



**CONSTITUTION OF**

**Boyup Brook**

**Community Resource Centre**

**Incorporated**

**ABN 33 612 027 501**

An association incorporated pursuant to the Associations  
Incorporation Act 2015 (WA)

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**PRELIMINARY MATTERS**

**1. Name**

The name of the association is Boyup Brook Community Resource Centre Incorporated.

**2. Type of entity**

The association is a not-for-profit association incorporated under the *Associations Incorporation Act 2015* (WA).

**3. Definitions**

In this Constitution, unless the contrary intention appears, words and phrases have the following meaning:

- (a) **Administrative Tribunal** means the State Administrative Tribunal of Western Australia.
- (b) **Annual General Meeting** means a general meeting of members called under clause 14.4.
- (c) **Associate member** means a member who has no right to vote but has all other rights of members as determined by the Committee or by the members at a general meeting.
- (d) **Association** means Boyup Brook Community Resource Centre Incorporated.
- (e) **Associations Act 2015** means the *Associations Incorporation Act 2015* (WA).
- (f) **Association's books** means the association's registers, minutes, documents, securities, financial records, financial statements and financial reports as defined in Section 62 of the Associations Act, however compiled, stored or recorded.
- (g) **Association's regulations** means the regulations made under the Associations Act (if any).
- (h) **By-laws** mean any additional arrangements or processes adopted by members by ordinary resolution to supplement this constitution.
- (i) **Chairperson** means the person elected by the Committee to hold this office.
- (j) **Circular resolution**, which may be a member's circular resolution or a Committee circular resolution, means a resolution that is passed without a face-to-face general meeting or Committee meeting being held. Separate copies of the circular resolution may be used for signing by members or Committee members provided the wording of the circular resolution and statement is identical in each copy. The circular resolution is passed when the last member or Committee member signs the circular resolution.
- (k) **Clause** means a clause of this constitution.
- (l) **Commissioner** means the person designated as the Commissioner from time to time under the Associations Act, currently the Executive Officer of the Western Australian Department of Commerce.
- (m) **Committee (or Management Committee)** means the group of people, called Committee members (*Directors*), who are responsible for the management of the affairs of the association.
- (n) **Committee meeting (or Management Committee meeting)** means a meeting of the Committee members.
- (o) **Constitution** means this document as amended from time to time.
- (p) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (q) **Delegated Authority** means the person delegated to act on behalf of an Office Bearer, or Committee as approved by the Committee.
- (r) **Department** means the Western Australian Government department principally assisting with the administration of the Associations Act, currently the Western Australian Department of Commerce.
- (s) **Financial records** means:
  - (i) Invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers,
  - (ii) Documents of prime entry such as sales day books, purchase day books, sales returns day books, purchases returns day books, bank books, cash receipts books, cash payments books, petty cash receipts books, petty cash payments books and journals, and
  - (iii) Working papers and other documents needed to explain:
    - (A) The methods by which financial statements are prepared, and

- (B) Adjustments to be made in preparing financial statements.
- (t) **Financial report** refers to the financial report for a financial year of a tier 1 association and comprises:
- (i) The financial statements for the financial year of a tier 1 association,
  - (ii) The notes to the financial statements for the financial year of a tier 1 association, and
  - (iii) The declaration about the financial statements and notes made by the Committee of a tier 1 association.
- (u) **Financial statements** means:
- (i) If the association uses the cash basis of accounting:
    - (A) A statement of receipts and payments for the financial year,
    - (B) A reconciled statement of bank account balances as at the end of the financial year, and
    - (C) A statement of assets and liabilities as at the end of the financial year.
  - (ii) If the association uses the accrual basis of accounting:
    - (A) A statement of income and expenditure for the financial year, and
    - (B) A balance sheet.
- (v) **Financial year** means:
- (i) In relation to the association's first financial year, the period ending twelve (12) months from the date of incorporation of the association, and
  - (ii) After the association's first financial year, a period of twelve (12) months commencing on 1 July and ending on 30 June each year.
- (w) **General meeting** means a meeting of the members of the association to which all members (including associate members, if any) are invited to attend, and is either:
- (i) an annual general meeting, or
  - (ii) a special general meeting.
- (x) **Meeting Chair** means the person who chairs a general meeting or a Committee meeting.
- (y) **Member** means a person or organisation that is a member of the association.
- (z) **Minutes** means a permanent and detailed record of the deliberations of, and resolutions adopted at, general meetings and Committee meetings and may include a hardcopy or an authorised softcopy documentation of those deliberations and resolutions.
- (aa) **Model rules** means the template set of rules for incorporated associations established under the associations regulations.
- (bb) **Office Bearer** means a Committee member referred to in clause 19.2(a)
- (cc) **Ordinary resolution** means a resolution at a meeting that:
- (i) Is not a special resolution, and
  - (ii) Is passed by the votes of more than 50% of the persons who are entitled to cast a vote at that meeting.
- (dd) **Organisational member** means a member of the association that is a corporation, incorporated association or other form of body corporate.
- (ee) **Organisational representative** means a natural person (i.e. human being) nominated by the organisational member to represent the organisational member at one or more general meetings.
- (ff) **Poll** means voting conducted by a show of hands which is recoded in writing in the minutes.
- (gg) **Quorum** means the number of persons required to be present in order to conduct a meeting.
- (hh) **Special general meeting** means any general meeting of members that is not an annual general meeting.
- (ii) **Special resolution** means a resolution proposed at a meeting and passed by the votes of not less than seventy five (75)% of the persons who are entitled to cast a vote at that meeting.
- (jj) **Surplus property** means the property remaining when the association is wound up or cancelled after satisfying:
- (i) The debts and liabilities of the association, and



- (ii) The costs, charges and expenses of winding up the association, but does not include books relating to the management of the association.
- (kk) **Tier 1 association** means an association that, in a financial year:
  - (i) Has a revenue of less than \$250,000 or such other amount that is prescribed from time to time under section 64(1) of the Associations Act, or
  - (ii) Has been declared by the Commissioner to be a Tier 1 association.Tier 1 associations can also elect to prepare basic financial statements with no independent review or audit

### **3.1. Relationship between constitution and Associations Act**

The Associations Act overrides any provision in this constitution, which is inconsistent with the Associations Act.

### **3.2. Interpretation**

In this constitution:

- (a) The words '**including**', '**for example**', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) Reference to an '**Act**' includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as the Associations Regulations).

## OBJECT, PURPOSES AND POWERS

### 4. Object and purposes

The objects of the association are:

- a) To provide access to services in response to community need
- b) To provide access to information that assists the community
- c) To provide opportunity for access and training using technology and other media for education, communication, employment, business and cultural development;
- d) To develop partnerships and business opportunities relevant to the needs of the community;
- e) To provide access to economic development and employment opportunities;
- f) To provide access to social development opportunities which enhance community connectedness;
- g) To provide opportunities for members of the community to be involved in the management of a resource for the community and to ensure the association is effective and remains community owned and managed;
- h) Work with stakeholders, other Community Resource Centres and all tiers of government to increase the profile of the WA Community Resource Network;

### 5. Powers

Subject to the Associations Act, the association may do all things necessary to lawfully pursue its object and purposes.

### 6. Not-for-profit

#### 6.1. Property and income

The property and income of the association shall be applied solely to promoting its object and purposes and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in promoting such object and purposes.

#### 6.2. Permitted payments

Provided it is done in good faith, clause 6.1 does not prevent the association from:

- (a) Paying a member for goods or services they have provided, or expenses they have properly incurred at fair and reasonable rates, or
- (b) Making payment to a member in carrying out the association's objects purposes

## MEMBERS – MEMBERSHIP REQUIREMENTS

### 7. Number, qualifications and liability of members

#### 7.1. Number

The association shall have a minimum of six (6) members with full voting rights.

#### 7.2. Qualifications

- (a) Membership of the association is open to any individual, business or group that:
  - (i) Is in agreement with and supports the objects of the association
  - (ii) Is not a paid employee of the association
  - (iii) Has satisfied the procedure for members of the association
- (b) The association must comply with all legal and regulatory obligations that apply to the association when assessing eligibility of an applicant to become a member.
- (c) An individual who has not reached the age of 15 years may be an ordinary member, with the consent of a parent/guardian, however will not have full voting rights.

#### 7.3. Liability

- (a) Members are to pay any membership fees set by the association.
- (b) Members are not liable to pay, by reason of the person's membership, any other debts incurred by or on behalf of the association, including the costs of winding up of the association.

## **8. Becoming a member**

### **8.1. Application**

- (a) An individual, business or group (applicant) who wishes to become a member must apply for membership in such form as the Committee directs.
- (b) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.
- (c) An applicant becomes a member if:
  - (i) They meet all membership qualifications under clause 7.2,
  - (ii) They complete and forward a membership application form to the Secretary, or delegated authority, under clause 8.1(a)
  - (iii) The Committee approves their membership application, and
  - (iv) They pay any membership fees due under clause 11.
- (d) When the requirements of clause 8.1(c) have been fulfilled the person becomes a member, is entitled to exercise all the rights and privileges of a member and is bound by this constitution.

