

Rules of Association
Registered in Western Australia

ROTTNEST FOUNDATION INC. CONSTITUTION

Registration Number: A1004543Y





RULES OF ASSOCIATION

CONSTITUTION OF ROTTNEST FOUNDATION INC.

REGISTRATION NUMBER: A1004543Y

PARTICULARS

- (a) The name of the Association is
ROTTNEST FOUNDATION INC.
- (b) The objectives of the Association are:
 - (i) to protect and enhance the natural environment and ecology of Rottnest Island, including its terrestrial and marine environments in order to conserve the Island for present and future generations to enjoy;
 - (ii) through the provision of information and education, or the carrying out of research, to stimulate and encourage the community to adopt a sense of ownership and stewardship of Rottnest Island by developing a culture of sustainability, understanding and appreciation of the unique environment and functions of Rottnest Island;
 - (iii) to manage, restore, repair or conserve buildings, places or things of national or local importance in order to complement, support or improve the condition of Rottnest Island for the benefit of the community, ensuring that these activities must not be or become the principal Object of the Association.
- (c) Any **10** members personally present (being members entitled to vote under these rules at a general meeting) will constitute a quorum for the conduct of business at a general meeting or Annual General Meeting.
- (d) Any **5** Board members constitute a quorum for the conduct of the business of a board meeting.
- (e) The association's financial year will be the period of 12 months commencing on 1 July and ending on 30 June of each year.

PART 1 – OBJECTIVES

1. Objectives

The Objectives of the Association are:-

- (a) to protect and enhance the natural environment and ecology of Rottnest Island, including its terrestrial and marine environments in order to conserve the Island for present and future generations to enjoy;
- (b) through the provision of information and education, or the carrying out of research, stimulate and encourage members of the public to adopt a sense of community ownership and stewardship of Rottnest Island by developing a culture of sustainability, understanding and appreciation of the unique environment and functions of Rottnest Island;
- (c) to manage, restore, repair or conserve buildings, places or things of national or local importance in order to complement, support or improve the condition of Rottnest Island for the benefit of the community, ensuring that these activities must not be or become the principal Objectives of the Association.

PART 2 — PRELIMINARY

2. Terms used and interpretation

2.1 Definitions

In these rules, unless the contrary intention appears —

Act means the *Associations Incorporation Act 2015*;

associate member means a member with the rights referred to in rule 13(5);

Association means the incorporated association to which these rules apply as outlined in the Particulars at the beginning of the Rules;

Authority means the Rottnest Island Authority established by Section 5(1) of the *Rottnest Island Act (WA) 1987*;

Board means the members appointed to be on the management board of the Association;

Board meeting means a meeting of the Board members;

Board member means a member of the Board;

books, of the Association, includes the following —

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

by laws means by-laws made by the Association under rule 69;

Chairperson means the Board member holding office as the chairperson of the Association;

Commissioner means the person for the time being designated as the Commissioner under section 153 of the Act;

Committee means the Board and for the purposes of the Act a reference in the Act to a committee or the management committee of the Association means a reference to the Board of this Association;

Constitution means these rules and vice versa;

eligible project means a project that is conducted for a purpose consistent with the Objectives of the Association;

financial records include —

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain —
 - (i) the methods by which financial statements are prepared; and
 - (ii) adjustments to be made in preparing financial statements;

financial report, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

financial statements means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

financial year, of the Association, has the meaning given in rule 3;

general meeting, of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend;

Gift Fund means the Rottnest Foundation Gift Fund established in accordance with these Rules;

Gift Fund Management Committee means the committee established to manage the Gift Fund in accordance with these Rules;

member means a person (including a body corporate) who is an ordinary member or an associate member of the Association;

ordinary board member means a Board member who is not an office holder of the Association under rule 33;

ordinary member means a member of the Association with the rights referred to in rule 13;

poll means voting conducted in written form and not by show of hands;

register of members means the register of members referred to in section 53 of the Act;

rules means these rules of the Association, which can be interchangeably called the constitution of the Association, and vice versa, as in force for the time being;

secretary means the Board member holding office as the secretary of the Association;

special general meeting means a general meeting of the Association other than the annual general meeting;

special resolution means a resolution passed by the members at a general meeting in accordance with section 51 of the Act and Rule 64(9);

subcommittee means a subcommittee appointed by the Board under rule 55(1)(a);

tier 1 association means an incorporated association to which section 64(1) of the Act applies;

tier 2 association means an incorporated association to which section 64(2) of the Act applies;

tier 3 association means an incorporated association to which section 64(3) of the Act applies;

treasurer means the Board member holding office as the treasurer of the Association.

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2.2 Interpretation

In these Rules:-

- (a) headings and boldings and italics are for convenience and do not affect interpretation of this constitution;
- (b) words importing the singular include the plural and vice versa;
- (c) a reference to a rule is a rule of this constitution unless otherwise stated;
- (d) a reference to anything includes a part of a thing but does not necessarily mean that performance of part of an obligation is performance of the obligation as a whole;
- (e) a reference to a document includes any amendments or supplements, additions and annexures of the document;
- (f) an expression of a person importing a natural person shall include any company, partnership, joint venture, association, trust, entity or any other body corporate, entity or government agency as the context requires;
- (g) references to any legislation includes any amendment, consolidation or re-enactment, substitution change or otherwise and all statutory instruments and regulations issued under that legislation;
- (h) no provisions shall be construed adversely on the grounds that the Association was responsible for the drafting and preparation of this constitution or that provision;
- (i) the Act shall prevail to any inconsistency in these Rules and these Rules shall be amended, severed or altered to ensure the Act remain paramount at all times to the extent these Rules conflict with the Act;
- (j) an expression in this constitution which relates to or involves a particular provision of the Act has the same meaning as in that provision of the Act even without being defined in these rules, except where a contrary intention appears in these rules.

3. Financial year

- (1) The first financial year of the Association is to be the period notified to the Commissioner under section 7(4)(e) or, if relevant, section 29(5)(e) of the Act.
- (2) Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination as set out in the particulars.

PART 3 - COMPLIANCE

4. Department of Environment Organisation

- (1) The Association is organised so as to qualify as an "Environmental Organisation" within the meaning of Item 6.1.1 of Sub-section 30-55(1) of the *Income Tax Assessment Act 1997 (Cth)* (**ITAA 97**).
- (2) The Association shall not carry on any activity not permitted to be carried on by an "Environmental Organisation" within the meaning of Item 6.1.1 of Sub-section 30-55(1) of the ITAA 97.
- (3) The Association agrees to comply with any rules that the Federal Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the gift fund are only used for its principal object.
- (4) The Association agrees to give the secretary of the Australian Government Department responsible for the environment, within a reasonable period after each financial year, statistical information about gifts made to the Rottnest Foundation Gift Fund during each financial year.

