and make a new decision.
- 20.2 Any varied or new decision pursuant **paragraphs 20.1.2.2 or 20.1.2.3** respectively shall apply in place of the Original Decision on and from the date of the Review Decision unless overturned on Appeal.
- 20.3 Within ten (10) days of making the Review Decision, the Review Panel must provide the CEO with:
- 20.3.1 the Review Decision;
 - 20.3.2 the Review Decision Reasons; and
 - 20.3.3 any and all information considered in the Review including any and all information specified in **paragraph 19.3**.
- (“Review Material”)**
- 20.4 The Review Decision shall:
- 20.4.1 include a determination concerning each of the specified Review Grounds;
 - 20.4.2 where a Review Ground specified in **paragraphs 9.13, 9.14 or 9.15** (referred to therein as a Reconsideration Ground) or **15.2.2** is upheld, include a determination of the Original Decision on the merits; and
 - 20.4.3 not make findings of fact beyond those relevant to determination of the Review Grounds and determination of the Original Decision on the merits.

- 20.5 The Review Decision Reasons will:
- 20.5.1 Specify all material considered by the Review Panel;
 - 20.5.2 Provide reasons for acceptance or rejection of all Review Grounds; and
 - 20.5.3 Include the reasons supporting any varied or new Original Decision.
- 20.6 Subject to **paragraphs 20.7, 27.1** and knowledge of impending Litigation, the CEO must store the Review Material for a period of one (1) year where after the Review Material is to be destroyed. Where the CEO has knowledge of impending Litigation, the CEO shall retain the Review Material.
- 20.7 The Review Material shall not be disclosed by the College except by compulsion of Law.
- 20.8 Notwithstanding the balance of this **paragraph 20**, the CEO may require that the Original Decision-maker make amendments to its Review Decision and/or Review Decision Reasons prior to notification pursuant to **paragraph 21** provided that such amendments do not alter the Original Decision-maker's ultimate determination concerning any Review Grounds or the Original Decision. For the purpose of this Policy, the ultimate form of the Review Decision and/or Review Decision Reasons following any amendments made pursuant to this paragraph shall be taken to be the Review Decision or Review Decision Reasons for the purpose of **paragraphs 20.3, 20.4 and 20.5** regardless of any departure from the requirements imposed by **paragraphs 20.4 and 20.5** in substance or form. Any amendment to the Review Decision and/or Review Decision Reasons pursuant to this paragraph shall constitute compliance with this Policy and shall not be subject to any form of Reassessment or constitute valid grounds for any subsequent Application for Reassessment of any form.

21. NOTIFICATION OF REVIEW DECISION

- 21.1 The CEO shall by written notice on a confidential basis:
- 21.1.1 provide the Applicant and the Original Decision-maker with the Review Decision and the Review Decision Reasons within ten (10) days of receipt of the same pursuant to **paragraph 20.3**; and
 - 21.1.2 advise the Applicant of its right to seek an Appeal of the Review Decision.
- 21.2 Subject to **paragraphs 21.1 and 27.1.2**, the Review Decision and Review Decision Reasons shall not be communicated to any other person or entity unless otherwise determined by the Board.
- 21.3 A Review Decision or Review Decision Reasons is not subject to Reconsideration or Review.

D. THE APPEAL PROCESS

22. WHO CAN APPLY FOR AN APPEAL

- 22.1 An Applicant may, in accordance with **paragraphs 6, 22 and 24**, apply to the College to Appeal a Review Decision if they remain dissatisfied with the Review Decision.
- 22.2 An Appeal may only be sought on one or more of the following grounds:
- 22.2.1 relevant and significant information in the possession of the Review Panel was not considered or not properly considered in the making of the Review Decision;

- 22.2.2 the Review Decision was inconsistent with the information before the Review Panel when making the Review Decision;
- 22.2.3 irrelevant information was given undue weight by the Review Panel in the making of the Review Decision;
- 22.2.4 the Review Decision was not made in accordance with this Policy.

(“**Appeal Grounds**”).

- 22.3 New, different or additional Appeal Grounds must not be raised in the Application for Appeal or during the Appeal.

23. APPEAL FEE

- 23.1 The Applicant must pay the Appeal Fee at the time of lodging its Application for Appeal.
- 23.2 An Application for Appeal shall not be deemed complete for the purpose of this Policy until the Appeal Fee is paid in full.
- 23.3 It is the Applicants responsibility to obtain relevant bank details from the CEO for payment of the Appeal Fee prior to lodgment of the Appeal.

