

# COMPANY GOVERNANCE POLICY AND PROCEDURE



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## 1 PURPOSE

- 1.1 This document establishes a governance framework for companies in which the University is a shareholder (i.e. University companies). This framework aims to ensure:
- the University Council is informed about and maintains control of the University's exposure to potential liabilities and risks arising from University companies
  - the University and those to whom this policy and procedure applies comply with the *Commonwealth Corporations Act 2001* in relation to taking part in, forming and managing University companies, and
  - the University's resources are used economically, effectively and efficiently to achieve the University's stated objectives and best interests.

## 2 SCOPE

- 2.1 This document applies to wholly- or partially-owned University companies, and to:
- the University, the University Council and the Secretary to Council
  - individuals appointed as a company director, company secretary or company board member

- company members (shareholders), and
- University staff to whom this policy and procedure assigns responsibility.

### **3 POLICY STATEMENT**

#### **Authority to form, acquire and manage a company**

- 3.1 Section 61 of the *Central Queensland University Act 1998* expressly empowers the University to be a member of, form, take part in forming or manage a corporation, and specifies the objectives for which this authority may be used.
- 3.2 The University Council (hereafter 'Council') has sole authority to form, acquire and manage University companies. This authority is not delegated beyond the Council.

#### **Circumstances for a company structure**

- 3.3 The Council decides the circumstances in which it deems a company structure to be the best means for achieving the University's objectives, without unduly increasing the University's risk profile. These circumstances may include but are not limited to:
- ventures that require a separate legal entity (e.g. cooperative research centres)
  - joint activities with universities of other jurisdictions or other entities where a joint venture structure is not appropriate, or
  - a path to privatising a function where forming a company is a preliminary necessity to enable the sale of shares.
- 3.4 A company structure must not be used to:
- undertake a normal University activity
  - reduce transparency and accountability in using University or public funds and assets
  - avoid obligations to comply with legislation and policies applicable to the University
  - appease parties external to the University, who may not be subject to the same accountability mechanisms as the University, or
  - shelter the University from risks that would not otherwise be acceptable.

#### **Appointing company office holders, board members and other individuals**

- 3.5 The Council has sole authority to appoint company office holders (i.e. company directors and company secretaries) and board members to University companies.
- 3.6 When appointing company directors and board members, the Council will:
- ensure the board has the skills, knowledge and experience necessary to undertake proper stewardship and control of the company, and
  - appoint to the board some directors or board members who are not Council members, University staff or students.
- 3.7 The Council will appoint the Secretary to Council as company secretary of all University companies, unless the Council decides otherwise.

#### **Appointee obligations**

- 3.8 Company director, company secretary and company board member obligations are set out in the Corporations Act and, as such, appointees to these positions are responsible for understanding and satisfying their statutory obligations.

- 3.9 On appointment, appointee company directors and board members must undertake in writing to the Secretary to Council to provide an annual report and audited financial statement for the company of which they are a director or board member, where the Secretary to Council is not the company secretary.
- 3.10 The Council will appoint an individual, other than the company director or board member, who will:
- represent the University at the company's annual general meeting, and
  - submit the annual general meeting papers to the Secretary to Council (for the University's Planning and Resources Committee, the Audit Compliance and Risk Committee, the Council, and the Chancellor's Committee) where the Secretary to Council is not the company secretary.

## **Company governance**

- 3.11 The Council will monitor each company's risk profile, financial viability and accountability structure while they remain in operation to maintain awareness and control of the University's exposure to associated potential liabilities and risks.
- 3.12 To enable the Council to monitor company governance and performance effectively, each company board must establish and maintain company governance mechanisms consistent with this policy and procedure.
- 3.13 Council members or University employees who are also a company director, company board member or company secretary must ensure their activities and interests do not conflict with their obligations to the University. Any conflicts of interests that may arise must be declared and managed in accordance with the University's Conflict of Interest Policy and Procedure.

## **4 PROCEDURE**

### **Forming or acquiring a company**

- 4.1 When proposing to form or acquire a University company (hereafter 'company'), the Proposer must follow three steps (described below and in [Appendix A](#)):
- 1) preliminary consultation for in-principle support and, subject to receiving that support,
  - 2) submitting a business case for the Council's approval, and
  - 3) starting (forming/acquiring) a company.