### **8.2. Consideration of membership application**

- (a) The Committee shall consider and decide whether to approve or reject a membership application.
- (b) Subject to clause 8.2(c), a membership application shall be considered and decided in the order in which it was received.
- (c) When considering a membership application, the Committee may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided.
- (d) The Committee shall not approve a membership application unless the applicant:
  - (i) meets all the membership qualifications under clause 7.2, and
  - (ii) makes a written membership application under clause 8.1(a)
- (e) The Committee may refuse to accept a membership application even if the applicant has applied in writing and meets all membership qualifications under clause 7.2.
- (f) As soon as is practicable after a decision is made under clause 8.2(a) the Committee shall give written notification to the applicant of the outcome of the membership application.
- (g) The Committee is not obliged to provide reasons to the applicant or to any other person for its decision to accept or reject a membership application.

## **9. Members' register**

### **9.1. Content of members' register**

- (a) The association shall maintain and keep updated a members' register which shall contain:
  - (i) The full names of each member,
  - (ii) The contact postal, residential or email addresses of each member,
  - (iii) The class of membership held by each member, and
  - (iv) The date upon which a person became a member.
- (b) Within twenty eight (28) days after a change in membership, the Secretary, or delegated authority, shall ensure that a membership change is recorded in the members' register.
- (c) The Secretary, or delegated authority, shall ensure that the members' register is kept and maintained at such place as the Committee decides.

### **9.2. Inspection and copying of members' register**

- (a) A member shall be entitled to inspect the members' register free of charge, at such time and place as is mutually convenient to the association and the member.
- (b) A member shall contact the Secretary, or delegated authority, to request to inspect the members' register.

- (c) A member may make a copy of details from the members' register but has no right to remove the members register.
- (d) A member may make a request in writing to the Secretary, or delegated authority, for a copy of the members' register for which the association may charge a reasonable fee, which is to be determined by the Committee from time to time.
- (e) The Committee may require a member who requests a copy of the members' register under clause 9.2(d) to provide a statutory declaration to the Secretary, or delegated authority, setting out the purpose of the request and declaring that the purpose is connected with the association's affairs.

### 9.3. Prohibited use of information on members' register

A member shall not use or disclose the information on the members' register:

- (a) To gain access to information that a member has deliberately denied to them (for example, in relation to a social, family or legal difference or dispute involving the latter member),
- (b) To contact, send material to the association or a member for the purpose of advertising for political, religious, charitable or commercial purposes, or
- (c) For any other purpose unless the use of the information:
  - (i) Is approved by the Committee, and  
For a purpose directly connected:
    - (A) To the association's affairs, or
    - (B) To the provision of information to the Commissioner under the Incorporations Associations Act.

## 10. Classes of members

### 10.1. Classes of members

- (a) The association consists of ordinary members as determined by the Committee and any associate members provided for under clause 10.1(b)
- (b) The association may have any category of associate members determined by resolution of members at a general meeting.
- (c) An individual who has not reached the age of 15 years may be an ordinary member, with the consent of a parent/guardian, however will not have full voting rights.
- (d) If the association has two or more classes of members, no member can belong to more than one class of members.
- (e) An ordinary member has rights of a member, including:
  - (i) The right to vote,
  - (ii) Other rights and benefits determined by the Committee, or
  - (iii) Other rights and benefits determined by resolution of the members at a general meeting.
- (f) An associate member does not have a right to vote but has all other rights of a member referred to in clauses 10.1 (e)(ii) and 10.1 (e)(iii).

## 11. Membership fees

### 11.1. Annual membership fee

- (a) The Committee may from time to time determine the annual entrance fee (if any) and annual membership fee (if any), to be paid by each member (**annual membership fee**).
- (b) The fees determined under clause 11.1(a) may be different for different classes of membership
- (c) Each member shall pay the annual membership fee to the association as and when decided by the Committee.
- (d) Subject to clause 11.1(e), if a person fails to pay the annual membership fee to the association within one month after the due date or seven (7) days prior to the AGM, whichever comes first, the person ceases to be a member.

- (e) If a person ceases to be a member under clause 11.1(d) and subsequently pays all the member's outstanding fees to the association, the Committee may, if it considers fit and at its sole discretion, reinstate the members' rights and privileges from the date on which the outstanding fees are paid, including the right to vote.
- (f) The Committee shall not be obliged to provide reasons for its decision to, or not to, reinstate the member's rights and privileges under clause 11.1(e).

## **12. Termination of membership**

### **12.1. Circumstances when membership terminates**

- (a) A person ceases to be a member when any of the following takes place —
  - (i) for a member who is an individual, the individual dies;
  - (ii) for a member who is a body corporate or organisation, the body corporate or organisation is wound up;
  - (iii) the person resigns from the Association under rule 12.2;
  - (iv) the person is expelled from the Association under rule 12.3;
  - (v) the person ceases to be a member under rule 11.1(d)
- (b) The Association shall keep a record of:
  - (i) The date on which member's membership terminates under clause 12.1 (a) and
  - (ii) The reason the member's membership terminates within twenty-eight (28) days after the change occurs and retain this information for a period of one year after a person's membership terminates.
- (c) The rights of a member are not transferable and end when membership ceases

### **12.2. Resignation of member**

- (a) A member who has paid all membership fees may resign as a member by giving written notice of their resignation to the Secretary, or delegated authority.
- (b) The member's resignation is effective as at:
  - (i) The time of receipt by the Secretary, or delegated authority, of the person's written notice of resignation, or
  - (ii) If a later time is stated in the notice, at that later time.
- (c) Despite their resignation, any member who resigns from the association remains liable to pay any outstanding membership fees to the association.
- (d) The outstanding fees referred to in clause 12.2(c) may be recovered as a debt due by the member to the association.

### **12.3. Suspension or expulsion of member**

- (a) The association may, by Committee resolution, suspend or expel a member from membership if:
  - (i) The member refuses or neglects to comply with this constitution, or
  - (ii) The member's conduct or behaviour is detrimental to the interests of the association.
- (b) The Secretary, or delegated authority, shall, not less than fourteen (14) days before the Committee meeting at which the suspension or expulsion resolution is to be considered, give written notice to the member:
  - (i) Of the proposed suspension or expulsion and the grounds on which it is based,
  - (ii) Of the date, place and time of the Committee meeting at which the suspension or expulsion resolution is to be considered,
  - (iii) That the member, or the member's representative, may attend the Committee meeting at which the suspension or expulsion resolution is to be considered, and may address the Committee at the meeting at which the suspension or expulsion resolution is to be considered and shall be given a full and fair opportunity to state the member's case orally, in writing, or both.

- (c) At the Committee meeting at which the suspension or expulsion resolution is to be considered the Committee shall:
  - (i) Give the member, or the member's representative, a full and fair opportunity to state the member's case orally,
  - (ii) Give due consideration to any written statement submitted by the member, and
  - (iii) Determine whether or not the member should be:
    - (A) Expelled as a member, or
    - (B) Suspended as a member, and if so, the period of the member's suspension.
- (d) Once the Committee has decided to suspend or expel a member, the member is immediately suspended or expelled.
- (e) Within seven (7) days of the Committee meeting at which the suspension or expulsion resolution is considered, the Secretary, or delegated authority, shall ensure that the member is informed in writing of the Committee's decision and the reasons for the Committee's decision.

#### **12.4. After suspension of member**

- (a) If a member's membership is suspended under clause 12.3 the Secretary, or delegated authority, shall record in the members' register within twenty-eight (28) days of the date of suspension:
  - (i) The suspended member's name,
  - (ii) The date on which the member's suspension takes effect, and
  - (iii) The length of the suspension determined by the Committee under clause 12.3(c)(iii)(B)
- (b) A suspended member cannot exercise any rights or privileges of a member, including voting rights, during the period of suspension.
- (c) A suspended member is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the association.
- (d) Upon the expiry of the suspension period, the Secretary shall record in the members' register that the member is no longer suspended.

#### **12.5. Member's right of appeal against suspension or expulsion**

Within fourteen (14) days of receiving notice of the Committee's decision under clause 12.3(c), an expelled or suspended member may appeal the Committee's suspension or expulsion decision by giving written notice of the expelled or suspended member's intention to seek:

- (a) An appeal of the Committee's suspension or expulsion decision, and
- (b) The appointment of a mediator under clause 34.

#### **12.6. Reinstatement of member**

If the Committee's decision to suspend or expel a member is revoked, any act performed by the Committee or members in general meeting during the period that the member was suspended or expelled from membership under clause 12.3, is deemed to be valid, notwithstanding the member's inability to exercise their rights or privileges of a member, including the right to vote, during that suspension period.