24. FORM OF THE APPLICATION FOR APPEAL

- 24.1 An Application for Appeal must:
 - 24.1.1 specify the full name, postal address, telephone number and email address of the Applicant;
 - 24.1.2 specify the date of the Review Decision;
 - 24.1.3 specify what part or parts of the Review Decision the Applicant Appeals;
 - 24.1.4 specify the Appeal Grounds relied upon by the Applicant;
 - 24.1.5 contain all relevant materials, documents and evidence that the Applicant considers relevant to the Appeal Grounds;
 - 24.1.6 contain a general written submission in support of each Appeal Ground relied upon by the Applicant including reference to part or parts of the Review Material relied upon;
 - 24.1.7 specify what redress or resolution the Applicant is seeking in the Appeal;
 - 24.1.8 confirm whether the subject matter of the Review has been referred to any other entity, person or External Agency or is the subject of any Litigation;
 - 24.1.9 be signed and dated by the Applicant;
 - 24.1.10 be accompanied by payment to the College of the Appeal Fee; and
 - 24.1.11 be in the form of the Application for Reconsideration, Review and Appeal published on the RANZCO website.
- 24.2 An Application for Appeal must not concern any of the matters specified in **paragraph 9.2**.
- 24.3 To the extent to an Application for Appeal concerns matters specified in **paragraph 9.2**, those matters shall be deemed not part of the Application for Appeal and shall not be considered in the Appeal.

25. ACKNOWLEDGEMENT OF APPLICATION FOR APPEAL

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25.1 Within ten (10) days of lodgment of a complete Application pursuant to **paragraphs 6, 22 and 24**, the CEO shall by written notice to the Applicant and Original Decision-maker:

25.1.1 acknowledge receipt of the Application;

25.1.2 inform the Applicant and the Original Decision-maker that the Application shall proceed to Appeal;

- 25.1.3 request any additional information that the CEO reasonably considers relevant to the Appeal; and
 - 25.1.4 in the case of the Applicant only, provide any and all information referred to in **paragraph 20.3.3**.
- 25.2 If a request is made by the CEO pursuant to **paragraph 25.1.3**:
- 25.2.1 the CEO shall specify a date by which the additional information must be provided being a period of not more than fifteen (15) days;
 - 25.2.2 no further steps in the Appeal shall be taken for fifteen (15) days from the date of the request.
- 25.3 An Application for Appeal lodged in accordance with this Policy shall, on and from the date of lodgment, stay the effect of the Review Decision until the earlier of:
- 25.3.1 withdrawal of the Application pursuant to **paragraph 3.6**; or
 - 25.3.2 affirmation of the Original Decision pursuant to **paragraph 32.3.1**.

26. APPEALS COMMITTEE

- 26.1 Subject to **paragraph 25.2 and 26.3**, after consultation with the Board Chair and within ten (10) days of the notice in given by the CEO pursuant to **paragraph 25.1**, the CEO shall:
- 26.1.1 convene the Appeals Committee to Conduct the Appeal;
 - 26.1.2 by written notice to the Applicant and Original Decision-maker:
 - 26.1.2.1 confirm the identity of the persons appointed to the Appeals Committee ("**Appeals Committee Members**");
 - 26.1.2.2 confirm that if Applicant or Original Decision-maker have a reasonable belief that an Appeals Committee Members may be in breach of the Conflict of Interest Policy, they must immediately serve a Concerns Notice and the Concerns Information on the College in accordance with the Conflict of Interest Policy.
- 26.2 The Appeals Committee shall act independently but always in compliance with this Policy.
- 26.3 The Appeals Committee shall comprise the following Appeals Committee Members appointed by the CEO and approved by the Board Chair:
- 26.3.1 three (3) non-Fellows of the College:
 - 26.3.1.1 who are appropriately qualified persons as determined by the CEO: including
 - 26.3.1.2 one person who is appointed Chair of the Appeals Committee by the CEO; and
 - 26.3.2 two (2) Fellows of the College who:
 - 26.3.2.1 did not participate in the Original, Reconsideration or Review Decision; and

- 26.3.2.2 are not directly involved in the subject matter of the Appeal;
and
 - 26.3.2.3 possess knowledge and expertise relevant to the subject
matter of the Appeal.
- 26.4 The Appeals Committee shall not include an Appeals Committee Member who:
 - 26.4.1 participated in the Original, Reconsideration or Review Decision; or
 - 26.4.2 has a conflict of interest as defined in the Conflict of Interest Policy.
- 26.5 If at any time during an Appeal prior to the handing down of an Appeal Decision:
 - 26.5.1 an Appeals Committee Member cannot complete the Review or stands
down in accordance with the Conflict of Interest Policy; and
 - 26.5.2 quorum of the Appeals Committee is unsatisfied in accordance with
paragraph 26.8:
 - 26.5.2.1 the Appeal is immediately stayed;
 - 26.5.2.2 within fifteen (15) days of the stay of the Appeal pursuant to
paragraph 26.5.2.1, the CEO shall appoint a replacement
Member in pursuant to **paragraph 26.1**;
 - 26.5.2.3 the replacement Member appointed pursuant to **paragraph**
26.5.2.2 shall take the place of the departing Member and shall
on and from the date of appointment be taken to be an Appeals
Committee Member for the purpose of this Policy; and
 - 26.5.2.4 the Appeal shall continue on and from the date of the
appointment of the replacement Appeals Committee
Member in accordance with this Policy subject to any
resulting and commensurate adjustment to specified
timeframes as reasonably determined by the Appeals
Committee.
- 26.6 The appointment of an Appeals Committee Member pursuant to **paragraphs**
26.1, 26.3 and 26.5.2.2 shall be final and not subject to Reconsideration,
Review or Appeal.
- 26.7 Unless otherwise approved by the CEO, the Appeals Committee shall meet two (2)
times a year in May and November to:
 - 26.7.1 settle Appeal Decisions;
 - 26.7.2 fix dates for Appeal Steps;
 - 26.7.3 attend to matters arising in connection with this Policy.