#### **Step 1: Preliminary consultation for in-principle support**

- 4.2 The Proposer consults with the Vice-Chancellor and President and relevant members of the University's Executive, and must provide them with the following minimum information in writing:
- 1) the proposed company's purpose
  - 2) reasons for using a company structure
  - 3) strategic risk assessment, and
  - 4) proposed oversight arrangements.
- 4.3 When documenting this information, the Proposer must address the topics listed in section 4.2. Points to consider when addressing these topics are in [Appendix B](#). Preliminary consultation is for addressing initial high-level governance issues only.
- 4.4 The Vice-Chancellor and President and relevant members of the University's Executive will consider the information provided to evaluate whether:
- a company is the best structure to achieve the University's interests and stated objectives, and
  - the company structure will not unduly increase the University's risk profile.
- 4.5 If the Vice-Chancellor and President and relevant members of the University's Executive supports in-principle the concept of a proposed company, the Proposer proceeds to Step 2.

- 4.6 The Vice-Chancellor and President and relevant members of the University's Executive may withdraw their in-principle support in view of additional information, including the subsequent business case. In-principle support does not constitute Council approval.

### **Step 2: Submitting a business case for Council approval**

- 4.7 Subject to receiving the above in-principle support, the Proposer prepares a business case and must address the following topics:
- 1) proposed company's purpose
  - 2) reasons for using a company structure
  - 3) proposed name and type of company
  - 4) constitution
  - 5) members
  - 6) directors
  - 7) company secretary
  - 8) administration
  - 9) risk assessment
  - 10) financial viability
  - 11) financial and performance accountability
  - 12) taxation
  - 13) ancillary agreements, and
  - 14) other issues.
- 4.8 When documenting this information, the Proposer must address the topics listed in section 4.7. Points to consider when addressing these topics are in [Appendix B](#). More information about these topics is available on the Australian Securities and Investments Commission (ASIC) website at [www.asic.gov.au](http://www.asic.gov.au).
- 4.9 When proposing to acquire an interest in an existing company, the Proposer includes additional information in the business case to assist the Council to evaluate the company's risk profile. Where possible, the Proposer must quantify risks during the risk assessment and due diligence process, and specify in the business case how these risks will be addressed. Points to consider when addressing these topics are in [Appendix B](#).
- 4.10 When preparing the business case, the Proposer:
- uses the Business Case Template (available on the CQUniversity [IMPortal](#)) and adapts it if needed to ensure all the topics above are addressed
  - incorporates the information, including all agreed issues, from the preliminary consultation phase into the business case
  - obtains independent legal and other professional advice, if appropriate, and
  - consults with and Vice-Chancellor and President and relevant members of the University's Executive to identify any other matters for which Council approval may be required (e.g. these may depend on the proposed company's operational circumstances).
- 4.11 The Proposer must submit the business case through the relevant Executive Sponsor to the Planning and Resources Committee (PRC). The PRC may seek additional information and re-submission of the business case, or recommend the business case to the Council for approval.
- 4.12 The Council evaluates the business case to decide whether a company is the best means for the University to undertake the activity. During its evaluation, the Council:
- will consider the proposed company's risk profile, financial viability and accountability frameworks
  - will consider the skills, knowledge and experience of the company's proposed directors

- may weight these considerations differently depending on whether the University is to wholly or partly own the company, and
- may consider any other issues the Council deems relevant in making its decision.

4.13 The Council has discretion to approve or reject the business case in full or in part and, depending on the circumstances, may impose additional requirements as formal conditions of any approval.

### **Step 3: Starting a company**

4.14 If the business case is approved, the Secretary to Council will consult with the Executive Sponsor/Proposer to determine what action is necessary to implement the Council's decision and to start the company (e.g. establishing the company's constitution, registering the company). Information about starting a company is available on the [ASIC website](#).

### **Company constitution**

4.15 Before the University enters an arrangement to form or acquire a company (wholly or in part), legal advice on the constitution's content must be obtained to protect the University's rights.