5. Rottnest Island Authority

- (1) The Association acknowledges that the authority is vested with the control and management of Rottnest Island pursuant to the *Rottnest Island Authority Act (WA)* 2015 and the Association must pursue the Objectives in spirit of co-operation with the Authority.
- (2) Any Member may suggest projects for the Association and the Board must review every project application made and determine whether the application relates to an eligible project in accordance with the Associations Objectives.
- (3) If the Board is satisfied that the application is for an eligible project then:-
 - (a) The Board must decide in its absolute discretion whether the project application will be approved; and
 - (b) If the application relates to the Gift Fund, then the approval of the Board under this Rule will not be effective unless the Gift Fund Management Committee has also provided its approval;

- (4) A decision by the Board to approve or not approve a project application under this Rule must be made by ordinary resolution.
- (5) The Board shall then present the project to the Authority for final approval.

6. Rottnest Island Gift Fund

- (1) The Rottnest Foundation will establish and maintain a public fund to be called the Rottnest Foundation Gift Fund ("**Gift Fund**") for the specific purpose of supporting the environmental objectives and purposes of the Association.
- (2) The Gift Fund is established to receive gifts of money or property for the purpose of Clause 6(1) and any money received because of such gifts must be credited to its bank account.
- (3) The Gift Fund must not receive any other money or property into its account and it must comply with Subdivision 30-E of the ITAA 97
- (4) The property and income of the Gift Fund shall be applied solely towards the Objectives and no part of that property or income may be paid or otherwise distributed directly or indirectly to members.
- (5) The Gift Fund's Management Sub-Committee shall be comprised of at least 3 people as follows:
 - i. 1 Board Member; and
 - ii. 2 other persons who may be, but do not have to be, Board Members; at least 2 of whom must have a degree of responsibility to the wider community of Australia as defined in Taxation Ruling TR 95/27 Income Tax: public funds.
- (6) The Association shall maintain a separate bank account for the Gift Fund.
- (7) Any money received by the Association because of gifts of money or property referred to in under this Rule, including but not limited to money from interest on gifts, income derived from gifts and money from the realisation of gifts must be credited to the Gift Fund's bank account referred to under this Rule.
- (8) Receipts are to be issued in the name of the Gift Fund and proper accounting records and procedures are to be kept and used for the Gift

Fund. The release of monies from the Gift Fund and the management of and sale of Gift Fund assets must be authorised by the Gift Fund Management Sub-Committee.

- (9) Upon receipt by the Association of a contribution of money or property, the Board within a reasonable time, must determine whether that contribution is a:-
 - (a) Subscription for membership;
 - (b) Gift;
 - (c) Grant; or
 - (d) Sponsorship.
- (10) If the Board determines that the contribution is a gift, then it must form part of the Gift Fund and must be dealt with in accordance with this Rule.
- (11) If the Board determines that the contribution is a subscription, a grant or sponsorship, then the money or property must be deposited in a general Association account and may be used by the Association in pursuit of the Objectives in accordance with these Rules.
- (12) Members of the public are invited to make gifts of money or property to the Gift Fund for the environmental purposes and the Objectives of the Association in accordance with these Rules.

PART 4 — ASSOCIATION TO BE NOT FOR PROFIT BODY

7. Not-for-profit body

- (1) The property and income of the Association must be applied solely towards the promotion of the objectives or purposes of the Association 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 the promotion of those objectives or purposes.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under sub-rule (3).
- (3) Any allocation of income, donations or property to other persons or organisations will be made in accordance with the Objectives of the Association and not be influenced by the preference of the donor.

- (4) A payment to a member out of the funds of the Association is authorised if it is —
- (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, or made in the ordinary course of business of the Association;
 - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
 - (c) the payment of reasonable rent to the member for premises leased by the member to the Association;
 - (d) payment is made in good faith in the promotion of the Association's objectives;
 - (e) the payment is approved by greater than 50% of the members at a general meeting and in line with the objectives of the Association; or
 - (f) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

PART 5 — MEMBERS

Under sections 4 and 17 of the Act an association must always have at least 6 members with full voting rights.

Under section 19 of the Act a member of the management committee, trustee or a member of the association is not liable in respect of the liabilities of the association. This does not apply to liabilities incurred by or on behalf of the association prior to incorporation.

A member is only liable for their own outstanding membership fees (if any) payable.

Part 5 - Division 1 — Membership

8. Eligibility for membership

- (1) Subject to sub-rule (2) through (4), any person who wishes to further the interests of the Association is eligible to become a member.
- (2) An individual who has not reached the age of 18 years is not eligible to apply for a membership that confers full voting rights but his or her legal

guardian will be given full voting rights (subject to these Rules of Association) on that member's behalf.

- (3) An individual who has not reached the age of 18 years is not eligible to apply for membership as a Board member.
- (4) Each sub-category of membership may have by-laws established to govern the awarding and appointment of such membership class or providing for additional requirements of eligibility of such membership class.

9. Applying for membership

- (1) A person who wants to become a member for a particular year must apply in writing to the Association in the registration form as directed by the Association.
- (2) The application must be registered and submitted by the applicant and the applicants agree by virtue of their application that they confirm that they are eligible to be a member in the elected category that the applicant chose to apply for and accepting to become a member of the Association.
- (3) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.
- (4) The applicant must re-apply for membership to the Association each year.

10. Dealing with membership applications

- (1) The Secretary and/or Board must consider each application for membership of the Association and decide whether to accept or reject the application.
- (2) Subject to sub-rule (3), the Board may consider applications in the order in which they are received by the Association.
- (3) The Board may delay its consideration of an application if the Board considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (4) The Board must not accept an application unless the applicant —
 - (a) is eligible under rule 8; and
 - (b) has applied under rule 9.

- (5) The Board may reject an application even if the applicant meets the requirements under sub-rule (4) above.
- (6) The Board must notify the applicant of the Board's decision to reject the application as soon as practicable after making the decision.
- (7) If the Board rejects the application, the Board is not required to give the applicant its reasons for doing so.
- (8) An applicant must give the secretary notice within 14 days from the date of advice of the rejection of application if the applicant intends to appeal that decision.
- (9) If a notice is given under sub-rule (8) the Association in a general meeting no later than (but including) the next annual general meeting must either confirm or set aside the decision of the Board to reject the application, having afforded the applicant a reasonable opportunity to be heard by or make representations in writing to the Association in the general meeting.