(“Bi-Annual Meeting”)
- 26.8 A quorum for all meetings of the Appeals Committee is:
 - 26.8.1 the Chair of the Appeals Committee; and
 - 26.8.2 three (3) other Appeals Committee Members.
- 26.9 All Appeals Committee Members shall be entitled to vote on decisions. The Appeals
Committee shall decide on the basis of a majority vote. The Appeals Committee
shall continue deliberations until a majority is achieved.

- 26.10 The Applicant and the Original Decision-maker do not have the right to attend any meeting of the Appeals Committee or to make any submissions to the Appeals Committee, either personally or through any other party, except as expressly provided for in **paragraphs 29 and 31**.
- 26.11 The Appeals Committee may meet in person or by telephone to conduct all meetings.
- 26.12 All Appeals Committee meetings shall be minuted. Those minutes shall not be disclosed except in accordance with this Policy and the Law.

27. THE APPEAL

- 27.1 Subject to **paragraph 25.2**, within five (5) days of convening the Appeal Committee the CEO shall:
- 27.1.1 refer the Application for Appeal to the Appeals Committee; and
 - 27.1.2 provide the Appeals Committee, the Applicant, and the Original Decision-maker with a complete copy of:
 - 27.1.2.1 the Application for Appeal;
 - 27.1.2.2 all Review Material;
 - 27.1.2.3 all additional information provided pursuant any request made pursuant to **paragraph 25.1.3**.
- 27.2 The CEO will oversee the Appeal and will arrange for legal or secretarial support as required but shall not form part of the Appeal Committee.
- 27.3 Subject to Board confirmation pursuant to **paragraph 33**, the Appeals Committee shall endeavor to deliver its confirmed Appeal Decision to the CEO pursuant to **paragraph 33.7**, within thirty (30) days of the first complete Appeal Cycle following the referral of the Appeal pursuant to **paragraph 27.1.1**. Subject to **paragraph 33.5** or where, in the reasonable opinion of the Appeals Committee, the Appeal Decision requires further time, the Appeals Committee shall advise the CEO and the CEO shall advise the Applicant and Original Decision-maker in writing as soon as practicable.

28. FIRST BI-ANNUAL MEETING FOLLOWING REFERRAL

- 28.1 At the first Bi-Annual Meeting following the referral of an Application for Appeal pursuant to **paragraph 27.1.1**, the Appeals Committee shall consider the Application for Appeal and determine the date fixed for the following Appeal Steps:
- 28.1.1 lodgment by the Applicant of the Applicant's Detailed Submissions in Support (which shall be not less than three (3) months prior to the date fixed for the hearing of the Appeal pursuant to **paragraph 28.1.4**);
 - 28.1.2 lodgment of the Original Decision-makers Detailed Submissions in Reply (which shall be not less than two (2) months prior to the date fixed for the hearing of the Appeal pursuant to **paragraph 28.1.4**);
 - 28.1.3 lodgment of the Applicant's Detailed Submissions in Response (which shall be not less than one (1) month prior to the date fixed for the hearing of the Appeal pursuant to **paragraph 28.1.4**); and

- 28.1.4 the hearing of the Appeal which shall be not less than one (1) month before the end of the current Appeal Cycle.
- 28.2 The Appeal Step dates fixed by the Appeals Committee pursuant to **paragraph 28.1** are:
 - 28.2.1 subject to this Policy, determined at the discretion of the Appeals Committee having regard to:
 - 28.2.1.1 the availability of Appeals Committee Members; and
 - 28.2.1.2 the work load of the Appeals Committee;
 - 28.2.2 final and not subject to adjustment, Reconsideration, Review or Appeal.
- 28.3 Within ten (10) days of the first Bi-Annual Meeting, the Appeals Committee shall by written notice, inform the CEO of all Appeal Step dates fixed by the Appeals Committee pursuant to **paragraph 28.1**.
- 28.4 Within ten (10) days of receipt of the written notice referred to in **paragraph 28.3**, the CEO shall inform the Applicant and Original Decision-maker of the Appeal Step dates fixed by the Appeals Committee by written notice in the form specified in **Schedule 3** ("**Appeal Step Confirmation**").