4.16 If the University will have only part ownership or control of the company, where possible and appropriate, the constitution must include provisions requiring the Council's prior approval:

- when company members propose amendments to the objects of the company or any other key provisions of the constitution, and
- when company members propose that the company forms a subsidiary company.

4.17 If it is not possible or appropriate to include the above provisions in the constitution, a clause must be included to ensure amendments to the constitution and the formation of subsidiary companies cannot occur without the support of the University's representative member. In this case, include a clause in the constitution requiring:

- unanimous approval of the members, or
- a special resolution to be supported by the University's representative member.

### **Monitoring company governance and performance**

4.18 The company board must:

- comply with the terms and conditions on which the Council's approval was based and consult the Council where any changes in the company's circumstances or status may depart significantly from the approved terms and conditions
- not amend its constitution contrary to the Council's approved terms and conditions
- establish a board charter, meet its obligations and review it annually
- establish a Code of Conduct (noting that the University's Code of Conduct may be appropriate for this purpose) that deals with any conflicts that may arise between an individual's duties as a Council member or University employee and as a University company director, company secretary or company board member
- exercise good corporate governance and accountability, including high standards of internal control, ethical practices and external reporting, and establish documented policies and procedures to support its governance system
- document a clear corporate and business strategy, including long-term objectives and an annual business plan with achievable and measurable performance targets and milestones, which the board updates annually and submits to the Council for approval
- regularly review the company's financial and operational performance to ensure that projected performance targets, business plans and objectives are met
- regularly review the company's financial position to ensure that it remains solvent

- review and assess any change in financial or other risks that may impact on the University
  - monitor its performance and that of individual company office holders and board members in discharging their responsibilities, and
  - document evidence of compliance with this section in its reports to the Council.
- 4.19 Whether or not the University wholly-owns or controls the company, it must assist the University's internal audit function by providing University auditors with access to the company's information, staff and premises to perform any audit procedures the auditors deem necessary on behalf of the University's Audit, Compliance and Risk Committee.

### **Maintaining company registration and notifying changes**

- 4.20 A company must maintain its registration with ASIC to continue as a company, even though the company may no longer be trading. To maintain registration, company office holders (company directors and company secretaries) are responsible for notifying ASIC of certain changes to company details and responding to an annual company statement from ASIC. Details about the types of changes to be notified, related procedures and prescribed timeframes for meeting these obligations are on the [ASIC website](#).
- 4.21 A University or company representative proposing to change the company's constitution (including the company's directorship, ownership or control) must:
- consult the Council in a timely manner and, where necessary, obtain its approval for the proposed changes, and
  - obtain a Change to Company Details Form from the Secretary to Council for completion and return.
- 4.22 The Secretary to Council will use the completed form to notify ASIC within the prescribed timeframe.

### **Suspected financial difficulty and risk of insolvency**

- 4.23 A company that operates while insolvent poses serious risks (potential civil and criminal liability) to company office holders and, by association, to the University. Company directors are duty-bound to prevent their company from trading while insolvent or while they have reasonable grounds to suspect the company will become insolvent.
- 4.24 If a Council member, company director, company board member or University employee reasonably suspects the company has financial difficulties, and has become insolvent or risks becoming insolvent, they must consult the Vice Chancellor and President and relevant members of the University's Executive immediately.
- 4.25 The Vice Chancellor and President and relevant members of the University's Executive will seek legal and/or other professional advice to decide what action is necessary if the company's ability to continue operating is in doubt.

### **Closing a company**

- 4.26 The Council may decide to discontinue the University's ownership or control of a company or the company board may propose to the Council that the company be wound up or deregistered, even though the company is solvent.
- 4.27 If the Council, company directors or company board proposes that the company be deregistered or wound up, they must first consult the Vice Chancellor and President and relevant members of the University's Executive.
- 4.28 The Vice Chancellor and President and relevant members of the University's Executive will:
- seek legal and/or other professional advice about the options available to the University and its statutory obligations, and
  - consult with the Council and the relevant company directors and board.