11. Becoming a member

An applicant for membership of the Association becomes a member when:-

- (a) the applicant completes and submits the application form;
- (b) the Board accepts the application;
- (c) the applicant's details are entered into the membership register; and
- (d) the applicant pays any membership fees payable to the Association under rule 17.

12. Classes of membership

- (1) The Association may have any class of associate membership approved by resolution at a general meeting, including without limitation, ordinary, casual members, social members and associated members.
- (2) Membership shall consist of members as the Board decides which may have sub categories of membership and eligibility of such sub-category, including without limitation ordinary members, associate members, honorary members, patrons, ambassadors, life members, Board members and office bearers of the Board, junior members, or such other members or classes of members as the Board shall approve.

- (3) An individual who has not reached the age of 18 years is only eligible to be an associate member or junior member.
- (4) A person can only be an ordinary member or belong to one class of associate membership.
- (5) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Board.
- (6) An associate member has the rights referred to in sub-rule (5) other than full voting rights.
- (7) A junior member is any member under the age of 18 and the junior member's legal guardian becomes (by default) the ordinary member of the association and has the rights referred to in sub-rule (5).
- (8) The number of members of any class is not limited unless otherwise determined by resolution at a general meeting.
- (9) Each sub-category of membership may have by-laws established to govern the rights attaching to such membership class.

13. When membership ceases

- (1) A person ceases to be a member when any of the following takes place:
 - (a) the financial year to which the membership pertains elapses and the individual does not re-apply for its membership for the following year;
 - (b) for a member who is an individual, the individual dies;
 - (c) for a member who is a body corporate, the body corporate is wound up;
 - (d) the person resigns from the Association under rule 14;
 - (e) the person is expelled from the Association under rule 19;
 - (f) the person ceases to be a member under rule 16(4).

14. Resignation

- (1) A member may resign from membership of the Association by giving notice of the resignation to the Association.

- (2) A member will automatically resign from membership of the Association at the end of each year if it fails to reapply for its membership as a member for the following year.
- (3) The resignation takes effect —
 - (a) when the secretary receives the notice; or
 - (b) if a later time is stated in the notice, at that later time.
- (4) A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.
- (5) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

15. Rights not transferable

The rights of a member are not transferable and end when membership ceases.

Part 5 - Division 2 — Membership fees

16. Membership fees

- (1) The Board must determine the annual membership fee (if any) to be paid for membership of the Association.
- (2) The fees determined under sub-rule (1) may be different for different classes of membership.
- (3) A member must pay the annual membership fee to the treasurer, or another person authorised by the Board to accept payments, by the date (the **due date**) as determined by the Board.
- (4) If a member has not paid the annual membership fee within the period of 3 months after the due date (unless otherwise approved), the member ceases to be a member on the expiry of that period unless otherwise determined by the Board.
- (5) If a person who has ceased to be a member under sub-rule (4) offers to pay the annual membership fee after the period referred to in that sub-rule has expired —
 - (a) the Board may, at its discretion, accept that payment; and

- (b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.

Part 5 - Division 3 — Register of members

17. Register of members

Section 53 of the Act requires an incorporated association to maintain a register of its members and record in the register any change in the membership of the association. Any change to the register must be recorded within 28 days after the change occurs. Under section 53(2) of the Act the register of members must include each member's name and a residential, postal or email address. Under section 54 of the Act a member is entitled to inspect the register free of charge. The member may make a copy of, or take an extract from, the register but has no right to remove the register for that purpose. Under section 56 of the Act the management committee is authorised to determine a reasonable charge for providing a copy of the register.

- (1) The secretary, or another person authorised by the Board, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member or member of that class.
- (3) The register of members must be kept at the secretary's place of residence, or at another place determined by the Board.
- (4) A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.
- (5) If —
 - (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
 - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the Board shall require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

PART 6 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

Part 6 - Division 1 — Term used

18. Term used: member

In this Part —

member, in relation to a member who is expelled from the Association, includes former member.

Part 6 - Division 2 — Disciplinary action

19. Suspension or expulsion

- (1) The Board may decide to suspend a member's membership or to expel a member from the Association if —
 - (a) the member contravenes any of these rules; or
 - (b) the member acts detrimentally to the interests and objectives of the Association.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion not less than 30 days before the Board meeting at which the proposal is to be considered by the Board.
- (3) The notice given to the member must state —
 - (a) when and where the Board meeting is to be held; and
 - (b) the grounds on which the proposed suspension or expulsion is based; and
 - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion;
- (4) At the Board meeting, the Board must —

- (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion; and
 - (b) give due consideration to any submissions so made; and
 - (c) decide —
 - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
 - (ii) whether or not to expel the member from the Association.
- (5) A decision of the Board to suspend the member's membership or to expel the member from the Association takes effect 14 days after the day on which the decision to suspend or expel a member is communicated.
- (6) The Board must give the member written notice of the Board's decision, and the reasons for the decision, within 14 days after the Board meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under sub-rule (6), give written notice to the secretary requesting the appointment of a mediator under rule 27.
- (8) If notice is given under sub-rule (7), the member who gives the notice and the Board are the parties to the mediation.

20. Consequences of suspension

- (1) During the period a member's membership is suspended, the member:-
- (a) loses any rights (including voting rights) arising as a result of membership; and
 - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (2) When a member's membership is suspended, the secretary must record in the register of members —
- (a) that the member's membership is suspended; and
 - (b) the date on which the suspension takes effect; and

- (c) the period of the suspension.
- (3) When the period of the suspension ends, the secretary must record in the register of members that the member's membership is no longer suspended.

Part 6 - Division 3 — Resolving disputes

21. Terms used

In this Division —

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person —

- (a) who is a party to the dispute; and
- (b) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

22. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes:

- (a) between members; or
- (b) between one or more members and the Association; or
- (c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.

23. Parties to attempt to resolve dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 business days after the dispute has come to the attention of each party.

24. How grievance procedure is started

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 23, any party to the dispute may start the grievance procedure by giving written notice to the secretary of —
 - (a) the parties to the dispute; and
 - (b) the matters that are the subject of the dispute.