### **ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING**

#### **13. General meeting**

##### **13.1. Definition**

A general meeting is a meeting of the members of the association.

##### **13.2. Types of general meeting**

There are two types of general meeting, namely:

- (a) An annual general meeting, and
- (b) A special general meeting.

## **14. Annual general meeting**

### **14.1. Purpose of annual general meeting**

An annual general meeting is:

- (a) A general meeting of all the members that is to be held once during each calendar year.
- (b) Called to conduct the following business:
  - (i) Confirmation of the minutes of the previous annual general meeting,
  - (ii) Confirmation of the minutes of any special general meeting held since the previous annual general meeting (if the minutes of that special general meeting have not yet been confirmed),
  - (iii) Elect or appoint Committee members of the association,
  - (iv) Receive the financial statements for the previous financial year,
  - (v) Appoint reviewer or auditor of the association in accordance with the Act,
  - (vi) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting

### **14.2. Date, time and place of annual general meeting**

An annual general meeting shall be held on a date, and at a time and place, decided by the Committee.

### **14.3. Financial statements and reports and annual general meetings**

- (a) As a tier 1 association and where:
  - (i) A majority (more than 50%) of members present at a general meeting pass a resolution to this effect, or
  - (ii) The Commissioner directs the association to do so,
  - (iii) The association shall ensure that:
    - a. Its financial statements for the relevant financial year are either reviewed or audited, and
  - (iv) a copy of the review report or auditor's report is submitted to the annual general meeting.
  - (v) If required by the Associations Regulations, lodge the annual return with the Commissioner.

### **14.4. Holding annual general meeting**

- (a) The association shall hold an annual general meeting each calendar year:
  - (i) Within six (6) months after the end of the financial year, or
  - (ii) Within a longer period if the Commissioner so allows.
- (b) If the association requires the approval from the Commissioner to hold its annual general meeting within a longer period under Clause 14.4(a)(ii) the Secretary, or delegated authority, shall ensure that application is made to the Commissioner for such approval no later than four (4) months after the end of the financial year.
- (c) The notice calling for an annual general meeting shall specify that it is an annual general meeting of the association and shall comply with Clause 14.1.

### **14.5. Special general meeting**

- (a) Any meeting of members that is not an annual general meeting is called a special general meeting.
- (b) A special general meeting:
  - (i) Shall have a specific purpose,
  - (ii) Is often called to deal with business that cannot wait until the annual general meeting, and
  - (iii) May consider a range of matters, including matters that shall be decided by a special resolution.
- (c) The manner of calling, the quorum and procedure of a special general meeting are the same as for an annual general meeting, although the business to be conducted will be different.

**14.6. Calling annual general meeting or special general meeting**

- (a) An annual general meeting or special general meeting may be called by:
  - (i) The Committee, at any time, or
  - (ii) At least twenty (20)% of the total number of members entitled to vote at an annual general meeting or special general meeting.
- (b) Members may call an annual general meeting or special general meeting under Clause 0(a)(ii) by forwarding a notice in writing to the Secretary, or delegated authority.

**14.7. Members call for annual general meeting or special general meeting**

- (a) In the event that members request an annual general meeting or special general meeting to be held under Clause 14.6(a)(ii) the Committee shall:
  - (i) Within fourteen (14) days of the members' request, forward notice of an annual general meeting or special general meeting to all members, and
  - (ii) Hold the annual general meeting or special general meeting within twenty eight (28) days of the member's request.
- (b) The percentage of votes of members set out in Clause 14.6(a)(ii) is to be calculated as at midnight before the day upon which the members request the annual general meeting or special general meeting to be called.
- (c) A request by the members for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) shall:
  - (i) State the purpose of the annual general meeting or special general meeting,
  - (ii) Be signed by at least twenty (20)% of the members entitled to vote at an annual general meeting or special general meeting, and
  - (iii) Be lodged with the Secretary, or delegated authority
- (d) Separate copies of a document setting out the request by the members for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) may be signed by members if the wording of the request is the same in each copy of the request.

**14.8. Failure to hold annual general meeting or special general meeting requested by members**

- (a) If the Committee does not call the annual general meeting or special general meeting requested by members under Clauses 14.6(a)(ii) and 14.6(b) within fourteen (14) days of being requested, a majority (being more than 50%) of the percentage of members who made the request under 14.6(a)(ii) and 14.7(c)(ii), may call and arrange to hold an annual general meeting or special general meeting.
- (b) To call and hold an annual general meeting or special general meeting under Clause 14.8(a), the members shall:
  - (i) As far as possible, follow the procedures for an annual general meeting or special general meeting set out in this Constitution,
  - (ii) Call the annual general meeting or special general meeting using the list of members on the members' register, which the association shall provide at no cost to the members making the request, and
  - (iii) Hold the annual general meeting or special general meeting within three (3) months after the request for an annual general meeting or special general meeting to be held under Clauses 14.6(a)(ii) and 14.6(b) was lodged with the Secretary, or delegated authority.
- (c) The association shall pay the members calling and holding the annual general meeting or special general meeting under Clauses 14.8(a) and 14.8(b) any reasonable expenses incurred by them because the Committee did not call and hold the annual general meeting or special general meeting under Clause 14.7.



**14.9. Quorum at annual general meeting or special general meeting**

- (a) Six (6) members personally present and entitled to vote shall constitute a quorum for an annual general meeting or special general meeting.
- (b) Subject to Clauses 14.9(c) and 14.9(d), no business shall be conducted at an annual general meeting or special general meeting unless a quorum of members entitled to vote is present at the time the annual general meeting or special general meeting considering that item.
- (c) If, within half an hour of the time appointed for the commencement of an annual general meeting or special general meeting, a quorum is not present:
  - (i) In the case of a special general meeting, the meeting lapses, or
  - (ii) In the case of an annual general meeting, the meeting is to stand adjourned to:
    - (A) The same time and day in the following week, and
    - (B) The same place, unless another place is specified by the Chairperson at the time of the adjournment or by written notice given to the members before the day to which the meeting is adjourned.
- (d) If at the adjourned annual general meeting or special general meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the members present are to constitute a quorum.

**14.10. Notice of, and motions at, annual general meeting or a special general meeting**

- (a) The Secretary, or delegated authority, shall ensure that each member is given at least:
  - (i) Fourteen (14) days' notice of a general meeting, or
  - (ii) Twenty one (21) days' notice of a general meeting if a special resolution is proposed to be moved at that general meeting.
- (b) The notice of an annual general meeting or special general meeting shall specify:
  - (i) The place, date and time of the annual general meeting or special general meeting,
  - (ii) That the member is entitled to attend and vote at the annual general meeting or special general meeting, and
  - (iii) The particulars and order of the business to be conducted at the annual general meeting or special general meeting.
- (c) The notice of an annual general meeting or special general meeting or any notice of motion must be issued in the manner set out in Clauses 36 and 37.

**14.11. Using technology to hold annual general meeting or special general meeting**

- (a) An annual general meeting or special general meeting may take place:
  - (i) Where the members are physically present together, or
  - (ii) By the use of any technology (such as video or teleconferencing) if it reasonably allows each member to participate fully in discussions and decisions as they happen in the annual general meeting or special general meeting and provided that the participation of each member is made known to all other members in attendance.
- (b) A member who participates in an annual general meeting or special general meeting as set out in Clause 14.11(a).
  - (i) Is deemed to be present at the annual general meeting or special general meeting, and
  - (ii) Continues to be present at the annual general meeting or special general meeting for the purposes of establishing a quorum, until the member notifies the other members that they are no longer taking part in the annual general meeting or special general meeting.

**14.12. Conducting annual general meeting or special general meeting**

- (a) The Chairperson shall normally act as Meeting Chair of each annual general meeting or special general meeting.
- (b) The members at an annual general meeting or special general meeting may elect a Committee member, other than the Chairperson, to be the Meeting Chair for that annual general meeting or special general meeting if the Chairperson is:

- (i) Not present within 30 minutes after the starting time set for the annual general meeting or special general meeting, or
- (ii) Present but does not want to act as Meeting Chair of the annual general meeting or special general meeting.
- (c) The annual general meeting or special general meeting cannot conduct business unless the quorum specified in Clause 14.9 is present.
- (d) At an annual general meeting or special general meeting at which the quorum specified in Clause 14.9 is present, the Meeting Chair may adjourn the annual general meeting or special general meeting with the consent of a majority (more than 50%) of the members present.
- (e) Without limiting Clause 14.12(d), a meeting may be adjourned:
  - (i) if there is insufficient time to deal with the business at hand; or
  - (ii) to give the members more time to consider an item of business
- (f) No business shall be conducted at a rescheduled annual general meeting or special general meeting other than the unfinished business from the adjourned annual general meeting or special general meeting
- (g) When an annual general meeting or special general meeting is adjourned for fourteen (14) days or more, the Secretary, or delegated authority, shall ensure that notice of the adjourned annual general meeting or special general meeting is given to the members in accordance with Clause 14.10 as if that general meeting was a new annual general meeting or special general meeting.
- (h) If, within half an hour of the time appointed for the annual general meeting or special general meeting the quorum specified in Clause 14.9 is not present, the annual general meeting or special general meeting is to stand adjourned to the same time, day and place in the following week.
- (i) The Secretary, or delegated authority, shall ensure that minutes of the resolutions and proceedings of all annual general meetings or special general meetings are recorded and maintained together with a record of the names of persons present at each annual general meeting or special general meeting.
- (j) The Auditor is entitled to attend any annual general meeting or special general meeting and to be heard by the members on any part of the business of the annual general meeting or special general meeting that concerns the Auditor in the capacity of Auditor.
- (k) The association shall give the Auditor any communications relating to the annual general meeting or special general meeting that a member is entitled to receive.