- 4.29 After settling all the company's liabilities, the remaining assets are expected to be distributed according to the proportionate shareholdings, unless otherwise agreed in writing by the shareholders.
- 4.30 If the University's exit from a company must be negotiated, the Vice-Chancellor and President is authorised to depart from a proportionate distribution, if the premium paid for the University's exit does not exceed \$1 million.
- 4.31 The Deputy-Vice Chancellor (Finance and Planning) must make arrangements to ensure final financial statements are prepared and signed-off by the company directors and the auditor before the directors' responsibilities cease.

## 5 RESPONSIBILITIES

### Compliance, monitoring and review

- 5.1 University company directors and company secretaries are responsible for meeting their obligations under the Corporations Act and this policy and procedure.
- 5.2 The Secretary to Council is responsible for implementing and monitoring compliance with this policy and procedure, and reviewing its ongoing effectiveness in conjunction with the Council.

### Reporting

- 5.3 Company boards must prepare and submit an annual report each year at the end of the company's financial reporting year to the Audit, Compliance and Risk Committees for noting and to the Planning and Resources Committee (PRC) for recommendation to the Council. Annual reports must include the following information:
- governance structure (including board members and committee details)
  - management structure
  - strategic direction and report against yearly key performance indicators
  - financial performance and outlook (taken from statutory accounts)
  - staff achievement (highlights)
  - student/graduation achievement (highlights) where relevant
  - areas of significant risk, and
  - future outlook.
- 5.4 Company annual financial reports must include an auditor's report (including audit certification and management letter) by an external auditor (i.e. a State or Commonwealth auditor-general).
- 5.5 University companies that deliver/offer educational services to students must also submit to the Council (via the PRC) a quarterly report each term after the census date. These reports must include:
- an analysis of financial performance, which includes details of profit and loss, revenue and student numbers, staff numbers and salaries, and any other major financial matters
  - a brief report against key performance indicators, and
  - a brief report on other key issues that either the company's board or management wishes to raise.

### Records management

- 5.6 Company directors and company secretaries have recordkeeping responsibilities under the Corporations Act. More information about these obligations is on the [ASIC website](#).
- 5.7 University staff must maintain all records relevant to administering this policy and procedure in a recognised University recordkeeping system.

## 6 DEFINITIONS

- 6.1 Terms related to companies (e.g. company directors, company secretaries, company members, insolvency) are defined in the [Corporations Act](#). More information about companies and related terms is on the [ASIC website](#).

### Terms and definitions

**Company constitution:** refers to the set of rules governing a company. A constitution includes information such as the company's objectives, governance structures, members' rights and responsibilities, the appointment and powers of company directors, and rules about making changes to the constitution. The constitution is effectively a contract between:

- the company and each member
- the company and each company director and company secretary, and
- a member and each other member.

**University company (or company):** in the context of this document refers to any company wholly- or partly-owned by the University or in which the University has a substantial shareholding to the extent that the University is entitled to appoint a company director to represent its interests.

## 7 RELATED LEGISLATION AND DOCUMENTS

[Australian Accounting Standards](#)

[Australian Securities and Investments Commission \(ASIC\) website](#)

[Central Queensland University Act 1998 \(Qld\)](#)

[Change to Company Details Form \(ASIC website\)](#)

[Corporations Act 2001 \(Cwlth\)](#)

[Corporations Regulations 2001 \(Cwlth\)](#)

[Business Case Template](#)

## 8 FEEDBACK

University staff and students may provide feedback about this document by emailing [policy@cqu.edu.au](mailto:policy@cqu.edu.au).