29. WRITTEN SUBMISSIONS

- 29.1 All written submissions must be lodged with the CEO strictly in accordance with dates specified in the Appeal Step Confirmation.
- 29.2 Within five (5) days of receipt of a submission lodged in accordance with the Appeal Step Confirmation, the CEO shall by written notice:
 - 29.2.1 provide the lodging party with confirmation of receipt of the submission; and
 - 29.2.2 provide a copy of the submission to:
 - 29.2.2.1 each Appeal Committee Member; and
 - 29.2.2.2 the other party to the Appeal.
- 29.3 Any submission received by the CEO after a relevant Appeal Step date, as specified in the Appeal Step Confirmation, shall not be accepted by the CEO and shall not be considered by the Appeals Committee during the hearing of the Appeal.
- 29.4 Any dispute concerning the date of lodgment of any submission shall be determined by the CEO having regard to all information in their possession at the time for lodgment and the CEO's decision shall be final and not subject to Reassessment of any form.
- 29.5 The party asserting the lodgment of any submission bears the onus of proof when establishing the successful lodgment of the submission in accordance with this Policy.
- 29.6 The CEO shall have regard to **paragraph 37** when determining any dispute as to the date of lodgment of submissions.
- 29.7 Any determination pursuant to **paragraph 29.4** shall be notified by the CEO to the Applicant and the Original-Decision-maker, within five (5) days of the determination.

30. THE HEARING

- 30.1 The hearing of the Appeal shall:
- 30.1.1 be conducted in accordance with this Policy;
 - 30.1.2 commence at the time, date and location specified in the Appeal Step Confirmation;
 - 30.1.3 conclude on the hearing date as specified in the Appeal Step Confirmation; and
 - 30.1.4 not be adjourned except:
 - 30.1.4.1 in accordance with **paragraph 31.10**; or
 - 30.1.4.2 in circumstances where the Appeals Committee is not able to achieve quorum on the date specified in the Appeal Step Confirmation.
- 30.2 The Appeals Committee will not entertain any motion by the Applicant or the Original Decision-maker to adjourn a hearing of an Appeal and in the event that a party fails to appear at a hearing of an Appeal, that party's Appeal or opposition to Appeal, as the case may be, shall be taken to be formally withdrawn.
- 30.3 Subject to this Policy, the Appeals Committee shall conduct the hearing of the Appeal with as little formality as possible.
- 30.4 The Appeals Committee is not bound by the rules of evidence and subject to the rules of natural justice, procedural fairness and this Policy, may inform itself on any matter pertinent to the determination of a contested Appeal Ground during the hearing of the Appeal.
- 30.5 The Applicant shall must not raise additional Appeal Grounds during the Appeal.
- 30.6 The Original Decision-maker shall not be entitled to oppose a Ground of Appeal that has already been accepted by the Original Decision-maker pursuant to **paragraph 7.1.1.1** or deemed accepted pursuant to **paragraph 7.3.2**.
- 30.7 The Applicant and the Original Submission-maker shall not be entitled to submit any evidence, material, information or documents to the Appeals Committee during the hearing of the Appeal.

31. HEARING PROCEDURE

- 31.1 The Appeal hearing shall proceed pursuant to this **paragraph 31**.
- Introductions and Appearances***
- 31.2 The Appeal shall commence with an introduction given by each of the Appeal Committee Members.
- 31.3 The Applicant shall introduce itself and any non-legal practitioner advocate appearing on its behalf.
- 31.4 The Original Decision-maker or Original Decision-maker representative shall introduce itself and any non-legal practitioner advocate appearing on its behalf.

Conflict of Interest

31.5 Any alleged conflict of interests shall be resolved in accordance with the Conflict of Interest Policy.

Housekeeping

31.6 The Appeals Committee shall:

- 31.6.1 specify all documents received by it pursuant to this Policy;
- 31.6.2 provide a general overview of the history and content of the Appeal; and
- 31.6.3 specify how the Appeal hearing is to proceed in accordance with the balance of this **paragraph 31**.

Applicants Case

31.7 Subject to **paragraphs 30.5 and 30.7**, the Applicant shall:

- 31.7.1 provide an overview of its Appeal;
- 31.7.2 if required, retract or make any necessary corrections to any submission and document lodged by it in accordance with this Policy; and
- 31.7.3 make any additional oral submissions in support of its Appeal.
(“**Applicant’s Case**”)

31.8 Unless specifically retracted or corrected during the hearing pursuant to **paragraph 31.7.2**, the complete written submissions of the Applicant shall form part of the Applicant’s Case.

31.9 The Appeals Committee may question the Applicant in relation to matters addressed in, or arising from, the Applicant’s Case. The answers to such questions shall form part of the Applicant’s Case.

Adjournment

31.10 Upon conclusion of the Applicant’s Case, the hearing shall be adjourned for a period of no longer than an hour as determined by the Appeals Committee.

Original Decision-maker’s Case in Reply

31.11 After any adjournment pursuant to **paragraph 31.10** and subject to **paragraphs 30.5 and 30.7**, the Original Decision-maker shall:

- 31.11.1 provide an overview of its opposition to the Appeal;
- 31.11.2 if required, make any necessary corrections to any submission and document lodged by it in accordance with this Policy; and
- 31.11.3 make any additional oral submissions:
 - 31.11.3.1 in support of its opposition to the Appeal; and
 - 31.11.3.2 in response to the Applicant’s Case.