- (2) Within 28 days after the secretary is given the notice, a Board meeting must be convened to consider and determine the dispute.
- (3) The secretary must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 14 days before the meeting is held.
- (4) The notice given to each party to the dispute must state —
 - (a) when and where the Board meeting is to be held; and
 - (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.
- (5) If —
 - (a) the dispute is between one or more members and the Association; and
 - (b) any party to the dispute gives written notice to the secretary stating that the party —
 - (i) does not agree to the dispute being determined by the Board; and
 - (ii) requests the appointment of a mediator under rule 27,the Board must not determine the dispute.

25. Determination of dispute by Board

- (1) At the Board meeting where a dispute is to be considered and determined, the Board must —
 - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
 - (b) give due consideration to any submissions so made; and
 - (c) determine the dispute.
- (2) The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 14 days after the Board meeting at which the determination is made.

- (3) A party to the dispute may, within 14 days after receiving notice of the Board's determination under sub-rule (2), give written notice to the secretary requesting the appointment of a mediator under rule 27.
- (4) If notice is given under sub-rule (3), each party to the dispute is a party to the mediation.

Part 6 - Division 4 — Mediation

26. Application of Division

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator —
 - (a) by a member under rule 19(7); or
 - (b) by a party to a dispute under rule 24(5)(b)(ii) or 25(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 27.

27. Appointment of mediator

- (1) The mediator must be a person chosen —
 - (a) if the appointment of a mediator was requested by a member under rule 19(7) — by agreement between the Member and the Board; or
 - (b) if the appointment of a mediator was requested by a party to a dispute under rule 24(5)(b)(ii) or 25(3) — by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of sub-rule (1)(a) or (b), then, subject to sub-rules (3) and (4), the Board must appoint the mediator.
- (3) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
 - (a) a member under rule 19(7); or
 - (b) a party to a dispute under rule 24(5)(b)(ii); or
 - (c) a party to a dispute under rule 25(3) and the dispute is between one or more members and the Association.

- (4) The person appointed as mediator by the Board may be a member or former member of the Association but must not —
 - (a) have a personal interest in the matter that is the subject of the mediation; or
 - (b) be biased in favour of or against any party to the mediation.

28. Mediation process

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must —
 - (a) give each party to the mediation every opportunity to be heard; and
 - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
 - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

29. If mediation results in decision to suspend or expel being revoked

If —

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 19(7); and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

that revocation does not affect the validity of any decision made at a Board meeting or general meeting during the period of suspension or expulsion.

PART 7 — BOARD

Part 7 - Division 1 — Powers of Board

30. Board

- (1) The Board members are the people who, as the management Board of the Association, have the power to manage the affairs of the Association.
- (2) Subject to the Act, these rules, the by-laws (if any) and any resolution passed at a general meeting, the Board has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (3) The Board must take all reasonable steps to ensure that the Association complies with the Act, these rules and the by-laws (if any).

31. Powers of the Association

The powers conferred on the Association are the same as those conferred by Section 14 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its Objectives and purposes, and in particular may (without limitation):

- (1) acquire, hold, deal with, and dispose of any real or personal property;
- (2) open and create bank accounts;
- (3) invest its money:
 - (a) in any security in which trust monies may lawfully be invested; or
 - (b) in any other manner authorised by the rules of association.
- (4) borrow money or raise money upon such terms and conditions as the Association thinks fit;
- (5) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (6) appoint agents to transact any business of the Association on its behalf;
- (7) enter into any other contract it considers necessary or desirable;

- (8) act as trustee and accept and hold real and personal property upon trust, but does not have the power to do any act or thing as a trustee that, if done otherwise than as trustee, would contravene the Act or the rules of the Association;
- (9) obtain and print, publish, issue and distribute gratuitously or otherwise any newspapers, periodicals, books, pamphlets, leaflets, advertisements, appeals or other literature that the Association may think desirable or expedient for the promotion or furtherance of its Objectives;
- (10) provide gifts and prizes in accordance with the objectives of the Association;
- (11) organise social events for members and the promotion of the Association;
- (12) to make by-laws for the conduct of the Association;
- (13) provide for the holding of classes, lectures, seminars, exhibitions, meetings and conferences calculated directly or indirectly to advance the cause of education of members of the community and impart knowledge of the uniqueness of Rottnest Island's natural environment, and the need and means for its protection;
- (14) obtain, collect and receipt monies and funds by way of contributions, fundraising activities, donations, subscriptions, legacies, grants or any other lawful method and to accept and receive any contribution in kind, gifts or property of any description whether subject to any special trusts or not;
- (15) take such steps by personal or written appeals, television or radio broadcasting, public and community meetings, film shows, sales or distribution of booklets and advertising matters or otherwise as may from time to time be deemed expedient for obtaining contributions, donations or income to enable the Association to further its Objectives;
- (16) establish, manage, maintain and administer a public fund or funds for the purposes of conserving Rottnest Island in accordance with the Objectives;
- (17) except for the purposes of promotion, attainment, maintenance and advancement of the Objectives, gifts, bequests and legacies of moneys and other valuable assets and property;

- (18) acquire or accept the gift, devise or bequest of, or the control for the time being of, or on loan or lease any relic, chattel or other things considered to be relevant to Rottnest Island and of national or local importance as aforesaid and if any such gift, devise or bequest or control or loan or lease be subject to any trust or condition to give effect to such trust or condition;
- (19) commit funds for the implementation of projects on Rottnest Island from time to time and on such terms and in such manner or on such security as the Association may from time to time determine;
- (20) invest any moneys of the Association not immediately required for any of its Objectives in such manner or on such security as the Association may from time to time determine;
- (21) draw, accept, negotiate cheque, bills or exchange, promissory notes and other negotiable instruments;
- (22) establish and support by grants, loans, guarantees or otherwise and to aid in the establishment and support by like means of any other organisation having objectives that are similar to the Association;
- (23) sell, develop, let, manage, lease, mortgage, dispose of or otherwise deal with all or any of the property rights and privileges or assets of the Association with a view to the promotion of its Objectives;
- (24) transfer or make over with or without valuable consideration any part of the property, funds or assets of the Association not required for the purposes for which it is formed to any organisation having objects similar to the Objectives of the Association;
- (25) offer, give or contribute toward any scholarship, prize, medal or reward for any scientific research, literary contribution, article, essay or effort connected with the Objectives of the Association;
- (26) make loans, or grants, to persons approved by the Association to assist them to undertake studies, scientific research or investigations approved by the Association;
- (27) co-operate with any other institution or society having objects similar to the Objectives of the Association;

- (28) entrust any relic, chattel or other things for safe custody and control to any public or government authority or national or other gallery, museum, association, society or body of persons whether incorporated or not upon such terms and conditions as the Association thinks fit with power at any time to require the return thereof to the Association;
- (29) enter into agreements or contracts with any statutory or public or government authorities, corporations, societies and individuals for the management, maintenance and preservation of the natural environment of Rottnest Island or Rottnest Island places or things of national or local importance;
- (30) do all or any of the above things in any part of the world and as principals, agents, trustees or otherwise and by or through trustees, agents or otherwise;
- (31) do all such other lawful things as are incidental or conducive to the attainment of any one or more of the Objects of the Association.