## **ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING – RESOLUTIONS**

### **15. Ordinary and special resolutions**

#### **15.1. Definitions**

- (a) There are two types of member’s resolutions, namely:
  - (i) An ordinary resolution, and
  - (ii) A special resolution.
- (b) An ordinary resolution:
  - (i) Is a resolution that is not a special resolution as described in 15.1(c), and
  - (ii) Shall:
    - (A) Be passed at an annual general meeting or special general meeting at which a quorum is present, and
    - (B) Be supported by the votes of a majority (more than 50%) of the members present, in person or by proxy, and entitled to vote at the annual general meeting or special general meeting.
- (c) A special resolution:
  - (i) shall be necessary to:
    - (A) Amend the name of the association,
    - (B) Amend the constitution,

- (C) Affiliate the association with another body,
  - (D) Transfer the incorporation of the association,
  - (E) Amalgamate the association with one or more other incorporated associations,
  - (F) Voluntarily wind up the association,
  - (G) Cancel the incorporation of the association, or
  - (H) Request that a statutory manager be appointed to the association, and
- (ii) shall:
- (A) Be passed at an annual general meeting or special general meeting at which the quorum specified in Clause 14.9 is present, and
  - (B) Be supported by the votes of not less than seventy five (75)% of the members present, in person or by proxy, and entitled to vote at the annual general meeting or special general meeting.

### **15.2. Notice of special resolution**

For a special resolution to be passed by the members at an annual general meeting or special general meeting:

- (a) Members shall receive notice of the special resolution twenty one (21) days (in accordance with clause 14.10(a)(ii)) before the date of the annual general meeting or special general meeting.
- (b) The notice of the special resolution shall:
  - (i) Be in writing,
  - (ii) Include the place, date and time of the general meeting where it is proposed that the special resolution be put,
  - (iii) Include the intention to propose a special resolution, and
  - (iv) Set out the wording of the proposed special resolution.
- (c) If notice is not given in accordance with Clause 15.2(b) the special resolution shall have no effect.

## **ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETING – VOTING**

### **16. Voting conditions at annual general meeting and special general meeting**

#### **16.1. Number of votes per member at annual general meeting and special general meeting**

- (a) Each member has one deliberative vote at an annual general meeting and special general meeting as per clause 10.1

#### **16.2. Entitlement to vote at annual general meeting and special general meeting**

- (a) A member or their proxy is not entitled to vote at any annual general meeting or special general meeting unless all money due and payable to the association by the member or their proxy has been paid.
- (b) A member is only entitled to vote at an annual general meeting or special general meeting if the member's name is recorded in the members' register as at the date the notice of the general meeting was sent out.

#### **16.3. Challenge to member's right to vote at annual general meeting and special general meeting**

- (a) A member or the Meeting Chair may only challenge a person's right to vote at an annual general meeting or special general meeting at that same annual general meeting or special general meeting.
- (b) If a challenge is made under Clause 16.3(a) the Meeting shall review the person's right to vote under Clause 16.2 and then decide whether or not the person may vote.
- (c) The Meeting Chair's decision on this point is final.

**16.4. Organisational or business representatives – voting at annual general meeting and special general meeting**

- (a) An organisational or business member shall appoint a natural person (i.e. a human being) to represent the organisational or business member at annual general meetings and special general meetings (**organisational or business representative**).
- (b) An organisational or business representative shall be appointed in writing using the form set out as prescribed by the Management Committee
- (c) A copy of the Appointment of Organisational or Business Member Representative Form shall be forwarded by the organisational or business member to the Secretary, or delegated authority.
- (d) An organisational or business representative has authority to represent the organisational or business member:
  - (i) If appointed for a particular annual general meeting or special general meeting, until the conclusion of that annual general meeting or special general meeting, or
  - (ii) Otherwise, until the appointment of the organisational or business representative is revoked by the organisational or business member and notice of this revocation is given by the organisational or business member to the Secretary, or delegated authority.

**16.5. Voting procedure at annual general meeting and special general meeting**

- (a) Voting at an annual general meeting and special general meeting shall be conducted and decided by:
  - (i) A show of hands,
  - (ii) A vote in writing, or
  - (iii) Another method chosen by the Meeting Chair that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the Meeting Chair shall state whether any proxy votes have been received and, if so, how the proxy votes shall be cast.
- (c) The Meeting Chair and the minutes of the annual general meeting and special general meeting do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- (d) In the case of an equality of votes at an annual general meeting or special general meeting, the Meeting Chair is entitled to exercise a second or casting vote.

**16.6. When and how a vote in writing shall be held at annual general meeting and special general meeting**

- (a) A vote in writing may be demanded on any resolution instead of, or after, a vote by a show of hands by:
  - (i) At least three (3) members present, or
  - (ii) The Meeting Chair.
- (b) A vote in writing shall be taken when and how the Meeting Chair directs.
- (c) A vote in writing shall be held immediately if it is demanded under Clause 16.6(a)
  - (i) For the election of a Meeting Chair under Clause 14.12(b) or
  - (ii) To decide whether to adjourn the annual general meeting or special general meeting.

**17. Proxies at annual general meeting and special general meeting**

**17.1. Annual general meeting and special general meeting requirements**

- (a) A member may appoint a proxy to attend and vote at an annual general meeting or special general meeting on their behalf.
- (b) The appointed proxy must be a member.
- (c) No member may hold more than two (2) proxy votes at an annual general meeting or special general meeting.

- (d) A proxy appointed to attend and vote for a member has the same rights as the member to:
  - (i) Speak at the annual general meeting or special general meeting,
  - (ii) Cast a vote in writing (but only to the extent allowed by the proxy's appointment), and
  - (iii) Join in to demand a vote in writing under Clause 16.6.
- (e) An appointment of proxy, in the form as set out by the Committee, shall be signed by the appointing member and shall contain:
  - (i) The appointing member's name and address,
  - (ii) The association's name,
  - (iii) The proxy's name or the name of the office held by the proxy, and
  - (iv) The annual general meeting(s) and special general meeting(s) at which the appointment may be used by the proxy.
- (f) A proxy appointment may be a standing (i.e. ongoing) proxy appointment.
- (g) At least twenty-four (24) hours before the annual general meeting or special general meeting for which the proxy relates is scheduled to commence, proxy forms shall be received by the association at the address stated in the notice of the annual general meeting or special general meeting, or at the association's registered address.
- (h) A proxy does not have the right to speak or vote for a member at an annual general meeting or special general meeting while the member is present at the annual general meeting or special general meeting.
- (i) Unless the association receives written notice before the start or resumption of an annual general meeting or special general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
  - (i) Dies,
  - (ii) Is mentally incapacitated,
  - (iii) Revokes the proxy's appointment, or
  - (iv) Revokes the authority of a representative or agent who appointed the proxy.
- (j) A member may specify the way the proxy shall vote on a particular resolution.
- (k) When a vote in writing is held, a proxy, does not need to vote, unless the proxy form appointment specifies the way they shall vote.

**17.2. Determining whether ordinary resolution carried at annual general meeting and special general meeting**

- (a) Unless a poll is demanded under Clause 17.3, if a question arising at an annual general meeting or special general meeting is determined by general agreement or a show of hands, a declaration shall be made by the Meeting Chair of the annual general meeting or special general meeting that the ordinary resolution has been:
  - (i) Carried unanimously,
  - (ii) Carried by a majority (more than 50%) of members present, or
  - (iii) Lost.
- (b) If the declaration relates to a special resolution, then all items under clause 15.1(c) and 15.2 must be fulfilled. The minutes must also state that a special resolution has been determined.
- (c) A declaration made under Clause 17.2(a) shall be entered into the minutes.
- (d) The entry in the minutes under Clause 17.2(c) is evidence of the fact that the resolution has been determined, without proof of the number or proportion of the votes recorded in favour of or against that resolution.