## 9 APPROVAL AND REVIEW DETAILS

| Approval and Review                      | Details                          |
|--|----------------------------------|
| Approval Authority                       | Council                          |
| Advisory Committee to Approval Authority | Planning and Resources Committee |
| Administrator                            | Secretary to Council             |
| Next Review Date                         | 01/07/2019                       |

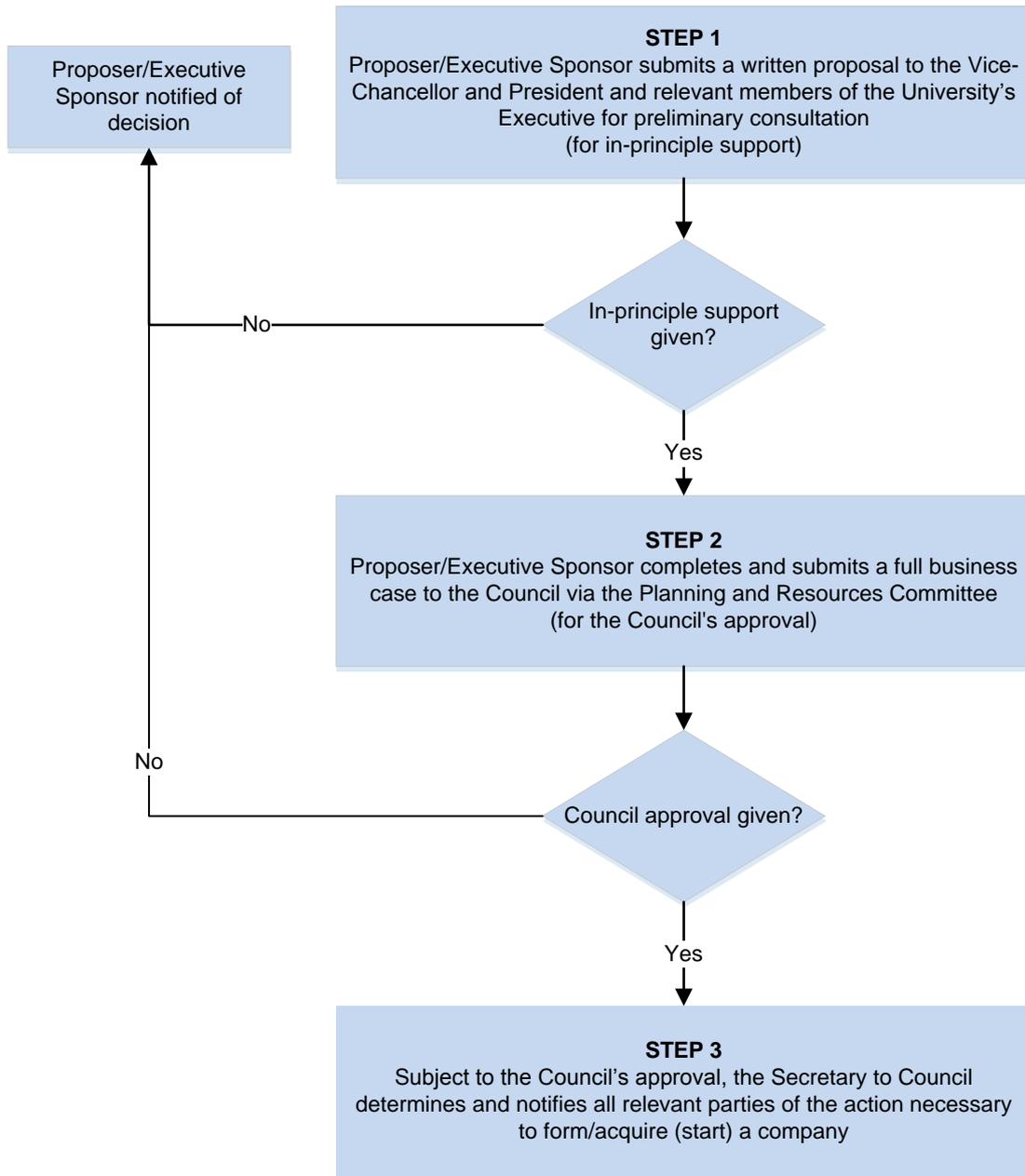
| Approval and Amendment History       | Details  |
|--------------------------------------|--|
| Original Approval Authority and Date | Council 8/12/2007  |
| Amendment Authority and Date         | Executive Director (Corporate Services) 2010; Council 20 August 2012; Council 01/07/2016.  |
| Notes                                | This policy and procedure replaces the University Companies and Directors Policy and the Formation, Acquisition and Post-Approval Monitoring of University Companies Procedures. |

### Acknowledgement

The University acknowledges its use of the Queensland Treasury's 'Guidelines for the Formation, Acquisition and Post Approval Monitoring of Companies', in developing this policy and procedure.