Part 7 - Division 2 — Composition of Board and duties of members

32. Board members

- (1) The Board members consist of —
 - (a) at least the office holders of the Association (as outlined in sub-rule (3)); and
 - (b) at least two ordinary Board members and not more than 8 ordinary Board members.
- (2) The Board may be constituted by members from all divisions of the Association.
- (3) The following positions are the office holders of the Association:-
 - (a) Chairperson;
 - (b) Secretary;
 - (c) Treasurer;all of whom must be members of the Association.
- (4) A person may be a Board member if the person is:-
 - (a) an individual who has reached 18 years of age; and

- (b) an ordinary member of the Association.
- (5) A person must not hold 2 or more of the offices mentioned in sub-rule (3) at the same time.
- (6) The following must not be Board members without the approval of the Commissioner:
 - (a) a person who is, according to the Interpretation Act 1984 section 13D, a bankrupt or person whose affairs are under insolvency laws;
 - (b) a person who has been convicted, of-
 - (i) an indictable offence in relation to the promotion, formation or management of a body corporate; or
 - (ii) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
 - (iii) an offence under Part 4 Division 3 of the Act or section 127 of the Act.

33. Chairperson

- (1) It is the duty of the chairperson to consult with the secretary regarding the business to be conducted at each Board meeting and general meeting.
- (2) The chairperson has the powers and duties relating to convening and presiding at Board meetings and presiding at general meetings provided for in these Rules.
- (3) The chairperson shall chair any meetings of the Association. In the event of absence of the chairperson at either a general or Board meeting, then a member elected by the other Board members present at the meeting must preside over the meeting.
- (4) The chairperson has the following duties (without limitation):-
 - (a) Leadership and direction of the Association;
 - (b) Attend and chair meetings of the Association (whether general, extraordinary or Annual General Meeting);
 - (c) Provide links to other associations and organisations;
 - (d) Attend meetings of any governing bodies of the Association and represent the Association and the Association's interests are represented at the governing level;

- (e) Liaise negotiate and enter into arrangements with any government bodies, councils and other regulatory bodies that the Association is required to deal with;
- (f) Represent the Association as and when required and be the focal point for all Association matters;
- (g) Assign and delegate tasks to the office holders and Board;
- (h) Attend to general management and organisation of the Association;
- (i) Overseeing all other roles of the office holders of the Board;
- (j) Have regard to the future of the Association and moving the Association forward;
- (k) Ensure all other matters and tasks are carried out in a professional way and to benefit the Association as a whole.

34. Secretary

The Secretary has the following duties (without limitation):-

- (1) dealing with the Association's correspondence;
- (2) attend Board meetings and report the status of any delegated tasks;
- (3) consulting with the Chairperson regarding the business to be conducted at each Board meeting and general meeting;
- (4) preparing the notices required for meetings and for the business to be conducted at meetings;
- (5) preparation of any notification to members as required under Part 7 - Division 3 of these Rules;
- (6) unless another member is authorised by the Board to do so, maintaining on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (7) maintaining on behalf of the Association an up-to-date copy of these rules, as required under section 35(1) of the Act;
- (8) unless another member is authorised by the Board to do so, maintaining on behalf of the Association a record of Board members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;

- (9) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (10) maintaining full and accurate minutes of Board meetings and general meetings;
- (11) carrying out any other duty given to the secretary under these rules or by the Board.

35. Treasurer

The treasurer has the following duties (without limitation):-

- (1) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name and stored and kept in such a way to meet any obligations for reporting of the Association;
- (2) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the Board;
- (3) ensuring that any payments to be made by the Association that have been authorised by the Board or at a general meeting are made on time;
- (4) if a receipt issued relates to a gift to the Gift Fund, ensure the receipt states:-
 - (a) the name of the Gift Fund; and
 - (b) the fact that the receipt is for a gift.
- (5) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (6) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (7) if the Association is a tier 1 association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
- (8) if the Association is a tier 2 association or tier 3 association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;

- (9) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
- (10) attend Board meetings;
- (11) keeping such accounting and financial records correctly recorded and able to establish the true and fair financial position of the Association;
- (12) carrying out any other duty given to the treasurer under these rules or by the Board;
- (13) submitting to members at each Annual General Meeting of the Foundation accounts of the Foundation showing the financial position of the Foundation at the end of the immediately preceding Financial Year;
- (14) when directed by the Chairperson, submit to the Board a report, balance sheet or financial statement in accordance with that direction.

Part 7 - Division 3 — Election of Board members and tenure of office

36. How members become Board members

A member becomes a board member if the member —

- (a) is elected to the Board at an annual general meeting; or
- (b) is appointed to the Board by the Board to fill a casual vacancy under rule 43.

37. Nomination of Board members

- (1) At least 28 days before an annual general meeting, the secretary must send written notice to all the members —
 - (a) calling for any nominations for election to the Board; and
 - (b) stating the date by which nominations must be received by the secretary to comply with sub-rule (2).
- (2) A member who wishes to be considered for election to the Board at the annual general meeting must nominate for election by sending notice of the nomination to the secretary at least 21 days before the annual general meeting.

- (3) A member may nominate for one specified position of office holder of the Association or to be an ordinary Board member.
- (4) A member whose nomination does not comply with this rule is not eligible for election to the Board unless the member is nominated under rule 38(3) or 39(2)(b) or the Board determines otherwise.

38. Election of office holders

- (1) At the annual general meeting, a separate election must be held for each position of office holder of the Association.
- (2) The chair of the meeting shall read the nominations received for each position of office holder of the Association.
- (3) If there is no nomination for a position, the chair of the meeting may call for nominations from any of the ordinary members at the meeting.
- (4) If only one member has nominated for a position, the chair must vote in support of the member nominated and declare the member elected to the position.
- (5) The chair may allow late nominations for a position on the Board from ordinary members attending at the meeting if more than one other ordinary member wishes to support that nomination.
- (6) If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Board to decide who is to be elected to the position and in the absence of any, by ordinary vote.
- (7) Each ordinary member present at the meeting may vote for one member who has nominated for the position.
- (8) Each member has one vote and a member may vote for themselves.
- (9) The Chairperson shall be the final office holder appointed. After appointment and on the member's election, the new Chairperson of the Association may take over as the chair of the meeting.