**17.3. Poll at annual general meeting and special general meeting**

- (a) At an annual general meeting or special general meeting, a poll on any question may be demanded by either:
  - (i) The Meeting Chair, or
  - (ii) At least three (3) members present in person or by proxy.

- (b) If a poll is demanded at an annual general meeting or special general meeting, the poll shall be taken in a manner as the Meeting Chair directs and a declaration by the Meeting Chair of the result of the poll is evidence of the matter so declared.
- (c) If a poll is demanded at an annual general meeting or special general meeting, the poll shall be taken:
  - (i) Immediately in the case of a poll which relates to electing a Meeting Chair to chair the annual general meeting or special general meeting,
  - (ii) Immediately in the case of a poll which relates to adjourning the annual general meeting or special general meeting, or
  - (iii) In any other case, in the manner and time before the close of the annual general meeting or special general meeting as the Meeting Chair directs.

## **MANAGEMENT COMMITTEE (COMMITTEE) MEMBERS AND OFFICE BEARERS**

### **18. Management Committee role and powers**

#### **18.1. Role**

The Management Committee (Committee) shall control and manage the association's affairs and take all reasonable steps to ensure the association complies with its obligations under the Associations Act, this constitution and all other applicable laws.

#### **18.2. Powers**

Subject to the Associations Act, this constitution and any lawful resolution passed by the association in general meeting, the Committee:

- (a) May exercise all powers and functions as may be exercised by the association, other than those powers and functions that are required by this constitution to be exercised by a general meeting, and
- (b) Has power to perform all acts and do all things as appear to the Committee to be necessary or desirable for the proper management of the association's business and affairs.

### **19. Number of Committee members, composition and qualifications**

#### **19.1. Number of members on Committee**

The Committee shall have no less than six (6) Committee members.

#### **19.2. Composition of Committee**

- (a) The Committee shall include:
  - (i) Chairperson
  - (ii) Vice-Chairperson
  - (iii) Secretary
  - (iv) Treasurer,
  - (collectively called the **Office Bearers**), and
  - (v) not less than two (2) or more than four (4) other persons, all of whom must be members of the association
- (b) A Committee member is not entitled to hold more than one office bearer position at any time.

#### **19.3. Qualifications of Committee members**

- (a) A Committee member shall be:
  - (i) A natural person i.e. a human being,
  - (ii) Aged over 18, and
  - (iii) A member.

- (b) A person cannot be a Committee member if:
  - a. In the previous five years, they have been convicted of, or imprisoned for:
    - (A) An indictable offence under the laws of any state or territory of the Commonwealth of Australia in relation to the promotion, formation or management of a body corporate,
    - (B) An offence involving fraud or dishonesty punishable by imprisonment for a period of three (3) months or more under the laws of any state or territory of the Commonwealth of Australia, or
  - b. They are:
    - (A) Bankrupt, or
    - (B) Unless the person has obtained the consent of the Commissioner, a person whose affairs are under insolvency laws.
  - c. Unless they have obtained the consent of the Commissioner, a person who has committed a breach of the following Committee member's duties:
    - (A) Duty of care and diligence,
    - (B) Duty of good faith and proper purpose,
    - (C) Duty to not improperly use their position,
    - (D) Duty to ensure that the association does not incur a debt while insolvent, or
    - (E) Duty to not improperly use information gained while a Committee member.
- (c) A Committee member who has been suspended as a member under Clause 12.3 cannot act in the position of a Committee member until their period of suspension as a member has expired.

## 20. Committee Member's duties

### 20.1. General Committee members' duties

Committee members shall comply with their duties as Committee members under legislation and common (judge-made) law and shall:

- (a) Exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Committee member of the association,
- (b) Act in good faith in the best interests of the association,
- (c) Act for a proper purpose,
- (d) Act to further the object and purposes of the association,
- (e) Act in the best interests of the association,
- (f) Not misuse information gained in their role as a Committee member,
- (g) Disclose any perceived or actual material conflicts of interest,
- (h) Ensure that the financial affairs of the association are managed responsibly, and
- (i) Not allow the association to operate while insolvent.
- (j) Not improperly use:
  - (i) Information obtained because they are or were a Committee member, or
  - (ii) Their position of Committee member, to:
    - a. Gain an advantage for themselves or another person, or
    - b. Cause detriment to the association.

### 20.2. Committee member's conflict of interest

- (a) A Committee member shall disclose to all the Committee members present at the Committee meeting the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at the Committee meeting.
- (b) Disclose the nature and extent of the interest at the next General Meeting of the Association.
- (c) The disclosure of a conflict of interest by a Committee member shall be recorded in the minutes of the Committee meeting.

- (d) Each Committee member who has a material personal interest in a matter that is being considered at a Committee meeting (or that is proposed in a Committee circular resolution) shall not, except as provided under Clause 20.2(e):
  - (i) Be present at the Committee meeting while the matter is being discussed, or
  - (ii) Vote on the matter.
- (e) A Committee member may still be present and vote if:
  - (i) Their interest relates to an insurance contract that insures, or would insure, the Committee member against liabilities incurred by the Committee member as a Committee member,
  - (ii) The Committee members who do not have a material personal interest in the matter pass a resolution that:
    - (A) Identifies the Committee member, the nature and extent of the Committee member's interest in the matter and how it relates to the association's affairs, and
    - (B) States that those Committee members who do not have a material personal interest in the matter are satisfied that the Committee member's material personal interest in the matter should not prevent the Committee member from being present at the Committee meeting while the matter is being discussed or from voting on the matter.

## **21. Appointment of Committee members**

### **21.1. Nomination for appointment as Committee member**

- (a) A member who wishes to be a Committee member shall be nominated by one (1) other member as a candidate for election as a Committee member.
- (b) Nominations for election as a Committee member shall close at least seven (7) days before the annual general meeting.
- (c) The Secretary, or delegated authority, must ensure a notice is sent, calling for nominations for election as a Committee member and specifying the date for the close of nominations, to all members at least fourteen (14) days before the date for the close of nominations.
- (d) Nominations for election as Committee member shall be:
  - (i) In writing, and
  - (ii) Delivered to the Secretary, or delegated authority, on or before the date for the close of nominations.
- (e) If a nomination for election as a Committee member is not made in accordance with Clauses 21.1(a) to (d) the nomination shall be invalid and the member shall not be eligible for election as a Committee member.

### **21.2. Methods**

Committee members shall be appointed to the Committee by:

- (a) Election at an annual general meeting, or
- (b) Appointment by the Committee to fill a casual vacancy under Clause 21.4.

### **21.3. Election of Committee members at an annual general meeting**

- (a) Subject to this constitution, the procedure for the election of Committee members at the annual general meeting shall be decided by the Committee.
- (b) If the number of valid nominations received under Clause 21.1 is equal to the number of Committee member vacancies to be filled, the member nominated will be regarded as being elected as a Committee member at the annual general meeting.
- (c) If the number of valid nominations exceeds the number of Committee member vacancies to be filled, elections for the Committee member vacancies shall be conducted at the annual general meeting.
- (d) If there are not enough valid nominations to fill the number of Committee member vacancies, the candidates nominated (if any) shall be deemed to be elected as Committee member and further nominations may be received from the floor of the annual general meeting.



- (e) Where the number of nominations as Committee members from the floor exceeds the remaining number of Committee member vacancies, elections for those Committee member positions shall be conducted.
- (f) If an insufficient number of nominations are received from the floor for the number of vacancies on the Committee that remain, those positions on the Committee are declared vacant by the Meeting Chair and Clause 21.4(b) applies.
- (g) Each member present and eligible to vote at the annual general meeting may vote for one candidate for each Committee member vacancy.
- (h) A member who nominates for election or re-election as a Committee member may vote for themselves.

**21.4. Appointment of Committee members by Committee to fill a casual vacancy**

- (a) A casual vacancy occurs in Committee membership and that position of Committee member becomes vacant if:
  - (i) A Committee member ceases to be a member,
  - (ii) A Committee member dies,
  - (iii) A Committee member becomes disqualified from holding a position under Clause 19.3(b),
  - (iv) A Committee member becomes permanently incapacitated by mental or physical ill-health,
  - (v) A Committee member resigns as a Committee member,
  - (vi) A Committee member is removed as a Committee member,
  - (vii) A Committee member is absent from more than three (3) consecutive Committee meetings without tendering an apology, and the Committee has resolved to declare the position of Committee member vacant, or
  - (viii) The association fails to fill a Committee member vacancy under Clause 21.3(f)
- (b) If there is a casual vacancy within the meaning of Clause 21.3(f) the continuing Committee members may:
  - (i) Appoint a member to fill that Committee member vacancy until the conclusion of the next annual general meeting, and
  - (ii) Subject to Clause 21.3(f), continue to act despite the vacant position on the Committee.
- (c) If the number of Committee members is less than the number fixed under Clause 24.5 as the quorum for Committee meetings, the continuing Committee members may act only to:
  - (i) Increase the number of Committee members on the Committee to the number required for a quorum, or
  - (ii) Call a special general meeting.