10 APPENDICES

Appendix A: Flowchart showing the process for forming/acquiring a company



## Appendix B: Issues to be addressed in preliminary consultation and the business case

| <b>PRELIMINARY CONSULTATION (STEP 1)</b>     |  |
|--|--|
| <b>The proposed company's purpose</b>        | <ul style="list-style-type: none"> <li>• What are the proposed company's specific objectives and desired outcomes?</li> <li>• What will be the company's main activity?</li> <li>• What is the company's proposed life span? Is it intended to have a limited existence (e.g. to carry out a specific project)?</li> <li>• Will there be any ongoing interactions between the University and the company in the project or program other than for monitoring purposes? If so, what will these interactions be?</li> </ul>  |
| <b>Reasons for using a company structure</b> | <ul style="list-style-type: none"> <li>• Why can this activity not be undertaken within the University's normal operational boundaries?</li> <li>• To what extent will this activity overlap with the University's normal day-to-day activities? If there is potential overlap, what steps will be taken to avoid duplication?</li> <li>• How does establishing a separate body justify the investment, additional staff, and financial and other resources required?</li> <li>• Why is a company the best structure for the activity?</li> <li>• If the activity to be undertaken by the proposed company is a commercial activity, why can it not be undertaken by the University (e.g. on a fee-for-service basis)?</li> </ul>  |
| <b>Strategic risk assessment</b>             | <ul style="list-style-type: none"> <li>• How will the company be funded for its establishment and ongoing operations?</li> <li>• When is the company expected to reach break-even point or deliver a return on investment?</li> <li>• How will the company be viable over the long term?</li> <li>• What, if any, indemnities or guarantees are to be provided to the company or its office holders?</li> <li>• What are the risks to the University in forming the company? (Consider risks such as reputation, financial contingencies, legal liabilities and community concerns.)</li> </ul>  |
| <b>Proposed oversight arrangements</b>       | <ul style="list-style-type: none"> <li>• Who will be the designated shareholders?</li> <li>• Will there be sole, dual or multiple ownerships? If so, what will be the different shareholdings?</li> <li>• How will the board be structured?</li> <li>• Will the board members be remunerated?</li> <li>• What will be the board's decision-making process (e.g. simple majority)?</li> <li>• What powers will the University have over the company?</li> <li>• Does the proposed board structure include members with higher education, public and/or private sector knowledge and experience?</li> <li>• What other acts, regulations and/or policies will be applicable to the company and how will these improve or impact on its accountability and performance?</li> <li>• How will the company ensure that it reports to and/or consults with the University on strategic issues?</li> </ul> |