39. Election of ordinary Board members

- (1) At the annual general meeting, if not otherwise already able to be determined by the secretary by the number of nominations received, the

Association must decide by ordinary resolution the number of ordinary Board members (if to be more than the minimum required) to hold office for the next year.

- (2) If the number of members nominating for the position of ordinary Board member is not greater than the minimum number to be elected, the chair of the meeting:-
 - (a) must declare each of those members to be elected to the position; and
 - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (3) If —
 - (a) the number of members nominating for the position of ordinary Board member is greater than the number to be elected; or
 - (b) the number of members nominating under sub-rule (2)(b) is greater than the number of positions remaining unfilled,the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Board to decide the members who are to be elected to the position of ordinary Board member and in the absences of any other procedure those under rule 38.

40. Term of office

- (1) The term of office of a Board member begins when the member:-
 - (a) is elected at an annual general meeting or under sub-rule 41(3)(b); or
 - (b) is appointed to fill a casual vacancy under rule 43.
- (2) Subject to rule 42, a Board member holds office for a period of 3 years until the position on the Board are declared vacant at the next annual general meeting 3 years after the appointment.
- (3) A Board member or office holder:-
 - (a) may renominate, and be re-elected up to a maximum of 3 times such that the total amount of time a person may serve as a Board member is 9 years in total;
 - (b) if at the time this Constitution comes into effect, has already served more than 9 years of service in a position on the Board, can renominate when

eligible but may only serve 1 further year of service not a further 3 year term ;

- (c) if at the time this Constitution comes into effect, has already served some time and service on the Board, but not exceeded 9 years of service, then that person is eligible to renominate for a position provided the service of the 3 years position does not take that person in excess of the 9 year maximum of service;
- (d) for the avoidance of doubt, no person may, unless subject to any other provision of this sub-clause, serve more than 9 years on the Board.

41. Resignation and removal from office

- (1) A Board member may resign from the Board by written notice given to the secretary or, if the resigning member is the secretary, given to the chairperson or if the resigning member is the chairperson, notice given to another office holder.
- (2) The resignation takes effect —
 - (a) when the notice is received by the relevant individual; or
 - (b) if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Association may by special resolution:-
 - (a) remove a Board member from office; and
 - (b) elect a member who is eligible under rule 32(4) to fill the vacant position.
- (4) A Board member who is the subject of a proposed resolution under sub-rule (3)(a) may make written representations (of a reasonable length) to the secretary or chairperson and may ask that the representations be provided to the members.
- (5) The secretary or chairperson may give a copy of the representations to each member or, if they are not so given, the Board member may require them to be read out at the general meeting at which the resolution is to be considered.

42. When membership of Board ceases

A person ceases to be a Board member if the person:-

- (a) At the next Annual General Meeting when the positions of the Board are declared vacant;
- (b) dies or otherwise ceases to be a member;
- (c) resigns from the Board or is removed from office under rule 41;
- (d) becomes ineligible to accept an appointment or act as a Board member under section 39 of the Act;
- (e) becomes permanently unable to act as a Board member because of a mental or physical disability; or
- (f) fails to attend 3 consecutive Board meetings, of which the person has been given notice, without having notified the Board that the person will be unable to attend.

where a person ceases to be a member of the association's committee section 41 of the Act requires that person to, as soon as practicable after their membership ceases, deliver to a member of the committee all of the relevant documents and records they hold pertaining to the management of the association's affairs.

43. Filling casual vacancies

- (1) The Board may appoint a member who is eligible under rule 32(4) to fill a position on the Board that —
 - (a) has become vacant under rule 42; or
 - (b) was not filled by election at the most recent annual general meeting or under rule 41.
- (2) If the position of chairperson or secretary becomes vacant, the Board must appoint a member who is eligible under rule 32(4) to fill the position within 14 days after the vacancy arises.
- (3) Subject to the requirement for a quorum under rule 50, the Board shall continue to act despite any vacancy in its membership.
- (4) If there are fewer Board members than required for a quorum under rule 50, the Board may act only for the purpose of —
 - (a) appointing Board members under this rule to meet a quorum; or
 - (b) convening a general meeting for the purposes of appointing members to the Board.

44. Validity of acts

The acts of a Board or subcommittee, or of a Board member or member of a subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Board member or member of a subcommittee.

45. Payments to Board members

A Board member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses properly incurred for or on behalf of the Association. An appropriate receipt must be provided. If in doubt, the Board member shall seek approval of the Board before making the expense on behalf of the Association or if such expense is unapproved the Board may decide by special resolution whether or not the expense was properly incurred for or on behalf of the Association.

Part 7 - Division 4 — Board meetings

46. Board meetings

- (1) The Board must meet not less than 6 times in each year on the dates and at the times and places determined by the Board, one of which may be the Annual General Meeting.
- (2) Special Board meetings may be convened by the chairperson or at least one-half of the appointed Board members request.

47. Notice of Board meetings

- (1) Notice of each Board meeting must be given to each Board member at least 7 days before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (3) Unless sub-rule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if the Board members at the meeting unanimously agree to treat that business as urgent.

48. Procedure and order of business

- (1) The chairperson or, in the chairperson's absence, the member elected in accordance with rule 33(3), must preside as chair of each Board meeting.
- (2) If the chairperson and member elected under sub-rule (1) are absent or are unwilling to act as chair of a meeting, the Board members at the meeting must choose one of them to act as chair of the meeting.
- (3) The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- (4) The order of business at a Board meeting may be determined by the Board members at the meeting.
- (5) A member or other person who is not a Board member may attend a Board meeting if invited to do so by a member of the Board.
- (6) A person invited under sub-rule (5) to attend a Board meeting —
 - (a) has no right to any agenda, minutes or other document circulated at the meeting; and
 - (b) must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
 - (c) cannot vote on any matter that is to be decided at the meeting by the Board.
- (7) Under section 42 of the Act a member of the Board who has a material personal interest in a matter being considered at a Board meeting must:
 - a. as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
 - b. disclose the nature and extent of the interest at the next general meeting of the association.
- (8) Sub-rule (7) rule does not apply in respect of a material personal interest
 - a. that exists only because the member-
 - i. is an employee of the incorporated association; or
 - ii. is a member of a class of persons for whose benefit the association is established; or
 - b. that the member has in common with all, or a substantial proportion of, the members of the Association.

