

CONSTITUTION OF

**Merredin Community Resource  
Centre Incorporated**

**ABN 21 925 959 714**

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 Merredin 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 9.2.
- (c) **Association** means Merredin Community Resource Centre Incorporated.
- (d) **Associations Act 2015** means the *Associations Incorporation Act 2015* (WA).
- (e) **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.
- (f) **Association's regulations** means the regulations made under the Associations Act (if any).
- (g) **By-laws** mean any additional arrangements or processes adopted by Committee Members by ordinary resolution to supplement this constitution.
- (h) **Chairperson** means the person elected by the Management Committee to hold this office.
- (i) **Charitable Collections Act** means the *Charitable Collections Act 1946* (WA).
- (j) **Circular resolution**, which may be a member's circular resolution or a Management Committee circular resolution, means a resolution that is passed without a face-to-face general meeting being held. Separate copies of the circular resolution may be used for signing by Committee Members provided the wording of the circular resolution and statement is identical in each copy. The circular resolution is passed when the last 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 Member** is a Member of the Management Committee appointed under clause 5.1.
- (n) **Constitution** means this document as amended from time to time.
- (o) **Corporations Act** means the *Corporations Act 2001* (Cth).
- (p) **Department** means the Western Australian government department principally assisting with the administration of the Associations Act, currently the Western Australian Department of Commerce.
- (q) **Executive Committee** includes the positions of Chairperson, Vice Chairperson, Secretary and Treasurer.
- (r) **Executive Committee Meeting** means a meeting of the Executive Committee.

- (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 2 association and comprises:
  - (i) The financial statements for the financial year of a tier 2 association,
  - (ii) The notes to the financial statements for the financial year of a tier 2 association, and
  - (iii) The declaration about the financial statements and notes made by the board of a tier 2 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** of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend
- (x) **Management Committee** means the group of people, called Committee Members who are responsible for the management of the affairs of the association.
- (y) **Management Committee meeting** means a meeting of the Committee Members.
- (z) **Member** means a person on the Association's Management Committee
- (aa) **Minutes** means a permanent and detailed record of the deliberations of, and resolutions adopted at, general meetings and special general meetings and may include a hardcopy or an authorised softcopy documentation of those deliberations and resolutions.
- (bb) **Model rules** means the template set of rules for incorporated associations established under the associations regulations.
- (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) **Poll** means voting conducted by a show of hands which is recoded in writing in the minutes.
- (ee) **Quorum** means the number of persons required to be present in order to conduct a meeting.
- (ff) **Special general meeting** means a general meeting of the Association other than the annual general meeting.
- (gg) **Special resolution** means a resolution proposed at a meeting and passed by the votes of not less than seventy five (75)% <sup>(M)</sup> of the persons who are entitled to cast a vote at that meeting.
- (hh) **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.
- (ii) **Tier 2 association** means an association that, in a financial year:
  - (i) Has a revenue of more than \$250,000 but less than \$1,000,000, or
  - (ii) Has been declared by the Commissioner to be a Tier 2 association.Tier 2 associations must prepare financial reports that give a true and fair view of the association in accordance with Australian Accounting Standards that is reviewed by a professional accounting body holding a public practicing certificate.

### 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).

## 4 OBJECTS AND POWERS

### 4.1 Objects

The objects of the Association are:

1. To encourage pride, community spirit, vitality and economic growth, to meet the challenges of the future.
2. To be relevant to and valued by the community.
3. To encourage and support community volunteerism.
4. To keep the community connected and informed.
5. To provide access to initiatives that improve skills and foster economic growth.
6. To ensure the sustainability of the organisation.

### 4.2 Powers

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

### 4.3 Not-for-profit

(a) Property and income

The property and income of the association shall be applied solely to promoting its objects 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 objects.

(b) Permitted payments

Provided it is done in good faith, clause 4.3 does not prevent the association from:

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

## 5. MEMBERSHIP

### 5.1 Membership

- (a) The membership of the association consists of only one class of member.
- (b) The class of membership is Management Committee Member.
- (c) A Management Committee Member has all rights provided to members under the constitution, including the right to vote, and other rights and benefits as determined by the Management Committee.
- (d) The Management Committee of the Association must maintain a minimum of six (6) and a maximum of ten (10) members.

### 5.2 Eligibility for Membership

- (a) Subject to clause 6.4, any person who supports the objects of the Association is eligible to apply to become a member.
- (b) An individual who has not reached the age of 15 years is not eligible to apply for membership.
- (c) Paid employees are not eligible to apply for membership.

### 5.3 Becoming a Member

- (a) A person who wishes to become a member shall:
  - (i) Complete a [Membership Application form](#) set out in [Schedule 1](#) to this constitution.
  - (ii) Complete and sign a [Statutory Declaration form](#) as set out in [Schedule 2](#) to this constitution.
  - (iii) Attend a minimum of two meetings prior to becoming a member.
- (b) An applicant becomes a member and is entitled to exercise all the rights and privileges of a member and is bound by this constitution if
  - (i) They meet all membership qualifications under clause 5.2.
  - (ii) They complete and forward the Membership Application form and Statutory Declaration form to the Secretary.
  - (iii) They pay the membership fee due under clause 5.9.
  - (iv) The Committee have no objections to the membership.