| <b>BUSINESS CASE (STEP 2)</b>            |  |
|--|--|
| <b>Preliminary consultation</b>          | <ul style="list-style-type: none"> <li>• Incorporate information, including all agreed issues, from the preliminary consultation phase into the business case.</li> </ul>  |
| <b>Proposed name and type of company</b> | <ul style="list-style-type: none"> <li>• What is the proposed company's name?</li> <li>• Does the name comply with Schedule 6 of the Commonwealth Corporations Regulations 2001?</li> <li>• What is the proposed type of company?</li> <li>• Why was the proposed type of company selected?</li> </ul>   |
| <b>Constitution</b>                      | <ul style="list-style-type: none"> <li>• Does the objects clause identify and restrict the business and activities in which the company may engage?</li> <li>• What are the members' voting rights?</li> <li>• Does it address the appointment and termination of directors and/or managing director?</li> <li>• What are the directors' powers?</li> <li>• How are board resolutions made (e.g. by simple majority)?</li> <li>• For a wholly-owned or controlled company, is the Council's approval required for forming subsidiaries and/or amendments to the constitution?</li> <li>• For a non-wholly owned or controlled company, is unanimous approval of the members or the approval of special resolution supported by the members representing the University required for forming subsidiaries and/or amendments to the constitution?</li> <li>• Is there a documented schedule of authorities and financial delegations that specifies the legal authority for company staff and office holders to exercise specific powers and carry out certain actions?</li> </ul> |
| <b>Company members</b>                   | <ul style="list-style-type: none"> <li>• Companies limited by shares: <ul style="list-style-type: none"> <li>○ Who will be the members?</li> <li>○ How will the shares be held for the University, that is, if a trust is used, who will be the trustee?</li> <li>○ What will be the shareholding of each member?</li> <li>○ What will be the rights of each member, that is, voting and entitlement to profits?</li> <li>○ Are the rights of the class of shares to be held by the University the same as the other members? If not, provide justification.</li> <li>○ How will new members be added and removed?</li> </ul> </li> <li>• Companies limited by guarantee: <ul style="list-style-type: none"> <li>○ Who will be the members and what is the amount of the guarantee these members have agreed to undertake?</li> <li>○ If the members have guaranteed different amounts, why is that?</li> <li>○ What rights do the members have under the constitution?</li> <li>○ How will new members be added and removed?</li> </ul> </li> </ul>                             |
| <b>Company directors</b>                 | <ul style="list-style-type: none"> <li>• Provide the name and address for each proposed director?</li> <li>• Provide the proposed directors' written consent to act as director.</li> <li>• Provide details of relevant professional background, skills and experience.</li> <li>• Provide details of other appointments.</li> <li>• Provide a curriculum vitae as evidence of the proposed directors' ability to comply with their obligations and duties under the Corporations Act.</li> <li>• Provide details of proposed remuneration, if any. (i.e. total remuneration, including benefits such as car parks, telephone allowances, etc.).</li> <li>• Does the director have any current and/or potential conflict of interest with the interests of the company and, if so, how will this be managed?</li> <li>• Has a police check been undertaken to confirm if the person is eligible for appointment (e.g. current or past offences under the criminal and company law?)</li> </ul>   |

| <b>BUSINESS CASE (STEP 2)</b>   |  |
|---------------------------------|--|
| <b>Company secretary</b>        | <ul style="list-style-type: none"> <li>• Provide the name and address of the proposed company secretary.</li> <li>• Provide the proposed company secretary's written consent to act as company secretary.</li> <li>• Provide details of relevant professional background, skills and experience.</li> <li>• Provide details of other appointments.</li> <li>• Provide a curriculum vitae as evidence of the proposed company secretary's ability to comply with their obligations and duties under the Corporations Act.</li> <li>• Provide details of proposed remuneration, if any (i.e. total remuneration, including benefits such as car parks, telephone allowances, etc.).</li> <li>• Does the company secretary have any potential conflict of interest with the interests of the company and, if so, how will that be managed?</li> <li>• Has a police check been undertaken to confirm if the person is eligible for appointment (e.g. current or past offences under the criminal and company law?)</li> </ul>  |
| <b>Administration</b>           | <ul style="list-style-type: none"> <li>• Provide information about the proposed administrative arrangements for the company, including arrangements in respect of its registered office, company registers, proposed chief executive officer, preparation of accounts, and lodgment of ASIC returns.</li> <li>• If it is proposed that the individuals who establish the company will not be involved in its long-term management, provide details of an appropriate hand-over plan, which must be provided with the business case to ensure that those parties responsible for the company's ongoing management will be adequately briefed on any outstanding issues and will be able to adequately perform that management role.</li> </ul>  |
| <b>Risk assessment</b>          | <ul style="list-style-type: none"> <li>• What are the risks?</li> <li>• What is the possibility of each of these risks occurring?</li> <li>• What are the potential consequences for each of these risks if they occur?</li> <li>• What mitigating factors and controls are in place or will be put in place?</li> </ul>   |
| <b>Financial viability</b>      | <ul style="list-style-type: none"> <li>• Does the company's strategic plan include the: <ul style="list-style-type: none"> <li>○ mission?</li> <li>○ long-term (five-year) goals?</li> <li>○ nature of the activities?</li> <li>○ key drivers of business?</li> <li>○ resource requirements (e.g. infrastructure, human, systems, etc.)?</li> <li>○ initial investment for establishing the proposed company?</li> <li>○ financial requirements (e.g. capital, operational and cash flow requirements)?</li> <li>○ measurements for success and deviation from the plan?</li> </ul> </li> <li>• Regarding funding, guarantees and indemnity: <ul style="list-style-type: none"> <li>○ What are the expected sources of funding?</li> <li>○ What financial contributions may be required from the University?</li> <li>○ Are there any proposed guarantees that the University may be required to provide to support the company's obligations? If so, explain why they should be provided and the potential liabilities to the University.</li> <li>○ Are there any proposed indemnities that the University will be required to provide? If so, explain why they should be provided and the potential exposure to the University.</li> </ul> </li> <li>• Regarding member contributions: <ul style="list-style-type: none"> <li>○ Will the University be making contributions to the company other than by way of equity or guarantee (e.g. grant funding, making staff or other resources available to the company)? If so, what is the approximate monetary value of this contribution?</li> <li>○ If the University is making contributions to the company, what contributions are the company members providing?</li> <li>○ What are the University's and company's key terms and obligations?</li> </ul> </li> </ul> |
| <b>Financial accountability</b> | <ul style="list-style-type: none"> <li>• Will the University have control over the company (i.e. the power to govern the company's financial and operating policies to obtain benefits from its activity)?</li> </ul>  |