(“**Original Decision-maker’s Case in Reply**”)

31.12 Unless specifically retracted or corrected during the hearing pursuant to **paragraph 31.11.2**, the complete written submissions of the Original Decision-maker shall form part of the Original Decision-maker’s Case in Reply.

- 31.13 The Appeals Committee may question the Original Decision-maker in relation to matters addressed in or arising from the Original Decision-maker's Case in Reply. The answers to such questions shall form part of the Original Decision-maker's Case in Reply.

Applicant's Case in Response

- 31.14 Upon the conclusion of the Original Decision-maker's Case in Reply, the Applicant shall, subject to **paragraphs 30.5 and 30.7**, make any additional oral submissions in support of its Appeal in relation to matters arising from the Original Decision-maker's Case in Reply.

("Applicant's Case in Response")

- 31.15 The Appeals Committee may question the Applicant in relation to matters addressed in or arising from the Applicant's Case in Response. The answers to such questions shall form part of the Applicant's Case in Response.

Conclusion of Hearing

- 31.16 The Appeals Committee shall:
- 31.16.1 conclude the hearing upon the completion of the Applicant's Case in Reply; and
 - 31.16.2 confirm its intentions regarding the timing of the handing down of its Appeal Decision.

32. APPEAL DECISION

- 32.1 The Appeals Committee shall seek to settle its Appeal Decision and Appeal Decision Reasons at the Bi-Annual Meeting concluding the Appeal Cycle in which the Appeal was heard. The Appeal Committee may extend the time for settling the Appeal Decision if, at their discretion, further time is required.
- 32.2 The Appeals Committee shall have regard to the following matters only when making the Appeal Decision:
- 32.2.1 all relevant College policy and procedures;
 - 32.2.2 the Application;
 - 32.2.3 the Application Response;
 - 32.2.4 the Applicant's Case;
 - 32.2.5 the Original Decision-maker's case in Reply;
 - 32.2.6 the Applicant's Case in Response; and
 - 32.2.7 any accepted advice received from a legal advisor engaged pursuant to **paragraph 4.1.3**.
- 32.3 The Appeals Committee may make any one of the following Appeal Decisions:
- 32.3.1 where an Appeal Ground specified in **paragraphs 22.2.1 to 22.2.4** is not upheld by the Appeals Committee, affirm the Original Decision;
 - 32.3.2 where an Appeal Ground specified in **paragraphs 22.2.1 to 22.2.4** is upheld by the Appeals Committee and after considering the Original Decision on the merits:

- 32.3.2.1 Affirm the Original Decision;
 - 32.3.2.2 vary the Original Decision;
 - 32.3.2.3 set aside the Original Decision and make a new decision.
- 32.4 The Appeal Decision shall include directions, as necessary, concerning:
- 32.4.1 the implementation of the Appeal Decision;
 - 32.4.2 any refund of part or all of the Appeal Fee to the Applicant having regard to the success or otherwise of the Applicant in the Appeal.
- 32.5 The Appeal Decision Reasons shall:
- 32.5.1 specify all material considered by the Appeals Committee;
 - 32.5.2 provide reasons for acceptance or rejection of all Appeal Grounds;
 - 32.5.3 where an Appeal Ground specified in **paragraphs 22.2.1 to 22.2.4** is upheld by the Appeals Committee, confirm the Appeal Committee's merits based determination of the Original Decision including reasons in support;
 - 32.5.4 include the form of any varied or new Original Decision; and
 - 32.5.5 provide reasons for any direction made in the Appeal Decision pursuant to **paragraph 32.4**.
- 32.6 The Appeal Reasons shall not include findings of fact beyond those relevant to determination of the Appeal Grounds, the making of relevant directions and determination of the Original Decision on the merits.

33. BOARD CONFIRMATION

- 33.1 Within five (5) days of the settling of the Appeal Decision and the Appeal Decision Reasons, pursuant to **paragraph 32.1**, the Appeal Committee shall by written notice, provide a copy of both the Appeal Decision and Appeal Decision Reasons to:
- 33.1.1 the Chair of the Board; and
 - 33.1.2 the CEO.
- 33.2 The notice given pursuant to **paragraph 33.1**:
- 33.2.1 must include the following statement:
"The Appeals Committee recommend that the Board confirm the enclosed:
 - 1. *Appeal Decision; and*
 - 2. *Appeal Decision Reasons."*
 - 33.2.2 may also include additional recommendations of the Appeals Committee which do not appear in the Appeal Decision but which relate to matters associated with the policy, conduct and operations of the College.
- 33.3 The Board shall within ten (10) days of receipt of the notice specified in **paragraph 33.1** convene to consider the Appeals Committee recommendation, as specified in **paragraph 33.2**.