### 5.4 Consideration of Membership Application

- (a) Memberships applications shall only be considered if there is not a full complement of Committee members.
- (b) Membership applications shall be considered in the order in which they are received by the current Management Committee.
- (c) The Committee shall not approve a membership application unless the applicant:
  - (i) Meets all the eligibility criteria under clause 5.2.
  - (ii) Satisfies all the conditions in clause 5.3 (a).
  - (iii) Meets all the qualifications criteria under clause 6.4.

### **5.5 Liability of Members**

- (a) In accordance with Section 19 of the Associations Act 2015, a member is not by reason only of being a member, liable in respect of the liabilities of the Association, including the costs of winding up of the Association.
- (b) Members are required to pay the annual Membership fee set by the Management Committee at the AGM.

### **5.6 Members Register**

- (a) The Secretary shall ensure that a record of members is maintained and kept updated.
- (b) The Members register shall contain:
  - (i) The full names of each member,
  - (ii) The contact postal, residential or email addresses of each member,
  - (iii) The date upon which a person became a member,
  - (iv) Details of officeholder position held by the member,
  - (v) If applicable, dates of cessation of the appointment of each officeholder to their respective position.
- (c) Within twenty eight (28) days after a change in membership the Secretary shall ensure that a membership change is recorded in the Members register.
- (d) The Secretary shall ensure that the Members register is kept and maintained at such place as the Management Committee decides.

### **5.7 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 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 for a copy of the Members register for which the Association may charge a reasonable fee, which is to be determined by the Management Committee from time to time.
- (e) The Management Committee may require a member who requests a copy of the Members register under clause 5.7(d) to provide a statutory declaration to the Secretary setting out the purpose of the request and declaring that the purpose is connected with the Association's affairs.

### **5.8 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 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 is approved by the

Management Committee, and for a purpose directly connected to the association's affairs, or to the provision of information to the Commissioner under the Incorporations Associations Act.

#### **5.9 Membership fees**

- (a) The Management Committee may from time to time determine the membership fee, to be paid to the Association by each member, upon becoming a member and annually thereafter.
- (b) The annual membership fee to the association is to be paid as at the AGM or within twenty eight (28) days after the AGM otherwise the person ceases to be a member.
- (c) If a person ceases to be a member under clause 5.9(b) and subsequently pays all the member's outstanding fees to the Association, the Management 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.
- (d) The Management Committee shall not be obliged to provide reasons for its decision to, or not to, reinstate the member's rights and privileges.

#### **5.10 Termination of membership**

- (a) A member's membership terminates if the member:
  - (i) Ceases to be a member under clause 5.9(b),
  - (ii) Resigns as a member under clause 5.11
  - (iii) Is expelled as a member under clause 5.12(a) or
  - (iv) Dies.
- (b) The Association shall keep a record of:
  - (i) The date on which member's membership terminates under clause 5.9(b) 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.

#### **5.11 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.
- (b) The member's resignation is effective as at:
  - (i) The time of receipt by the Secretary 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 5.9(b) may be recovered as a debt due by the member to the association.

### **5.12 Suspension or expulsion of members**

- (a) The association may, by Management 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 shall, not less than twenty eight (28) days before the Management 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 Management 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 Management Committee meeting at which the suspension or expulsion resolution is to be considered, and
  - (iv) That the member, or the member's representative, may address the Management Committee at the Management Committee 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 Management Committee meeting at which the suspension or expulsion resolution is to be considered the Management 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 Management Committee has decided to suspend or expel a member, the member is immediately suspended or expelled.
- (e) Within seven (7) days of the Management Committee meeting at which the suspension or expulsion resolution is considered, the Secretary shall ensure that the member is informed in writing of the Management Committee's decision and the reasons for the Management Committee's decision.

### **5.13 After suspension of member**

- (a) If a member's membership is suspended under clause 5.12 the Secretary 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 Management Committee under clause 5.12
- (b) A suspended member cannot exercise any rights or privileges of a member, including voting rights, during the period of suspension.
- (c) Upon the expiry of the suspension period, the Secretary shall record in the members register that the member is no longer suspended within twenty eight (28) days of that expiration date.

**5.14 Member's right of appeal against suspension or expulsion**

Within fourteen (14) days of receiving notice of the Management Committee's decision under clause 5.12(a), an expelled or suspended member may appeal the Management 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 Management Committee's suspension or expulsion decision, and
- (b) The appointment of a mediator under clause 15.2.

**5.15 Reinstatement of member**

If the Management Committee's decision to suspend or expel a member is revoked, any act performed by the Management Committee or members in the general meeting during the period that the member was suspended or expelled from membership under clause 5.12(a) 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.

**5.16 Remuneration of members**

- (a) Travelling and other expenses  
The association may pay a member's travelling and other expenses properly incurred, such as:
  - (i) Attending meetings or subcommittee meeting,
  - (ii) In connection with the association's business.
- (b) No other remuneration  
Members shall not receive any remuneration for their services as members other than as described at Clause 5.16(a).

## 6. MANAGEMENT COMMITTEE

### 6.1 Role

The Management 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.

### 6.2 Powers

Subject to the Associations Act, this constitution and any lawful resolution passed by the association at a 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 an Annual General Meeting, Special Meeting or 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.