| <b>BUSINESS CASE (STEP 2)</b>                       |   |
|---|---|
|   | <ul style="list-style-type: none"> <li>• How will general purpose financial statements will be prepared?</li> <li>• How frequent will the results be reported to the University?</li> <li>• What is the expected financial impact on the University?</li> <li>• Where special purpose reporting is proposed, the business case must contain: <ul style="list-style-type: none"> <li>○ the basis of reporting, such as accrual or cash, and which Australian Accounting Standards will be applied, and</li> <li>○ the content and format of the reports, for example the: <ul style="list-style-type: none"> <li>– financial statements for the year</li> <li>– notes to the financial statements, and</li> <li>– directors' declaration about the statements and notes.</li> </ul> </li> </ul> </li> <li>• The Auditor-General and the Queensland Audit Office are the company's external auditors.</li> <li>• The University's internal audit function must have the ability and authority to access to the company's information, staff and premises (whether the company is wholly-owned, controlled, or otherwise) to perform any audit procedures necessary to inform the Council and its committees of the company's financial status (or to appoint someone to undertake same).</li> </ul> |
| <b>Taxation</b>                                     | <ul style="list-style-type: none"> <li>• Identify any implications relating to: <ul style="list-style-type: none"> <li>○ Goods and Services Tax (GST)</li> <li>○ Income Tax or National Income Tax Equivalents Regime (NTER)</li> <li>○ Fringe Benefits Tax (FBT), and</li> <li>○ State legislated tax regimes.</li> </ul> </li> <li>• How will the tax implications be addressed?</li> <li>• Has applying for an exemption from income tax been considered? (e.g. not-for-profit companies may be eligible for tax concessions). (Legal advice may be needed.)</li> </ul>  |
| <b>Ancillary agreements</b>                         | <ul style="list-style-type: none"> <li>• If there are any ancillary agreements, are they aligned with the company's long-term objectives and constitution? (Legal advice may be needed.)</li> <li>• Are all ancillary agreements included in the business case?</li> </ul>  |
| <b>Acquiring an interest in an existing company</b> | <ul style="list-style-type: none"> <li>• From whom is the company being acquired?</li> <li>• Why is the company being acquired?</li> <li>• Is the company a going concern?</li> <li>• What are the existing governance structures?</li> <li>• Consider the following for inclusion, if appropriate: <ul style="list-style-type: none"> <li>○ a brief history of the company</li> <li>○ the latest audited financial statements and a review of the company's financial performance, including accounting and tax issues confronting the company</li> <li>○ the results of any searches and a comprehensive due diligence review</li> <li>○ details of the arrangements by which ownership will be acquired, including any proposed contracts</li> <li>○ details of any possible conflicts of interest related to the acquisition, and</li> <li>○ a cost-benefit analysis to support the acquisition.</li> </ul> </li> </ul>   |