- 33.4 The Board shall at the meeting specified in **paragraph 33.3**, unless the same are inconsistent with College policy or the Constitution:
- 33.4.1 confirm the Appeal Decision and the Appeal Decision Reasons; and
 - 33.4.2 accept or reject any additional recommendations made by the Appeals Committee in accordance with **paragraph 33.2.2**.
- 33.5 The Board shall within five (5) days of the meeting specified in **paragraph 33.3**, by written notice to the Appeals Committee, advise of:
- 33.5.1 the confirmation of the Appeal Decision and Appeal Decision Reasons;
 - 33.5.2 and 33.5.2 the acceptance of any additional recommendations made by the Appeals Committee in accordance with **paragraph 33.2.2**.
- 33.6 If the Board do not confirm the Appeal Decision or the Appeal Decision Reasons, the same shall be referred back to the Appeals Committee for further consideration to ensure consistency with College policy and the Constitution and subsequent confirmation by the Board.
- 33.7 Any varied or new decision pursuant **paragraphs 32.3.2.2, 32.3.2.3 or 33.6** respectively shall apply in place of the Original Decision on and from the date of the confirmed Review Decision.
- 33.8 Within the earlier of five (5) days of the Boards notice to the Appeal Committee pursuant to **paragraph 33.5**; or subsequent confirmation of from the Board pursuant to **paragraph 33.6**, the Appeal Committee must provide the CEO with:
- 33.8.1 the confirmed Appeals Decision;
 - 33.8.2 the confirmed Appeal Decision Reasons;
 - 33.8.3 any Board accepted additional recommendations made by the Appeals Committee in accordance with **paragraph 33.2.2**.
 - 33.8.4 any and all information considered in the Appeal including any and all information specified in **paragraph 32.2**.

("Appeal Material")

- 33.9 Subject to knowledge of impending Litigation, the CEO must store the Appeal Material for a period of six (6) years where after the Appeal Material is to be destroyed. Where the CEO has knowledge of impending Litigation, the CEO shall retain the Appeal Material.
- 33.10 Subject to **paragraph 34.1**, the Appeal Material shall not be disclosed by the College except by compulsion of Law.

34. NOTIFICATION OF APPEAL DECISION

- 34.1 Within five (5) days of receipt of the confirmed Appeal Decision and the Appeal Decision Reasons pursuant to **paragraph 33.8**, the CEO shall, by written notice on a confidential basis, provide the Applicant and the Original Decision-maker with:
- 34.1.1 the confirmed Appeal Decision; and
 - 34.1.2 the confirmed Appeal Reasons;

- 34.2 Where the confirmed Appeal Decision includes a direction concerning any refund of part or all of the Appeal Fee to the Applicant, the notice to the Applicant given pursuant to **paragraph 34.1** shall include a request for Applicant bank details to enable the direct deposit of any refunded Appeal Fee. Any refund shall be completed by the CEO with seven (7) days of receipt of the requested details.
- 34.3 The Appeal Decision and Appeal Decision Reasons shall not be communicated to any other person or entity unless otherwise determined by the Board.
- 34.4 Confirmed Appeals Decisions and Appeal Decision Reasons are final and are not subject to any form of Reassessment.

35. DECISION MAKING

- 35.1 Matters to which the Reassessment Body may have regard when reaching a decision pursuant to this Policy are exhaustive unless expressly specified otherwise in this Policy.

36. USER FEEDBACK

- 36.1 This Policy recognises that user feedback assists Policy evaluation and development.
- 36.2 The Reassessment Body shall assist Policy evaluation by notifying the CEO in writing of any substantive:
- 36.2.1 Applicant feedback received concerning the implementation and effectiveness of this Policy; and
 - 36.2.2 observations concerning the implementation and effectiveness of this Policy.
- 36.3 The CEO shall record any feedback and observations received pursuant to **paragraph 36.2** in the Reassessment Register.

37. CALCULATION OF TIME

- 37.1 Reference to days in this Policy means normal business days and does not include weekends or official public holidays in Australia or New Zealand.
- 37.2 The date of lodgment by an Applicant shall be the date of receipt of the document by the College ending 12.00pm Eastern Standard Time.
- 37.3 Time is of the essence for the purpose of this policy.
- 37.4 Notwithstanding **paragraph 37.3**, the CEO shall be permitted to extend time for Original Decision-maker or Reassessment Body action if required. A decision to extended time pursuant to this clause is not subject to any form of Reassessment.

38. LIMITS TO POLICY

- 38.1 To the fullest extent permitted by Law, this Policy does not oblige the College to take any steps which are not in its interest.

39. PRIORITY

- 39.1 To the extent of any inconsistency, between this Policy and the Constitution, the Constitution shall have priority.

39.2 This Policy is also a Bylaw for the purpose of the Constitution.

40. INTERPRETATION

40.1 In this Policy:

40.1.1 Capitalised words defined in the text of this Policy have their defined meaning;

40.1.2 undefined words shall have their normal meaning; and

40.1.3 the following Capitalised words have the following meaning unless otherwise specified in the text of this Policy:

“Annual Reassessment Report” means a written, de-identified report prepared by the CEO based on the information contained in the Reassessment Register dealing with the issues specified in **Schedule 2** for the last year.