### 6.3 Composition of Management Committee

- (a) The Management Committee shall include a minimum of six (6) members with a maximum of ten (10) members.
- (b) The Management Committee shall include an Executive Committee consisting of:
  - (i) The Chairperson
  - (ii) The Vice Chairperson
  - (iii) The Secretary
  - (iv) The Treasurer
- (c) A member is not entitled to hold more than one Executive position at any time.

### 6.4 Qualifications of Management Committee

- (a) A member of the Management Committee shall be:
  - (i) A natural person i.e. a human being,
  - (ii) Aged over 15, and
  - (iii) A member.
- (b) A person cannot be a member of the Management Committee if:
  - (i) They are a current employee of the association,
  - (ii) 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
  - (iii) They are:
    - (A) Bankrupt, or
    - (B) Unless the person has obtained the consent of the Commissioner, a

- person whose affairs are under insolvency laws.
- (iv) Unless they have obtained the consent of the Commissioner, a person who has committed a breach of the following Management Committee 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 Management Committee member.
  - (c) A Management Committee Member who has been suspended as a member under Clause 5.12(a) cannot act in the position of a Management Committee Member until their period of suspension as a member has expired.

### **6.5 Management Committee duties**

The Management Committee shall comply with their duties 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 Management 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 objects of the association,
- (e) Act in the best interests of the association,
- (f) Not misuse information gained in their role as a Management 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 Management Committee member, or
  - (ii) Their position of Management Committee member, to:
    - (A) Gain an advantage for themselves or another person, or
    - (B) Cause detriment to the association.

### **6.6 Management Committee Member's conflict of interest**

- (a) A Management Committee member shall disclose to all the members present at the Management Committee meeting the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at the Management 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 Management Committee member shall be recorded in the minutes of the Management Committee meeting.

- (d) Each member who has a material personal interest in a matter that is being considered at a Management Committee meeting (or that is proposed in a Management Committee circular resolution) shall not, except as provided under Clause 6.5(d):
  - (i) Be present at the Management Committee meeting while the matter is being discussed, or
  - (ii) Vote on the matter.
- (e) A member may still be present and vote if:
  - (i) Their interest relates to an insurance contract that insures, or would insure, the member against liabilities incurred by the member as a member,
  - (ii) The members who do not have a material personal interest in the matter pass a resolution that:
    - (A) Identifies the member, the nature and extent of the member's interest in the matter and how it relates to the association's affairs, and
    - (B) States that those members who do not have a material personal interest in the matter are satisfied that the member's material personal interest in the matter should not prevent the member from being present at the Management Committee meeting while the matter is being discussed or from voting on the matter.

#### **6.7 Appointment of Management Committee members**

- (a) Management Committee members are appointed through methods outlined in 6.7(b).
- (b) Methods
  - (i) Election at an Annual General Meeting.
    - (A) Subject to this constitution, the procedure for the election of Management Committee members shall be decided by the Management Committee prior to the Annual General meeting.
  - (ii) Appointment at a General meeting or Special General meeting
    - (A) Should there not be insufficient Management Committee members to meet the constitutional minimum requirement in accordance with clause 6.3.
    - (B) Appointment at a General meeting or Special General meeting should there be less members than the maximum number specified in clause 6.3.
  - (iii) Appointment by the Management Committee to fill a casual vacancy under Clause 6.8.

#### **6.8 Appointment of members by Management Committee to fill a casual vacancy**

- (a) A casual vacancy occurs in membership and that position becomes vacant if:
  - (i) A member ceases to be a member under 5.10,
  - (ii) A member becomes disqualified from holding a position under Clause 6.4(b), or

- (iii) A member becomes permanently incapacitated by mental or physical ill-health.
- (iv) A member is absent from more than:
  - (A) Three (3) consecutive meetings without a good reason, or
  - (B) Three (3) meetings in the same financial year without tendering an apology to the Meeting Chair of each of those meetings, and the Management Committee has resolved to declare the position vacant, or
- (v) The association fails to fill a member vacancy under Clause 6.7.
- (b) If there is a casual vacancy within the meaning of Clause 6.7(b) the Committee may:
  - (i) Appoint a member to fill that member vacancy until the conclusion of the next annual general meeting, and
  - (ii) Subject to Clause 6.3(a), continue to act despite the vacant position on the Management committee.
- (c) If the number of members is less than the number fixed under Clause 9.10(a) as the quorum for Management Committee meetings, the continuing members may act only to:
  - (i) Increase the number of members on the Management Committee to the number required for a quorum, or
  - (ii) Call a Special General meeting.

#### **6.9 Term of office**

- (a) The Management Committee members appointed on incorporation of the association shall remain as members until the conclusion of the first Annual General meeting and shall be eligible for re-election.
- (b) At each Annual General meeting the following members shall retire:
  - (i) Any member appointed by the Management Committee to fill a casual vacancy, and
- (c) A 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 5.10(a).
- (d) If all Committee members are removed by ordinary resolution at a general meeting, the members shall, at the same general meeting, elect an interim Management Committee. The interim Management Committee shall, within two (2) months, hold a general meeting for the purpose of electing a new Management Committee.