**21.5. Term of office**

- (a) The Committee members appointed on incorporation of the association shall remain as Committee members for varying terms of two (2) years, or one (1) year, until the conclusion of the first annual general meeting and shall be eligible for re-election.
- (b) At each annual general meeting the following Committee members shall retire:
  - (i) Any Committee member appointed by the Committee members to fill a casual vacancy, and
  - (ii) The Committee members whose two (2) year term has expired.
- (c) A Committee member's term of office starts on the date at which they were elected, and ends on the date on which they retire, are expelled or suspended or where membership is terminated under Clause 12.1
- (d) A Committee member who retires under Clause 21.5(b) may nominate for election or re-election, subject to Clause 21.5(e)
- (e) Unless the Members pass a special resolution authorising such an action, a Committee member who has held office for a continuous period of nine (9) years or more may only be re-appointed or re-elected if a period of one calendar year has passed since the end of the Committee member's continuous period of nine (9) years as a Committee member.

## **22. Resignation and removal of Committee members**

### **22.1. Resignation**

- (a) A Committee member may resign from the Committee by giving written notice of resignation to the Secretary, or delegated authority, or if the Committee member is the Secretary, to the Chairperson, or delegated authority.
- (b) The Committee member's resignation is effective:
  - (i) At the time the notice is received by the Secretary, Chairperson, or delegated authority under Clause 22.1(a) or
  - (ii) If a later time is stated in the notice, at the later time.

### **22.2. Removal**

- (a) A Committee member may only be removed from his or her position on the Committee by ordinary resolution at a general meeting if a majority (more than 50%) of the members present and eligible to vote at the general meeting vote in favour of the Committee member's removal.
- (b) The Committee member who faces removal is to be allowed a full and fair opportunity at the general meeting to review the proposed ordinary resolution, and state their case as to why they should not be removed from their position on the Committee.
- (c) If all Committee members are removed by ordinary resolution at a general meeting, the members shall, at the same general meeting, elect an interim Committee. The interim Committee shall, within two (2) months, hold a general meeting for the purpose of electing a new Committee.

### **22.3. Assets and records of Committee member who ceases to be a Committee member**

Upon ceasing to be a Committee member, outgoing Committee members are responsible for transferring all relevant assets and association's books to the new Committee within fourteen (14) days of ceasing to be a Committee member.

## **23. Office bearers**

### **23.1. Election of office bearers by Committee**

An office bearer shall:

- (a) Be elected by the Committee at the first Committee meeting following the Annual General Meeting, and
- (b) Remain as an office bearer for as long as the Committee deems fit.

### **23.2. Chairperson**

- (a) The Committee must elect a Committee member as the Chairperson.
- (b) The Chairperson:
  - (i) Must ensure that they consult with the Secretary, or delegated authority, regarding the business to be conducted at each Committee meeting and each general meeting
  - (ii) May call Committee meetings under Clause 24
  - (iii) May chair Committee meetings under Clause 24.1(c)(i)
  - (iv) May chair annual general meetings and special general meetings under Clause 14.12(a)
  - (v) Must ensure that the minutes of general meetings or Committee meetings are reviewed and signed as correct, and
  - (vi) Must carry out any other duties required of the Chairperson by this constitution.

### **23.3. Vice-Chairperson**

- (a) In the event of the absence from a general or Committee meeting of the Chairperson, the Vice-Chairperson shall preside, subject to Clause 14.12(b) or Clause 24.4(b).
- (b) In the event of the absence of the Chairperson, the Vice-Chairperson must carry out any other duties required of the Chairperson by this constitution

**23.4. Secretary**

The Secretary, or delegated authority, shall ensure the:

- (a) Maintenance of a current delegation of authority,
- (b) The co-ordination of correspondence of the association,
- (c) Calling and holding of general meetings and Committee meetings,
- (d) In consultation with the Chairperson, preparation of notices of general meetings and Committee meetings and the details of business to be conducted at each such meetings,
- (e) Maintenance of the members' register,
- (f) Maintenance of the record of office bearers,
- (g) Maintenance of the minutes,
- (h) Safe custody of the association's books (with the exception of the accounting records),
- (i) Safe custody and management of the association's record-keeping systems in hardcopy form, electronic form or a combination of forms, taking into account:
  - (i) The nature of information to be stored and retrieved,
  - (ii) The security and access of files and information (particularly computer records),
  - (iii) The validity and reliability of the information collected and the system on which it is recorded,
  - (iv) The resources and training required, and
  - (v) The length of time that the records should be kept (minimum of seven (7) years or otherwise as required by other Acts or Regulations),
- (j) Recording of full and correct minutes of Committee meetings and general meetings and their maintenance in the minutes

**23.5. Treasurer**

The Treasurer, or delegated authority, shall ensure the:

- (a) Collection of all moneys payable to the association are collected and the issuing of receipts in the name of the association for those monies,
- (b) Payment of all monies received by the association into the account or accounts of the association as the Committee may direct from time to time,
- (c) Timely payment of the expenses of the association from the funds of the association with the authority of the Committee or a general meeting,
- (d) Taking out by the association of all necessary insurances.
- (e) Maintenance by the association of financial records that comply with the requirements of Clause 29.3.
- (f) Safe custody of financial records and any other relevant association records in hardcopy form, electronic form or a combination of forms, taking into account:
  - (i) The nature of information to be stored and retrieved,
  - (ii) The security and access of files and information (particularly computer records),
  - (iii) The validity and reliability of the information collected and the system on which it is recorded,
  - (iv) The resources and training required, and
  - (v) The length of time that the records should be kept (minimum of seven (7) years or otherwise as required by other Acts or Regulations),
- (g) Co-ordination of the preparation of the financial statements prior to their submission to the annual general meeting,
- (h) Co-ordination of the preparation of the reviewed financial report prior to its submission to the annual general meeting,
- (i) Co-ordination of the preparation of the Auditor's report prior to its submission to the annual general meeting,
- (j) Assistance of the reviewer or Auditor in performing their functions, and
- (k) Performance of any other duties required of the Treasurer by this constitution.

**23.6. Record of office bearers**

- (a) The Secretary, or delegated authority, shall ensure that a record of office bearers is maintained.
- (b) The record of office bearers shall include:
  - (i) Each office bearers' full name,
  - (ii) Current postal, residential or email addresses for each office bearer,
  - (iii) Details of the office held by each office bearer
  - (iv) Dates of appointment of each office bearer to their respective office, and
  - (v) If applicable, dates of cessation of the appointment of each office bearer to their respective office.
- (c) The record of office bearers shall be kept and maintained at such place as the Committee decides.

**COMMITTEE MEETINGS**

**24. Calling and conducting Committee meetings**

**24.1. Calling Committee meetings**

- (a) The Committee shall hold no less than six (6) meetings in any one calendar year.
- (b) The Committee shall determine the place and time of all Committee meetings.
- (c) A Committee meeting may be called by:
  - (i) The Chairperson, or
  - (ii) Any two Committee members,
 by giving notice as per clause 24.2(a) to all other Committee members.

**24.2. Notice**

- (a) The Secretary, or delegated authority, shall ensure that each Committee member is given at least forty eight (48) hours' notice of each Committee meeting.
- (b) Notice of a Committee meeting shall specify the general nature of the business to be transacted at the Committee meeting.
- (c) Subject to Clause 24.2(d) only the business specified on the notice of the Committee meeting is to be conducted at that Committee meeting.
- (d) Urgent business may be conducted at a Committee meeting if the Committee members present at the Committee meeting unanimously agree to treat the business as urgent.

**24.3. Using technology to hold Committee meetings**

- (a) Committee meetings may take place:
  - (i) Where the Committee members are physically present together, or
  - (ii) By the use of any technology (such as video or teleconferencing) that is agreed to by all Committee members, if it reasonably allows each Committee member to participate fully in discussions and decisions as they happen in the Committee meeting and provided that the participation of each Committee member is made known to all other Committee members in attendance.
- (b) A Committee member who participates in a Committee meeting as set out in Clause 24.3(a):
  - (i) Is deemed to be present at the Committee meeting, and
  - (ii) Continues to be present at the Committee meeting for the purposes of establishing a quorum, until the Committee member notifies the other Committee members that they are no longer taking part in the Committee meeting.

**24.4. Conducting Committee meeting**

- (a) The Chairperson shall normally act as Meeting Chair of each Committee meeting.
- (b) The Committee members at a Committee meeting may elect a Committee member, other than the Chairperson, to be the Meeting Chair for that Committee meeting if the Chairperson is:
  - (i) Not present within 30 minutes after the starting time set for the Committee meeting, or
  - (ii) Present but does not want to act as Meeting Chair of the Committee meeting.