“Appeal Fee” means the fee as determined by the College from time-to-time and published on the College website payable by the Applicant to the College upon lodgment of an Application for Appeal.

“Appeal Cycle” means a complete period of six (6) months beginning in May or November in any year.

“Appeal Steps” means those steps specified in **paragraph 28.1**.

“Applicant” means a person who has lodged an Application for Reconsideration, Review or Appeal pursuant to this Policy.

“Application” means a written application made by an Applicant in accordance with **paragraphs 10.1, 16.1 or 24.1** of this Policy.

“Application Response” means a written notice given pursuant to **paragraph 7.1**.

“Appeal” means an appeal undertaken pursuant to the Appeals Process specified in **Part D**.

“Appeal Decision” means the Appeals Committee Appeal Decision as specified in **paragraph 32.3** as contained in a written stand-alone self-titled document.

“Appeal Decision Reasons” means a written stand-alone self-titled document including all reasons given pursuant to **paragraph 32.4**.

“Appeals Committee” means the committee convened and appointed pursuant to **paragraph 26.1 and 26.3**.

“Appeal Process” means the process specified in **Part D**.

“Board” means the Board of Directors of the College.

“Board Chair” means the chair of the Board as appointed from time-to-time.

“CEO” means the Chief Executive Officer of the College as appointed by the Board from time-to-time.

“College” means *The Royal Australian and New Zealand College of Ophthalmologists* being an Australian public company limited by guarantee established under the *Corporations Act* (ACN 000 644 404)

“Committee” means a Committee of the College.

“Concerns Information” means a Concerns Information as defined in paragraph 11 of the Conflict of Interest Policy.

“Concerns Notice” means a Concerns Notice as defined in paragraph 11 of the Conflict of Interest Policy.

“Conflict of Interest Policy” means the Conflict of Interest Policy of the College as adopted and revised by the Board from time-to-time.

“Constitution” means the Constitution of the College as amended from time-to-time.

“Council” means the Council of the College.

“Email” means electronic mail.

“External Agency” means any government agency including, but not limited to, regulatory agencies and police forces.

“Fellow” means any fellow of the College from time-to-time.

“Lacking Merit” means devoid of any evidence capable of rationally supporting a relevant finding.

“Law” means any and all statute, regulation and common law enacted and otherwise applicable within the jurisdiction of the Commonwealth of Australia, its states and territories and New Zealand.

“Litigation” means any proceedings or prosecution commenced in any Court or Tribunal within Australia and/or New Zealand.

“Original Decision” means a decision made by an Original Decision Maker specified in an Application which is capable of Reassessment pursuant to this Policy.

“Original Decision-maker” means Staff, Committee, Council, Board or Fellow of the College who made the Original Decision.

“Policy” means this *Reconsideration, Review and Appeals Policy* as amended by the Board from time-to-time. This Policy is identified in other ways in other College policy including the *Appeals Policy* and the *Appeals Process*. For the avoidance of doubt, any and all Reconsideration, Review, Appeals are conducted in accordance with this Policy.

“Post” means registered mail in Australia and New Zealand.

“Privacy Policy” means the privacy policy of the College as adopted and revised by the Board from time-to-time.

“Reassessment” means a Reconsideration, Review or Appeal.

“Reassessment Body” means each of the Original Decision-maker, the Review Panel and the Appeals Committee. The CEO shall also be taken to be a Reassessment Body during the period between the lodgment of an Application and the referral of the Application by the CEO to the Original Decision-maker, the Review Panel or the Appeals Committee as the case may be.

“Reassessment Decision” means each Reconsideration Decision, Review Decision and Appeal Decision.

“**Reassessment Ground**” means each Reconsideration Ground, Review Ground and Appeal Ground.

“**Reassessment Process**” means each Reconsideration Process, Review Process and Appeal Processes.

“**Reassessment Register**” means a written reassessment register maintained by the CEO for each Reassessment conducted by the College including all information specified in **Schedule 1**.

“**Reconsideration**” means a reconsideration undertaken pursuant to the Reconsideration Process in **Part B**.

“**Reconsideration Decision**” means a decision as specified in **paragraph 13.1**.

“**Reconsideration Decision Reasons**” means the reasons given pursuant to **paragraph 13.5**.

“**Reconsideration Process**” means the process specified in **Part B**.

“**Review**” means a review undertaken pursuant to the Review Process in **Part C**.

“**Review Decision**” means a decision as specified in **paragraph 20.1**.

“**Review Decision Reasons**” means the reasons given pursuant to **paragraph 20.5**.

“**Review Panel**” means the persons which oversee the Original Decision-maker as appointed by the Board in accordance with **paragraph 18.1**. The Review Panel shall be considered a Committee for the purpose of the Conflict of Interest Policy.

“**Review Process**” means the process specified in **Part C**.

“**Trivial**” means petty or of little significance as reasonably determined by the Reassessment Body having regard to the College objects as expressed in the Constitution.