#### **6.10 Assets and records of members who ceases to be a member**

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

## 7. THE EXECUTIVE COMMITTEE

- (a) Chairperson
- (b) Vice Chairperson
- (c) Secretary
- (d) Treasurer

### 7.1 Chairperson

The Chairperson:

- (a) Must ensure that they consult with the Secretary regarding the business to be conducted at each Management Committee meeting,
- (b) May call Management Committee meetings under Clause 9.4(c)(i),
- (c) May chair meetings under Clause 9.5(d) and 9.13,
- (d) Must ensure that the minutes of meetings are reviewed and signed as correct,
- (e) Must carry out any other duties required of the Chairperson by this constitution, and
- (f) Shall act as spokesperson for the association.

### 7.2 Vice Chairperson

The Vice Chairperson:

- (a) Shall assist the Chairperson in her/her duties and, in the event the Chairperson is absent from a meeting, perform the duties of the Chairperson,
- (b) Shall act as spokesperson for the association when required, and
- (c) Shall perform other duties as imposed by this constitution.

### 7.3 Secretary

The Secretary 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 all meetings,
- (d) In consultation with the Chairperson, preparation of notices of 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 Executive Committee,
- (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 7 years or otherwise as required by other Acts or Regulations),
- (j) Recording of full and correct minutes of all meetings and their maintenance in the minutes,
- (k) Compliance with all reporting obligations to the Department of Commerce as varied from time to time.
- (l) Performance of any other duties required of the Secretary by this constitution.

#### **7.4 Treasurer**

The Treasurer 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 committee or a 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 13.3.
- (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 7 years or otherwise as required by other Acts or Regulations),
- (g) Co-ordination of the preparation of the Auditor's report prior to its submission to the annual general meeting,
- (h) Assistance of the reviewer or Auditor in performing their functions, and
- (i) Performance of any other duties required of the Treasurer by this constitution.

#### **7.5 Election of Executive Committee at an Annual General Meeting**

- (a) Election  
Following the appointment of the Management Committee at an Annual General Meeting, it is the responsibility of the Management Committee to elect the Executive Committee.
- (b) Method  
The Management Committee shall appoint a Returning Officer, who is not a member, to carry out the election process for the Executive Committee by calling for nominations for each position, commencing with the Chairperson, followed by Vice Chairperson, Secretary and then Treasurer.

- (ii) If only one valid nomination is received for each of the Executive Committee positions, the member nominated will be regarded as being elected to that position.
- (iii) If more than one valid nomination is received for each of the Executive Committee positions, elections for each of those positions shall be conducted.
- (iv) If there are no valid nominations received for any one of the Executive Committee positions, that position can remain vacant for a maximum period of six (6) months as long as the current Management Committee agree that the organisation can maintain a quorum and continue to operate for this period of time.
- (v) A vacant position on the Executive Committee can be filled by a nomination from a Management Committee member at any Management Committee meeting following the Annual General Meeting that the position was declared vacant.

## 8 SUBCOMMITTEES AND OTHER DELEGATION

### 8.1 Establishment

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

### 8.2 Delegation

- (a) The Management 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 Management Committee sees fit from time to time.
- (b) Despite any delegation under Clause 8.2(a), the Management 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.

### 8.3 Delegation to others

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

## 9 MEETINGS

### 9.1 Types of meetings

- (a) Annual General Meeting,
- (b) Special General Meeting,
- (c) General Meeting, and
- (d) Executive Committee Meeting.

### 9.2 Annual General Meeting

- (a) An Annual General Meeting is a meeting of all the members that is to be held
  - (i) once during each financial year,
  - (ii) within six (6) months after the end of the financial year, or
  - (iii) within a longer period if the Commissioner so allows,
  - (iv) on a date and at a time and place decided by the Management Committee.
- (b) If the association requires the approval from the Commissioner to hold its annual general meeting within a longer period under clause 9.2(a)(iii) the Secretary 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 9.2(a).
- (d) The Annual General Meeting is 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 and Executive Committee positions, and
  - (iv) Receive the financial statements for the previous financial year as defined in clause 9.2.1.

#### 9.2.1 Financial statements and reports at Annual General Meetings

- (a) As a tier 2 association, the association will:
  - (i) Within six (6) months from the end of a financial year (1 July – 30 June), prepare a financial report for the financial year.
  - (ii) It shall ensure that the financial report is reviewed and that a review report is prepared and presented for consideration by the annual general meeting, and,
  - (iii) if :
    - (A) A majority (more than 50%) of members present at a general meeting pass a resolution to this effect, or
    - (B) The Commissioner directs the association to do

so, it shall ensure:

- (i) That its financial statements for the relevant financial year are audited, and
- (ii) That a copy of the Auditor's report is submitted to the Annual General Meeting.
- (iv) As required by the association regulations, lodge the annual return with the Commissioner

### **9.3 Special General Meeting**

- (a) 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.
- (b) 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.