- (9) A Board member who has any direct or indirect pecuniary interest in any activity, contract or proposed contract being considered by the Association must disclose the nature and extent of his or her interest to the board and this declaration must be recorded in the minutes of the board meeting at which this contract or activity is being considered.
- (10) A member who has a material personal interest in a matter being considered at a meeting of the management Board must not be present while the matter is being considered at the meeting or vote on the matter.
- (11) The secretary must record every disclosure made by a Board member of a material personal interest in the minutes of the Board meeting at which the disclosure is made.

49. Use of technology to be present at Board meetings

- (1) The presence of a Board member at a Board meeting need not be by attendance in person but may be by that Board member and each other Board member at the meeting being simultaneously in contact by telephone or other means of instantaneous or electronic communication means.
- (2) A member who participates in a Board meeting as allowed under sub-rule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

50. Quorum for Board meetings

- (1) Subject to rule 43(4), no business is to be conducted at a Board meeting unless a quorum is present.
- (2) At a Board meeting 5 Board members constitute a quorum.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting —
 - (a) in the case of a special meeting — the meeting lapses; or
 - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (4) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of a Board meeting held under sub-rule (3)(b); and

- (b) at least 4 Board members are present at the meeting;
those members present are taken to constitute a quorum.

51. Voting at Board meetings

- (1) Each board member present at a Board meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the Board members present at the Board meeting vote in favour of the motion.
- (3) If the votes are divided equally on a question, the chair of the meeting does have a casting vote and the motion shall pass or fail on the basis of the chairperson's vote.
- (4) A vote may take place by the Board members present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the chair of the meeting must decide how the ballot is to be conducted.

52. Minutes of Board meetings

- (1) The Board must ensure that minutes are taken and kept of each Board meeting.
- (2) The minutes must record the following —
 - (a) the names of the Board members present at the meeting;
 - (b) the name of any other person attending the meeting under invite;
 - (c) the business considered at the meeting;
 - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The minutes of a Board meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (4) The chairperson must ensure that the minutes of a Board meeting are reviewed and signed as correct by —
 - (a) The chair of the meeting; or
 - (b) the chair of the next Board meeting.

- (5) When the minutes of a Board meeting have been signed as correct they are, until the contrary is proved, evidence that —
- (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any appointment purportedly made at the meeting was validly made.

Part 7 - Division 5 — Subcommittees and subsidiary offices

53. Subcommittees and subsidiary offices

- (1) To help the Board in the conduct of the Association's business, the Board may, in writing, do either or both of the following —
- (a) appoint one or more subcommittees;
 - (b) create one or more subsidiary offices and appoint people to those offices.
- (2) A subcommittee may consist of the number of people, whether or not members, that the board considers appropriate.
- (3) A person may be appointed to a subsidiary office whether or not the person is a member.
- (4) Subject to any directions given by the committee —
- (a) a subcommittee may meet and conduct business as it considers appropriate; and
 - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

54. Delegation to subcommittees and holders of subsidiary offices

- (1) In this rule —
- non-delegable duty** means a duty imposed on the committee by the Act or another written law.
- (2) The Board may, in writing, delegate to a subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Board other than:-
- (a) the power to delegate; and

- (b) a non-delegable duty.
- (3) A power or duty, the exercise or performance of which has been delegated to a subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the subcommittee or holder in accordance with the terms of the delegation.
- (4) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Board specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.
- (6) Any act or thing done by a subcommittee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Board.
- (7) The Board may, in writing, amend or revoke the delegation.

PART 8 — GENERAL MEETINGS OF ASSOCIATION

55. Annual general meeting

- (1) The Board must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the secretary must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- (3) The ordinary business of the annual general meeting is as follows (as applicable):-
 - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed;
 - (b) to receive and consider —
 - (i) the Board's annual report on the Association's activities during the preceding financial year; and

- (ii) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
- (iii) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
- (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
- (c) to elect the office holders of the Association and other Board members;
- (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
- (e) to confirm or vary the membership fees, subscriptions and other amounts (if any) to be paid by members; and
- (f) Any other business of which notice has been given in accordance with these rules may also be conducted at the annual general meeting.

56. Special / Extraordinary general meetings

- (1) The chairperson, or the Board may, by majority, convene a special general meeting.
- (2) The Board must convene a special general meeting if not less than 10 members request a special general meeting to be convened.
- (3) The members requiring a special general meeting to be convened must:-
 - (a) make the requirement by written notice given to the secretary; and
 - (b) state in the notice the business to be considered at the meeting; and
 - (c) each sign the notice.
- (4) The special general meeting must be convened within 30 days after notice is given under sub-rule (3)(a).
- (5) If the Board does not convene a special general meeting within that 30 day period, the members making the requirement (or any of them) may convene the special general meeting.
- (6) A special general meeting convened by members under sub-rule (5) —

- (a) must be held within 3 months after the date the original requirement was made; and
- (b) may only consider the business stated in the notice by which the requirement was made.

57. Notice of general meetings

- (1) The secretary or, in the case of a special general meeting convened under rule 56, the members convening the meeting, must give to each member —
 - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 21 days' notice of a general meeting in any other case.
- (2) The notice must —
 - (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the Board or those positions that are being vacated at the Annual General Meeting; and
 - (d) if a special resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution; and
 - (iii) comply with rule 58(7).

58. Proxies

- (1) Subject to sub-rule (2), an ordinary member may appoint an individual who is an ordinary member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) An ordinary member may be appointed the proxy for not more than 5 other members.

- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (6) If the Board has approved a form for the appointment of a proxy, the member may use that form or any other form —
 - (a) that clearly identifies the person appointed as the member's proxy; and
 - (b) that has been signed by the member.
- (7) Notice of a general meeting given to an ordinary member under rule 57 must —
 - (a) state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and
 - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the secretary or Chairperson before the commencement of the general meeting for which the proxy is appointed.
- (9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

59. Use of technology to be present at general meetings

- (1) The presence of a member at a general meeting need not be by attendance in person but may be by that member and each other member at the meeting being simultaneously in contact by telephone or other means of instantaneous or electronic communication.
- (2) A member who participates in a general meeting as allowed under sub-rule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

60. Presiding member and quorum for general meetings

- (1) The chairperson or, in the chairperson's absence or member elected in accordance with rule 33(3), must preside as chair of each general meeting.
- (2) If the chairperson and member elected under sub-rule (1) are absent or are unwilling to act as chair of a general meeting, the Board members at the meeting must choose one of them to act as chair of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present.
- (4) At a general meeting 10 members present in person constitute a quorum.
- (5) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting —
 - (a) in the case of a special general meeting — the meeting lapses; or
 - (b) in the case of the annual general meeting — the meeting is adjourned to —
 - (i) the same time and day in the following week; and
 - (ii) the same place, unless the Chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (6) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under sub-rule (5)(b); and
 - (b) at least 8 ordinary members including Board members are present at the meeting,

those members present are taken to constitute a quorum.