“**Vexatious**” means an Application or part thereof, reasonably determined by the Reassessment Body, to have been made, regardless of its merits, solely to harass or subdue the Original Decision-maker.

41. FLOW DIAGRAM

- 41.1 At **Schedule 4** is a flow diagram depicting the Reassessment Process. The flow diagram is a simplified representation of the Reassessment Process as outlined in this Policy and should be viewed as a general guide only. All Reassessments shall be conducted as specified in this Policy.

Version Control

Version:	Current 2.0
Date of Adoption by the Board:	October 2016

Schedule 1

“Reassessment Register”

The Following items to be recorded for each Reassessment

1. Unique Application Number [Include date and unique number e.g.2016/001]
2. Name of Applicant
3. Date of Application
4. Nature of Reassessment i.e. Reconsideration, Review or Appeal
5. Contact Details of Applicant [Address, Phone, Email]
6. Name of Original Decision-maker
7. General subject category of the Reassessment
8. Brief description of Reassessment Grounds
9. Brief description of Reassessment Decision given
10. Date of Reassessment Decision
11. Brief description of any recommendations
12. Estimated time dealing with the Reassessment
13. Applicant feedback
14. Other Comments

Schedule 2

“Annual Reassessment Report”

All Annual Reassessment Reports are to be de-identified.

1. Reassessment Period

1.1 Description of the relevant period covered by the Report.

2. Headline Information

2.1 Total number of Reassessments received by category i.e. Reassessments, Reviews and Appeals.

2.2 Total number of Reassessments withdrawn by category.

2.3 Total number of Reassessments managed in accordance with the Policy by category.

2.4 Breakdown of general subject matter categories of all Reassessments by category.

3. Reconsiderations

3.1 Breakdown of Original Decision-makers subject to Reconsideration;

3.2 Breakdown of Original Decisions subject to Reconsideration;

3.3 Breakdown of Policy and procedures subject to Reconsideration;

3.4 Breakdown of Reconsideration Decisions;

3.5 Trends in Original Decisions subject to Reconsideration.

4. Reviews

4.1 Breakdown of Original Decision-makers subject to Review.

4.2 Breakdown of Original Decisions subject to Review.

4.3 Breakdown of Policy and procedures subject to Review.

4.4 Breakdown of Review Decisions.

4.5 Trends in Original Decisions subject to Review.

5. Appeals

5.1 Breakdown of Original Decision-makers subject to Appeal.

5.2 Breakdown of Review Decisions subject to Appeal.

5.3 Breakdown of Policy and Procedures subject to Appeal.

5.4 Breakdown of Appeal Decisions.

5.5 Trends in Original Decisions subject to Appeal.

6. Trends and Overview

6.1 Reassessment Trends

6.2 Reassessment Feedback Overview

7. CEO Recommendations for further improvement of Policy.

Schedule 3

“Appeal Step Confirmation Notice”

Date [insert date]

Dear [insert name],
[insert address]

[Identify Appeal by name and unique number]

I refer to the above Appeal received by the College on [insert date].

In accordance with the College’s *Reconsideration, Review and Appeals Policy* (the **Policy**), the Appeals Committee met at the Bi-Annual Meeting on [insert date].

In accordance with the Policy, the Appeals Committee fixed the dates for the following Appeal Steps:

1. The Applicant’s Detailed Submissions in Support to be received by the CEO by not later than [insert date].
2. The Original Decision-makers Detailed Submissions in Reply to be received by the CEO by not later than [insert date].
3. The Applicant’s Detailed Submissions in Response to be received by the CEO by not later than [insert date].
4. The Appeal is scheduled for hearing at:
Time: [insert time].
Date: [insert date].
Location: [insert location].

The dates fixed for the Appeal Step are final and are not subject to adjustment, Reconsideration, Review or Appeal.

All submissions must be received by the dates fixed for the relevant Appeal Step.

Any submission received by the CEO after a relevant Appeal Step date shall not be accepted by the CEO and shall not be considered by the Appeals Committee during the hearing of the Appeal.

The hearing of the Appeal will be conducted strictly in accordance with the Policy.

The hearing of the Appeal shall commence at the time, date and location specified in this notice.

You may elect to have a non-legal practitioner advocate appear for you at the hearing.

You shall be given the opportunity to make additional oral submissions in accordance with the Policy.

You shall not be entitled to raise additional Appeal Grounds during the hearing of the Appeal. **[to be included in correspondence to Applicant only]**

You shall not be entitled to submit further evidence, material, information or documents to the Appeals Committee during the hearing of the Appeal.

The Appeals Committee shall seek to hand down their Appeal Decision within two (2) months of the hearing of the Appeal.

The Appeal Decision shall be final and not subject to further Reconsideration, Review or Appeal.

You may withdraw your Application for Appeal at any time.

SCHEDULE 4

RECONSIDERATION, REVIEW AND APPEALS POLICY FLOW CHART

RECONSIDERATION



REVIEW



APPEAL