### **9.4 General Meeting**

- (a) No less than five (5) General Meetings will be held within a financial year.
- (b) The Management Committee shall determine the place and time of all General Meetings.
- (c) A General Meeting may be called by:
  - (i) The Chairperson, or
  - (ii) Any three (3) members.
- (d) Failure to hold a General Meeting requested by the members under Clause 9.4(c)(ii) within twenty one (21) days of being requested, a majority (being more than 50%) of the percentage of members who made the request under 9.4(c)(ii), may call and arrange to hold a General Meeting following the procedures set out in Clause 9.4 (e) (f) and (g).
- (e) All members will be given at least forty eight (48) hours notice of each General Meeting.
- (f) The notice of the General Meeting shall specify the general nature of the business to be transacted at the General Meeting.
- (g) Urgent business may be conducted at a General Meeting if the Members present at the General Meeting unanimously agree to treat the business as urgent.

### **9.5 Executive Committee Meeting**

- (a) The Executive Committee shall determine the place and time of all Executive Committee meetings.
- (b) Executive Committee members will be given at least forty eight (48) hours notice of each Executive Committee meeting.
- (c) The notice of the Executive Committee meeting shall specify the general nature of

the business to be transacted at the Executive Committee meeting.

- (d) The Executive Committee meeting may be called by:
  - (i) The Chairperson, or
  - (ii) Any other member of the Executive Committee.
- (e) The Quorum for an Executive Committee meeting is three (3) Executive members.

#### **9.7 Calling a Meeting (excluding Executive meeting)**

- (a) A meeting may be called by:
  - (i) The Management Committee, at any time, or
  - (ii) At least three (3) members.
- (b) Members may call a meeting by forwarding a notice in writing to the Secretary or, in the absence of the Secretary, to the Chairperson.

#### **9.8 Members call for Annual General Meeting or Special General Meeting**

- (a) In the event that members request a meeting to be held under Clause 9.7 the Management Committee shall:
  - (i) Within twenty one (21) days of the member's request, forward notice of the meeting to all members, and
  - (ii) Hold the meeting within two (2) months of the member's request.
- (b) A request by the members for a meeting to be held under Clauses 9.7 shall:
  - (i) State the purpose of the meeting,
  - (ii) Be signed by at least three (3) of the members, and
  - (iii) Be lodged with the Secretary or, in the absence of the Secretary, with the Chairperson.
- (c) Separate copies of a document setting out the request by the members for a meeting to be held under clause 9.7(a)(ii) be signed by members if the wording of the request is the same in each copy of the request.

#### **9.9 Failure to hold a meeting requested by members**

- (a) If the Management Committee does not call a meeting requested by members under Clauses 9.7 within twenty one (21) days of being requested, a majority (being more than 50%) of the percentage of members who made the request under clause 9.7(a)(ii), may call and arrange to hold a meeting.
- (b) To call and hold a meeting under clause 9.7, the members shall:
  - (i) As far as possible, follow the procedures for the type of meeting requested as set out in this constitution,
  - (ii) Call the 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 meeting within three months after the request for a meeting to be held under clause 9.7 was lodged with the Secretary or, in the absence of the Secretary, with the Chairperson.

**9.10 Quorum at meetings (excluding Executive meeting)**

- (a) Four (4) members personally present or under clause 9.12(a)(ii) and entitled to vote shall constitute a quorum for a meeting.
- (b) Subject to Clauses 9.10(c) and 9.10(d), no business shall be conducted at the meeting unless a quorum of members is present at the time the meeting considering that item.
- (c) If, within half an hour of the time appointed for the commencement of the meeting, a quorum is not present:
  - (i) In the case of a special general meeting or 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 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.

**9.11 Notice of, and motions at a meeting (excluding Executive meeting)**

- (a) The Secretary shall ensure that each member is given at least:
  - (i) Twenty one (21) days' notice of an Annual General Meeting.
  - (ii) Fourteen (14) days' notice of a Special General Meeting, and
  - (iii) Forty Eight (48) hours notice of a General Meeting.
- (b) The notice of a Meeting shall specify:
  - (i) The place, date and time of the meeting,
  - (ii) That the member is entitled to attend and vote at the meeting, and
  - (iii) The particulars and order of the business to be conducted at the meeting.
- (c) The notice of a meeting or any notice of motion must be issued in the manner set out in clauses 16.1 and 16.2.

**9.12 Using technology to hold a meeting**

- (a) A 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) that is agreed to by all members, if it reasonably allows each member to participate fully in discussions and decisions as they happen in the meeting and provided that the participation of each member is made known to all other members in attendance.
- (b) A member who participates in a meeting as set out in Clause 9.12(a)(ii).
  - (i) Is deemed to be present at the meeting, and
  - (ii) Continues to be present at the meeting for the purposes of establishing a

quorum, until the member notifies the other members that they are no longer taking part in the meeting.