- (c) The Committee cannot conduct business unless the quorum specified in Clause 24.5 is present.
- (d) If, within half an hour of the time appointed for the Committee meeting, the quorum specified in Clause 24.5 is not present the Committee meeting is to stand adjourned to the same time, day and place in the following week, or at a time and date as otherwise agreed by the Committee.
- (e) If at a Committee meeting adjourned under Clause 24.4(d), the quorum specified in Clause 24.5 is not present within half an hour of the time appointed for the Committee meeting, the Committee members personally present shall constitute a quorum.
- (f) Subject to this constitution, the Committee members present at the Committee meeting are to determine the procedure and order of business to be followed at the Committee meeting.
- (g) All Committee members have the right to attend and vote at Committee meeting.
- (h) All members, or other guests, may attend Committee meeting if invited by the Committee, but the member or guest shall not have any right to:
  - (i) Comment without invitation,
  - (ii) Vote,
  - (iii) Be provided with copies of any agenda, minutes of meetings, or documents presented at such Committee meeting.
- (i) The Secretary, or delegated authority, shall ensure that minutes of the resolutions and proceedings of all Committee meeting are recorded and maintained together with a record of the names of persons present at each Committee meeting.

#### **24.5. Quorum for Committee meeting**

- (a) Unless the Committee determines otherwise, the quorum for a Committee meeting shall be 50% of total Committee members.
- (b) A quorum must be present for the entire Committee meeting.

### **25. Committee resolutions**

#### **25.1. Voting**

- (a) Each Committee member present at a Committee meeting has one vote.
- (b) A question arising at a Committee meeting is to be decided by a majority (more than 50%) of votes, but, if there is an equality of votes, the Meeting Chair of the Committee meeting is entitled to exercise a second or casting vote.
- (c) Decisions at a Committee meeting may be made by general agreement or by way of a show of hands.
- (d) A poll by secret ballot may be used at a Committee meeting if the Committee prefers to determine a matter in this way, and if the Meeting Chair of the Committee meeting supervises the ballot.

#### **25.2. Committee circular resolutions**

- (a) The Committee may pass a circular resolution without a Committee meeting being held (**Committee Circular Resolution**).
- (b) A Committee circular resolution is passed if all the Committee members entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in Clause 25.2(c).
- (c) Each Committee member may sign:
  - (i) A single document setting out the resolution and containing a statement that they agree to the Committee circular resolution, or
  - (ii) Separate copies of that document, as long as the wording of the Committee circular resolution is the same in each copy.
- (d) The association may send a Committee circular resolution by email to the Committee members and the Committee members may agree to the Committee circular resolution by sending a reply email to that effect, including the text of the Committee circular resolution in their reply.
- (e) A Committee circular resolution is passed when the last Committee member signs or otherwise agrees to the Committee circular resolution.

**26. Remuneration of Committee members****26.1. Travelling and other expenses**

Upon ordinary resolution at a Committee meeting, the association may pay a Committee member's travelling and other expenses properly incurred, such as:

- (a) Attending Committee meeting
- (b) Attending any general meeting, and
- (c) In connection with the association's business.

**26.2. No other remuneration**

Committee members shall not receive any remuneration for their services as Committee members other than as described at Clause 26.1.

**SUBCOMMITTEES AND OTHER DELEGATION****27. Subcommittees and delegation****27.1. Establishment**

- (a) The Committee may establish subcommittees from time to time to assist with the conduct of the association's object and purposes.
- (b) Subcommittees may comprise (in such numbers as the Committee determines) members and non-members.
- (c) Subject to this constitution, subcommittee members shall determine the procedure to be followed at subcommittee meetings.

**27.2. Delegation**

- (a) The Committee may delegate, in writing, to any or all of the subcommittees, any authority, power or functions, and may cancel any authority, powers or functions, as the Committee sees fit from time to time.
- (b) Despite any delegation under Clause 27.2(a), the Committee may continue to exercise all its functions, including any function that has been delegated to a subcommittee and remains responsible for the exercise of those functions at all times.

**27.3. Delegation to others**

- (a) The Committee may delegate, in writing, to any person any authority, power or function and may cancel any authority, powers or functions, as the Committee sees fit from time to time.
- (b) Despite a delegation under this clause, the Committee may continue to exercise all its functions, including any delegated functions, and at all times remains responsible for the exercise of those functions.

**FINANCES****28. Payment of income or property to members****28.1. Not permitted**

Subject to Clause 28.2, none of the income or property of the association may be paid directly or indirectly, by way of dividend, bonus or otherwise, to a member.

## **28.2. Permitted payments**

- (a) Clause 28.1 does not prevent:
  - (i) Subject to Clause 28.2(b) the payment in good faith of remuneration to any member, Committee member, officer or employee in return for any services actually rendered to the association or for goods supplied to the association in the ordinary and usual course of business,
  - (ii) The payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the 'Cash Rate Target' from time to time on money borrowed from any member,
  - (iii) The payment of reasonable and proper rent by the association to a member for premises leased to the association by the member, or
  - (iv) The reimbursement of out-of-pocket expenses for travel and accommodation incurred on behalf of the association by any member or Committee member in connection with the member or Committee member's functions as a member or Committee member.
- (b) Before a payment proposed to a member or Committee member under Clause 28.2(a)(i) can be made, the payment must first be authorised by the members by way of an ordinary resolution.

## **29. Funds**

### **29.1. Source of funds**

- (a) The funds of the association may be derived from:
  - (i) Entrance fees,
  - (ii) Annual membership fees,
  - (iii) Donations,
  - (iv) Fundraising activities,
  - (v) Grants,
  - (vi) Interest, and
  - (vii) Any other sources approved by the Committee.
- (b) The association shall, as soon as practicable:
  - (i) Deposit all money received to the credit of the association's bank account, without deduction, and
  - (ii) After receiving any money, issue an appropriate receipt.

### **29.2. Control of funds**

- (a) The funds of the association shall be kept in an account in the name of the association in a financial institution determined by the Committee.
- (b) The association shall use its funds in carrying out the association's object and purposes.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the association shall be signed by:
  - (i) Any two Office Bearers, or
  - (ii) One Office Bearer and another person authorised by the Committee.
- (d) All expenditure above the maximum amount set by the Committee from time to time shall be approved or ratified at a Committee meeting.

### **29.3. Financial records**

- (a) The association shall keep financial records that:
  - (i) Correctly record and explain its transactions, financial position and performance, and
  - (ii) Enable true and fair financial statements to be prepared.
- (b) The association shall retain its financial records for at least seven (7) years after the transactions covered by the financial records are completed.

## **BINDING THE ASSOCIATION**

### **30. Use of common seal**

- (a) The association may decide to have a common seal on which its corporate name appears in legible characters.
- (b) If the association does decide to have a common seal under Clause 30(a):
  - (i) The Secretary, or delegated authority, shall ensure its safe custody, and
  - (ii) It shall only be used under resolution of the Committee.
- (c) The association shall sign off on a document without using a common seal (if any) if the document is signed by two Office Bearers.
- (d) The association shall sign off on a document using its common seal (if any), if the fixing of the common seal is witnessed by:
  - (i) Any two Office Bearers, or
  - (ii) One Office Bearer and another person authorised by the Committee.
- (e) The Secretary, or delegated authority, shall ensure that every use of the common seal is recorded in the minutes.

## **MINUTES, BOOKS AND RECORDS**

### **31. Minutes**

#### **31.1. Taking of minutes**

- (a) The association shall keep minutes of the resolutions and proceedings of all annual general meeting, special general meeting and Committee meeting together with a record of the names of persons present at each General meeting and Committee meeting.
- (b) The minutes of the annual general meeting, special general meeting and Committee meeting are to be entered into the Minute Book within thirty (30) days of the date of the annual general meeting, special general meeting and Committee meeting.

#### **31.2. Review and signing of minutes**

- (a) The Chairperson shall ensure that the minutes of an annual general meeting, special general meeting or Committee meeting are reviewed and signed as correct by:
  - (i) The Meeting Chair of the annual general meeting, special general meeting or Committee meeting to which those minutes relate, or
  - (ii) The Meeting Chair of the next succeeding annual general meeting, special general meeting or Committee meeting.
- (b) When minutes have been entered and signed as correct under Clause 31.2(a) they are:
  - (i) To be entered in the minute book, and
  - (ii) Until the contrary is proved, evidence that:
    - (A) The annual general meeting, special general meeting or Committee meeting to which they relate was duly called and held,
    - (B) All proceedings recorded as having taken place at the annual general meeting, special general meeting or Committee meeting did in fact take place at the meeting, and
    - (C) All appointments or elections reported to have been made at the annual general meeting, special general meeting or Committee meeting were validly made.