**9.13 Conducting a meeting (excluding Executive meeting)**

- (a) The Chairperson shall normally act as Meeting Chair of each meeting.
- (b) If the Chairperson is not present, the Vice Chairperson will fill this role.
- (c) The members at a meeting may elect the Vice Chair or another Management Committee member other than the Chairperson to be the Meeting Chair if the Chairperson is:
  - (i) Not present within 30 minutes after the starting time set for the meeting, or
  - (ii) Present but does not want to act as Meeting Chair of the meeting.
- (d) The meeting cannot conduct business unless the quorum specified in clause 9.10(a) is present.
- (e) At a meeting at which the quorum specified in clause 9.10(a) is present, the Meeting Chair may adjourn the the meeting with the consent of a majority (more than 50%) of the members present.
- (f) No business shall be conducted at a rescheduled meeting other than the unfinished business from the adjourned meeting
- (g) When a meeting is adjourned for fourteen (14) days or more, the Secretary shall ensure that notice of the adjourned meeting is given to the members in accordance with clause 9.11 as if that meeting was a new meeting.
- (h) The Secretary shall ensure that minutes of the resolutions and proceedings of all meetings are recorded and maintained together with a record of the names of persons present at the meeting.
- (i) Guests may attend any meeting if invited by the Management Committee, but shall not have any right to:
  - (i) Comment without invitation
  - (ii) Vote, or
  - (iii) Be provided with copies of any agenda, minutes of meetings or documents presented at the meeting.

## 10 MEETING – RESOLUTIONS

### 10.1 Definitions

There are three types of member's resolutions, namely:

- (a) An ordinary resolution,
- (b) A special resolution, and
- (c) Member's circular resolution.

### 10.2 An ordinary resolution:

Is a resolution that is not described in 10.3 or 10.4, and shall:

- (a) Be passed at any 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.

### 10.3 A special resolution:

- (a) Is a resolution that shall be necessary to:
  - (i) Amend the name of the association,
  - (ii) Amend the constitution,
  - (iii) Affiliate the association with another body,
  - (iv) Transfer the incorporation of the association,
  - (v) Amalgamate the association with one or more other incorporated associations,
  - (vi) Voluntarily wind up the association,
  - (vii) Cancel the incorporation of the association, or
  - (viii) Request that a statutory manager be appointed to the association, and shall:
    - (A) Be passed at an Annual general meeting or Special general meeting at which the quorum specified in clause 9.10 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.

- (b) Notice of special resolution

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

- (i) Members shall receive notice of the special resolution in accordance with clause 9.11(a)(i) and (ii) before the date of the annual general meeting or special general meeting.
- (ii) The notice of the special resolution shall:
  - (A) Be in writing,
  - (B) Include the place, date and time of the meeting where it is proposed that the special resolution be put,
  - (C) Include the intention to propose a special resolution, and
  - (D) Set out the wording of the proposed special resolution.
- (iii) If notice is not given in accordance with clause 9.11(a)(i) and (ii) the special resolution shall have no effect.

#### 10.4 Members Circular resolutions

- (a) The Management Committee may put a Members circular resolution to the members.
- (b) A members circular resolution cannot be used:
  - (i) To pass a special resolution,
  - (ii) To remove an Auditor,
  - (iii) To appoint or remove a Committee Member, or
  - (iv) Where the associations Act or this constitution requires an annual general meeting or special general meeting to be held.
- (c) The Secretary may arrange for a members circular resolution to be sent by email to members and members may agree to the members circular resolution by sending a reply email to the Secretary including the text of the Members Circular resolution in their reply.
- (d) A Members Circular resolution is passed if more than 50% of the members entitled to vote on the resolution sign or agree to the Members Circular resolution by:
  - (i) Signing a single document setting out the Members Circular resolution and containing a statement that the members agree to the Members Circular resolution, or
  - (ii) Signing separate copies of the document setting out the Members Circular resolution and containing a statement that the members agree to the members circular resolution, provided that the wording in each copy of the document is identical, or forwarding an email referred to in Clause 10.4(c).
- (e) The Members Circular resolution and each members response is provided at the next meeting for ratification and to be entered into the minutes so that it is on record.

## 11 VOTING AT MEETINGS

### 11.1 Number of votes per member at meetings

- (a) Each member has one vote at any meeting.
- (b) In the case of an equality of votes, the Meeting Chair is entitled to exercise a second or casting vote.

### 11.2 Entitlement to vote at annual general meeting and special general meeting

- (a) A member or their proxy is not entitled to vote at any 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 a meeting if the member's name is recorded in the members register as at the date of the meeting.

### 11.3 Challenge to member's right to vote at all meetings

- (a) A member or the Meeting Chair may only challenge a person's right to vote at that same meeting.
- (b) If a challenge is made under Clause 11.3(a) the meeting shall review the person's right to vote under Clause 11.2 and then decide whether or not the person may vote.
- (c) The Meeting Chair's decision on this point is final.

### 11.4 Voting procedure at all meetings

- (a) Voting at meetings 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's decision is conclusive evidence of the result of the vote.
- (d) The Meeting Chair and the minutes of the meeting do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- (e) In the case of an equality of votes at a meeting the Meeting Chair is entitled to exercise a second or casting vote.

### 11.5 When and how a vote in writing shall be held at any 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 four (4) 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 11.5(a)(i)
  - (i) For the election of a Meeting Chair under Clause 7.5 (b) or
  - (ii) To decide whether to adjourn the annual general meeting or special general

meeting.

#### **11.6 Proxies at meetings**

- (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 any meeting.
- (d) A proxy appointed to attend and vote for a member has the same rights as the member to:
  - (i) Speak at the 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 11.5(a)(i).
- (e) An appointment of proxy, in the form as set out in [Schedule 3](#) to this Constitution [Proxy Form](#), 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 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 forty eight (48) hours before the 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 meeting, or at the association's registered address.
- (h) A proxy does not have the right to speak or vote for a member at a meeting while the member is present.
- (i) Unless the association receives written notice before the start or resumption of a 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.

#### **11.7 Determining whether an ordinary resolution is carried at a meeting**

- (a) Unless a poll is demanded under Clause 10.3(a), if a question arising at the meeting is determined by general agreement or a show of hands, a declaration shall be made by the Meeting Chair 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 10.3(a)

and 10.3(b) must be fulfilled. The minutes must also state that a special resolution has been determined.

- (c) A declaration made under Clause 11.7(a) shall be entered into the minutes.
- (d) The entry in the minutes under Clause 11.7(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.

**11.8 Poll at annual general meeting; special general meeting and general meeting**

- (a) At any meeting a poll on any question may be demanded by either:
  - (i) The Meeting Chair, or
  - (ii) At least three members present in person or by proxy.
- (b) If a poll is demanded at a 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 a 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 meeting Meeting Chair directs.

## 12 MINUTES, BOOKS AND RECORDS

### 12.1 Taking of minutes

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

### 12.2 Review and signing of minutes

- (a) The Chairperson shall ensure that the minutes of a meeting are reviewed and signed as correct by:
  - (i) The Meeting Chair of the meeting to which those minutes relate, or
  - (ii) The Meeting Chair of the next succeeding meeting.
- (b) When minutes have been entered and signed as correct under Clause 12.2(a) they are:
  - (i) To be entered in the minute book, and
  - (ii) Until the contrary is proved, evidence that:
    - (A) The meeting to which they relate was duly called and held,
    - (B) All proceedings recorded as having taken place at the meeting, and
    - (C) All appointments or elections purporting to have been made at the meeting were validly made.

### 12.3 Inspection of minutes

- (a) The minutes of a meeting may be inspected by a member under Clause 12.6.

### 12.4 Inspecting record of Committee members

- (a) Any member is able to inspect the record of Committee members 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 Committee members, but has no right to remove the record of Committee members for that purpose.

### 12.5 Custody of association's books

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

**12.6 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 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.

**12.7 Prohibition on use of information in association's books and record of Committee members**

- (a) A member shall not use or disclose information in the association's books and record of Committee members except for a purpose:
  - (i) That is directly connected with the affairs of the association, or
  - (ii) Related to a requirement of the associations Act to provide information to the Commissioner.

**12.8 Returning the association's books**

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

## 13 FINANCES

### 13.1 Payment of income or property to members

(a) Not permitted

Subject to Clause 13.1(b), 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.

(b) Permitted payments

(i) Clause 13.1 does not prevent:

(A) Subject to Clause 13.1(b) the payment in good faith of remuneration to any member 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,

(B) 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,

(C) The payment of reasonable and proper rent by the association to a member for premises leased to the association by the member, or

(D) The reimbursement of out-of-pocket expenses for travel and accommodation incurred on behalf of the association by any member in connection with the member's functions as a member of the association.

(ii) Before a payment proposed to a member under Clause 13.1(b)(i) can be made, the payment must first be authorised by the members by way of an ordinary resolution.

### 13.2 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 Management Committee.

(b) The association shall use its funds in carrying out the association's objects.

(c) All cheques, bills of exchange, promissory notes and other negotiable instruments of the association shall be signed by:

(i) Any two Executive Committee, or

(ii) One Executive Committee and another person authorised by the Management Committee.

(d) All expenditure above the maximum amount set by the Management Committee from time to time shall be approved or ratified at a Management Committee meeting.

### 13.3 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 7 years after the

transactions covered by the financial records are completed.

## 14 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 14(a):
  - (i) The Secretary shall ensure its safe custody, and
  - (ii) It shall only be used under resolution of the Management Committee.
- (c) The association shall sign off on a document without using a common seal (if any) if the document is signed by two Executive Committee.
- (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 Executive Committee members, or
  - (ii) One Executive Committee and another person authorised by the Management Committee.
- (e) The Secretary shall ensure that every use of the common seal is recorded in the minutes.

## 15 DISPUTES

### 15.1 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, 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 15 by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (e) The association shall hold a Management Committee meeting within twenty eight (28) days after the Secretary receives notice of the dispute under Clause 15.1(d) for the Management Committee to determine the dispute.
- (f) At the Management 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 shall inform the parties to the dispute of the Management Committee's decision and the reasons for the decision within 7 days after the Management Committee meeting referred to in Clause 15.1(e).
- (h) If any party to the dispute is dissatisfied with the decision of the Management Committee, they may elect to initiate further dispute resolution procedures as set out in the constitution.

### 15.2 Mediation

- (a) This Clause 15.2 applies:
  - (i) Where a person is dissatisfied with a decision made by the Management Committee under Clause 15.2(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 Management Committee.
- (b) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Clause 15.1(c) or a party to a dispute is dissatisfied with a decision made under Clause 15.1(g) a party to a dispute may:
  - (i) Provide written notice to the Secretary 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 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 Management.

- (d) Where the dispute relates to a proposal for the suspension or expulsion of a member this Clause 15.2 does not apply until the procedure under Clause 5.10 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 five (5) 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
- (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.

### **15.3 Inability to resolve dispute**

If a dispute cannot be resolved under the procedures set out in Clauses 15.1 and 15.2, 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.