#### **31.3. Inspection of minutes**

- (a) The minutes of annual general meeting or special general meeting may be inspected by a member under Clause 32.3.
- (b) The minutes of Committee meetings may be inspected by a member under Clause 32.3 unless the Committee determines that the minutes of Committee meeting generally, or the minutes of a specific Committee meeting, are not to be made available for inspection by a member.



## 32. Records

### 32.1. Inspecting record of office bearers

- (a) Any member is able to inspect the record of office bearers free of charge, at such time and place as is mutually convenient to the association and the member.
- (b) The member may make a copy of details from the record of office bearers, but has no right to remove the record of office bearers for that purpose.

### 32.2. Custody of association's books

- (a) Except as otherwise decided by the Committee from time to time:
  - (i) The Secretary, or delegated authority shall be responsible for ensuring the maintenance and control of the association's books (except for the association's financial records).
  - (ii) The Treasurer, or delegated authority, is responsible for ensuring the custody and maintenance of the association's financial records and securities.
- (b) The association's books shall be retained for at least seven (7) years.

### 32.3. Inspecting association's books

- (a) Subject to this constitution, a member is able to inspect the association's books free of charge at such time and place as is mutually convenient to the association and the member.
- (b) A member shall contact the Secretary, or delegated authority, to request to inspect the association's books.
- (c) The member may copy details from the association's books but has no right to remove the association's books for that purpose.

### 32.4. Prohibition on use of information in association's books and record of office bearers

A member shall not use or disclose information in the association's books and record of office bearers except for a purpose:

- (a) That is directly connected with the affairs of the association, or
- (b) Related to a requirement of the associations Act to provide information to the Commissioner.

### 32.5. Returning the association's books

Outgoing Committee members are responsible for transferring all relevant assets and association's books to the new Committee within fourteen (14) days of ceasing to be a Committee member.

## DISPUTES

### 33. Disputes arising under constitution

- (a) This clause applies to:
  - (i) Disputes between members, and
  - (ii) Disputes between the association and one or more members that arise under the constitution or relate to the constitution.
- (b) In this Clause 33, the term **member** includes any former member whose membership ceased not more than six (6) months before the dispute occurred.
- (c) The parties to a dispute shall attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this Clause 33 by giving written notice to the Secretary, or delegated authority, of the parties to, and details of, the dispute.
- (e) The association shall hold a Committee meeting within twenty eight (28) days after the Secretary, or delegated authority, receives notice of the dispute under Clause 33(d) for the Committee to determine the dispute.

- (f) At the Committee meeting to determine the dispute, all parties to the dispute shall be given a full and fair opportunity to state their respective cases orally, in writing, or both.
- (g) The Secretary, or delegated authority, shall inform the parties to the dispute of the Committee's decision and the reasons for the decision within 7 days after the Committee meeting referred to in Clause 33(e).
- (h) If any party to the dispute is dissatisfied with the decision of the Committee, they may elect to initiate further dispute resolution procedures as set out in the constitution.

### **34. Mediation**

- (a) This Clause 34 applies:
  - (i) Where a person is dissatisfied with a decision made by the Committee under Clause 33(g) or
  - (ii) Where a dispute arises between a member or more than one member and the association and any party to the dispute elects not to have the matter determined by the Committee.
- (b) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Clause 33(c) or a party to a dispute is dissatisfied with a decision made under Clause 33(g) a party to a dispute may:
  - (i) Provide written notice to the Secretary, or delegated authority, identifying the parties to, and the details of, the dispute, and
  - (ii) Agree to, or request the appointment of, a mediator to resolve the dispute.
- (c) The Secretary, or delegated authority, shall then ensure that a mediator is appointed to resolve the dispute who shall be:
  - (i) A person chosen by agreement between the parties to the dispute, or
  - (ii) In the absence of agreement between the parties to the dispute, a mediator appointed by the Committee.
- (d) Where the dispute relates to a proposal for the suspension or expulsion of a member this Clause 34 does not apply until the procedure under Clause 12.3 in respect of the proposed suspension or expulsion has been completed.
- (e) The party or parties requesting the mediation shall pay the costs of the mediation.
- (f) The mediator can be a member provided the member is not a party to the dispute.
- (g) The parties to the dispute shall attempt to settle the dispute by mediation in good faith.
- (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least seven (7) days before the date of the mediation.
- (i) The mediator, in conducting the mediation, shall:
  - (i) Give the parties to the mediation every opportunity to be heard,
  - (ii) Allow all parties to consider any written statement submitted by any party, and
  - (iii) Ensure that natural justice is accorded to the parties to the dispute throughout the mediation.
- (j) The mediation shall be confidential.
- (k) Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

### **35. Inability to resolve dispute**

If a dispute cannot be resolved under the procedures set out in Clauses 33 and 34, any party to the dispute may apply to the Administrative Tribunal to determine the dispute in accordance with the associations Act or otherwise at law.

**SERVICE OF NOTICES****36. Legal requirements**

A notice or other communication in relation to this constitution has no legal effect unless it is in writing and given as follows:

- (a) Delivered by hand to the nominated address of the addressee, or
- (b) Sent by post to the nominated postal address of the addressee, or
- (c) Sent by e-mail or any other method of electronic communication (including facsimile transmission) to the nominated electronic address of the addressee.

**37. Service on members**

Any notice given to a member under this constitution shall be sent to the member's address as recorded in the members' register.

**INDEMNITY AND INSURANCE****38. Indemnity**

- (a) The association shall indemnify each Committee member out of the assets of the association against all losses and liabilities (including costs, expenses and charges) incurred by that person as a Committee member:
  - (i) When the association is not prevented by law from doing so, and
  - (ii) For an amount for which the Committee member is not entitled to indemnity from another party (including an insurer under an insurance policy).
- (b) The indemnity in Clause 38(a) is a continuing obligation and is enforceable by a Committee member even though that person is no longer a Committee member of the association.

**39. Committee Member's (Director's) insurance**

To the extent permitted by law, and if the Committee consider it appropriate, the association may pay or agree to pay a premium for a contract insuring a person who is or has been a Committee member against any liability incurred by the Committee member.

**40. Insurance covering workers, contractors, volunteers and visitors**

The association shall ensure that appropriate insurance is obtained for:

- a) The association's workers,
- b) The association's contractors,
- c) The association's volunteers, and
- d) The association's visitors.

**CONSTITUTION AND BY-LAWS****41. Constitution****41.1. Binding**

This constitution imposes a legally binding obligation upon the association and upon each member to observe all of its Clauses.

**41.2. Amendment**

- (a) The association may amend the constitution or replace it with a new constitution by passing a special resolution.
- (b) An amendment to the constitution changing:
  - (i) The association's name, or
  - (ii) The association's object or purposes,
 does not become effective until:

- (iii) The required documents are lodged with the Commissioner, and
- (iv) The Commissioner's written approval to the changes is received by the association.

#### **41.3. Copies**

- (a) The association shall maintain a current copy of the constitution at all times.
- (b) The association shall provide, free of charge, a copy of the constitution then in force, to each member at the time their membership commences.

### **42. By-laws**

#### **42.1. Power and purpose**

Provided that they are not inconsistent with the constitution or the associations Act, the members may make, amend and repeal by-laws for the management of the association by way of an ordinary resolution at an annual general meeting or a special general meeting.

#### **42.2. Not of constitution and not required to be lodged**

Any by-laws made under Clause 42.1 do not form part of the constitution and are not required to be lodged with the Commissioner.

### **WINDING UP, CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY**

#### **43. Cessation of activities, winding up and cancellation of incorporation**

- (a) The association may cease its activities and have its incorporation cancelled in accordance with the associations Act if the members resolve by special resolution that the association is to:
  - (i) Apply to the Commissioner seeking the cancellation of the association's incorporation, or
  - (ii) Appoint a liquidator to wind up the association's affairs.
- (b) If the association has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings, the association must be wound up under Clause 43(a)(ii) before cancellation of incorporation can take place.

#### **44. Surplus assets not to be distributed to members**

If the association is wound up, any surplus assets must not be distributed to a member or a former member, unless that member or former member is an entity described in Clause 45.

#### **45. Distribution of surplus assets**

- (a) Subject to the associations Act, any other applicable law and any court order, any surplus assets that remain after the association is wound up shall be distributed to one or more not-for-profit organisations that:
  - (i) Possess an object and purposes similar to, or inclusive of, the object and purposes of the association as set out in Clause 4, and
  - (ii) Which also prohibit the distribution of any surplus assets to its members to at least the same extent as the association.
- (b) The decision as to the not-for-profit organisation or organisations to receive the surplus assets of the association shall be made by a special resolution of members at or before the time of winding up.
- (c) If the members do not make the decision set out in Clause 45(b) the association may make application to the Courts of Western Australia and request that the courts make this decision.