## 16 SERVICE OF NOTICES

### 16.1 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,
- (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.

### 16.2 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.

## 17 INDEMNITY AND INSURANCE

### 17.1 Indemnity

- (a) The association shall indemnify each member out of the assets of the association against all losses and liabilities (including costs, expenses and charges) incurred by that person as a member:
  - (i) When the association is not prevented by law from doing so, and
  - (ii) For an amount for which the member is not entitled to indemnity from another party (including an insurer under an insurance policy).
- (b) The indemnity in Clause 17.1(a) is a continuing obligation and is enforceable by a member even though that person is no longer a member of the association.

### 17.2 Member's insurance

To the extent permitted by law, and if the Management 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 member against any liability incurred by the member.

### 17.3 Insurance covering members, workers, contractors, volunteers and visitors

The association shall ensure that appropriate insurance is obtained for:

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

## 18 CONSTITUTION AND BY-LAWS

### 18.1 Constitution

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

### 18.2 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.

### 18.3 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.

### 18.4 By-laws

- (a) 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.
- (b) Not of constitution and not required to be lodged  
Any by-laws made under Clause 18.4 do not form part of the constitution and are not required to be lodged with the Commissioner.

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

### 19.1 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 19.1(a)(ii) before cancellation of incorporation can take place.

### 19.2 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 19.3.

### 19.3 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 similar to, or inclusive of, the object of the association as set out in Clause 4.1, 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 19.3(b) the association may make application to the Courts of Western Australia and request that the courts make this decision.

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Schedule 1 - Membership Application Form

I, ..... of .....  
[Applicant's full name]

.....  
[Applicant's residential address]

.....  
[Applicant's date of birth]

.....  
[Applicant's telephone number]

.....  
[Applicant's occupation]

.....  
[Applicant's email address]

hereby apply to become a member of the above named incorporated association. In the event of my admission as a member, I agree to be bound by the constitution of the association as amended from time to time. I also understand the acceptance of my membership application does not necessarily provide guarantee any nomination for an Executive Committee member position in accordance with this constitution.

.....  
Signature of applicant

.....  
Date

Schedule 2 – Qualifications of Members

WESTERN AUSTRALIA

OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

I, .....

.....

{name, address and occupation of person making declaration}

sincerely declare as follows:-

- a. I have not, in the previous five years, 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. I am not:
  - (A) Bankrupt, or
  - (B) A person whose affairs are under insolvency laws.
- c. I have not committed a breach of the following Management 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.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular. This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

at .....

{place}

.....

{date}

in the presence of -

.....

{Signature of authorised witness}

.....

{Name of authorised witness and qualification as such a witness}

by.....

{Signature of person making the declaration}

**\*Important** This Declaration must be made before any of the following persons:-

Academic (post-secondary institution), Accountant, Architect, Australian Consular Officer, Australian Diplomatic Officer, Bailiff, Bank Manager, Chartered secretary, Chemist, Chiropractor, Company auditor or liquidator, Court officer (Judge, magistrate, registrar or clerk), Defence Force officer (Commissioned, Warrant or NCO with 5 years continuous service), Dentist, Doctor, Electorate Officer (State), Engineer, Industrial organisation secretary, Insurance broker, Justice of the Peace, Lawyer, Local government CEO or deputy CEO, Local government councilor, Loss adjuster, Marriage Celebrant, Member of Parliament (State or Commonwealth), Minister of religion, Nurse, Optometrist, Patent Attorney, Physiotherapist, Podiatrist, Police officer, Post Officer manager, Psychologist, Public Notary, Public Servant (State or Commonwealth), Real Estate agent, Settlement agent, Sheriff or deputy Sheriff, Surveyor, Teacher, Tribunal officer, Veterinarysurgeon

Or,

Any person before whom, under the *Statutory Declarations Act 1959* of the Commonwealth, a Statutory Declaration may be made.

IMPORTANT INFORMATION:

AS OF 1 JANUARY 2006 THERE IS NO PROVISION FOR COMMISSIONERS FOR DECLARATIONS IN THE STATE OF WESTERN AUSTRALIA

**Schedule 3 - Proxy Voting Form**

(For use by member who is unable to attend annual or special general meeting)

I, ..... of .....  
[Member's full name]

.....  
[Member's residential address]

.....  
[Member's telephone number]

.....  
[Member's email address]

being a member of the above named incorporated association (**association**) and authorised to vote at a general meeting, hereby appoint:

Please Tick  ONLY ONE (1) of the following:

- 1. Chairperson of general meeting OR
- 2. Secretary of association OR
- 3. Proxy identified below


I, ..... of .....  
[Proxy's full name]

.....  
[Proxy's residential address]

to vote on my behalf at the annual/special (strike out '**annual**' OR '**special**') general meeting (**general meeting**) of the association to be held on:

.....  
Date of general meeting      Address of general meeting

and at any adjournment of the general meeting.

**Proxy's Voting Directions**

My proxy is authorised to vote:

Please Tick  ONLY ONE (1) of the following:

- 1. As the proxy deems fit OR
- 2. According to the specific directions to my proxy identified below


Specific directions to proxy (please add further page if needed)

.....  
Signature of Member

.....  
Date