61. Adjournment of general meeting

- (1) The chair of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting sub-rule (1), a meeting may be adjourned —
 - (a) if there is insufficient time to deal with the business at hand; or

- (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 30 days or more, in which case notice of the meeting must be given in accordance with rule 57.

62. Voting at general meeting

- (1) On any question arising at a general meeting —
 - (a) subject to sub-rule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under sub-rule (2); and
 - (b) ordinary members may vote personally or by proxy.
- (2) An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.
- (3) A copy of the document by which the appointment is made must be given to the secretary before any general meeting to which the appointment applies.
- (4) The appointment has effect until —
 - (a) the end of any general meeting to which the appointment applies; or
 - (b) the appointment is revoked by the body corporate and written notice of the revocation is given to the secretary.
- (5) Except in the case of a special resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.
- (6) If votes are divided equally on a question, the chair of the meeting has a casting vote.
- (7) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.

- (8) For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under sub-rule (2), the ordinary member:-
- (a) must have been an ordinary member at the time notice of the meeting was given under rule 57; and
 - (b) must have paid any fee or other money payable to the Association by the member.

63. When special resolutions are required

- (1) A special resolution is required if it is proposed at a general meeting —
- (a) to affiliate the Association with another body;
 - (b) to approve the terms of an amalgamation with one or more other incorporated associations
 - (c) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager;
 - (d) to alter, amend, vary or delete these rules in any way, including changing the name of the association;
 - (e) to decide to apply for registration or incorporation as a prescribed body corporate; or
 - (f) to be voluntarily wound up or to cancel its incorporation.
- (2) Sub-rule (1) does not limit the matters in relation to which a special resolution may be proposed.

64. Determining whether resolution carried

- (1) In this rule —
poll means the process of voting in relation to a matter that is conducted in writing.
- (2) Subject to sub-rule (4), the chair of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
- (a) carried; or
 - (b) carried unanimously; or

- (c) carried by a particular majority; or
 - (d) failed.
- (3) If the resolution is a special resolution, the declaration under sub-rule (2) must identify the resolution as a special resolution.
 - (4) If a poll is demanded on any question by the chair of the meeting or by at least 3 other ordinary members present in person or by proxy —
 - (a) the poll must be taken at the meeting in the manner determined by the chairperson;
 - (b) the chair must declare the determination of the resolution on the basis of the poll.
 - (5) If a poll is demanded on the election of the Chairperson or on a question of an adjournment, the poll must be taken immediately.
 - (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chair.
 - (7) A declaration under sub-rule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.
 - (8) If all the Members of the Board have signed a document containing a statement that they are in favour of a resolution of the Board of Management in the terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Board on the day on which the document was last signed by a Board Member.
 - (9) a resolution is a special resolution and is passed if it is passed:-
 - (a) at a general meeting of the association; and
 - (b) by the votes of not less than three-fourths of the members of the Association who cast a vote at the meeting who are entitled under the rules of the Association to vote and vote in person or, where proxies or postal votes are allowed, by the rules of the Association by proxy or postal vote, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with these rules;

- (c) at a meeting at which a resolution proposed as a special resolution is submitted, a declaration by the person presiding that the resolution has been passed as a special resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded in accordance with the rules of the Association or if the rules do not make provision as to the manner in which a poll may be demanded, by at least three (3) members of the Association present in person or, where proxies are allowed, by proxy;
- (10) if a poll is held, a declaration by the person presiding as to the result of a poll is evidence of the matter so declared.

65. Minutes of general meeting

- (1) The secretary, or a person authorised by the Board from time to time, must take and keep minutes of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must record —
 - (a) the names of the ordinary members attending the meeting and election of any office holders or members to the Board; and
 - (b) any proxy forms given for the meeting under rule 58; and
 - (c) the financial statements or financial report presented at the meeting, as referred to in rule 55(3)(b); and
 - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 57(3)(b).
- (4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The Chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by —
 - (a) the chair of the meeting; or
 - (b) the chair of the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that —

- (a) the meeting to which the minutes relate was duly convened and held; and
- (b) the matters recorded as having taken place at the meeting took place as recorded; and
- (c) any election or appointment purportedly made at the meeting was validly made.

PART 9 — FINANCIAL MATTERS

66. Source of funds

The funds of the Association may be derived from entrance membership fees, annual subscriptions, sales of merchandise, donations, Gifts, fund-raising activities, grants, sponsorships, social activities interest and any other sources approved by the Board.

67. Control of funds

- (1) The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) The account under this rule is separate to the account of the Gift Fund.
- (3) Subject to any restrictions imposed at a general meeting, the Board may approve expenditure on behalf of the Association.
- (4) The Board may authorise the treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended.
- (5) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:-
 - (a) The Chairperson; and
 - (b) At least:
 - i. 1 other Board member; or
 - ii. a person authorised by the Board.
- (6) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.

68. Financial statements and financial reports

- (1) For each financial year, the Board must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- (2) Without limiting sub-rule (1), those requirements include —
 - (a) if the Association is a tier 1 association, the preparation of the financial statements; and
 - (b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
 - (c) if required, the review or auditing of the financial statements or financial report, as applicable; and
 - (d) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
 - (e) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report; and
 - (f) lodgement with any relevant governing body or authority.

PART 10 — GENERAL MATTERS

69. By-laws

- (1) The Association may, by resolution at a Board meeting or general meeting, make, amend or revoke by-laws.
- (2) By-laws may:-
 - (a) provide for the rights and obligations that apply to any classes or sub-classes of membership or associate membership approved; and
 - (b) impose restrictions on the Board's powers, including the power to dispose of the association's assets; and
 - (c) impose internal restrictions guidelines or regulations as to the operations of events held by the Association;
 - (d) impose requirements relating to the financial reporting and financial accountability of the association and the auditing of the association's accounts; and

- (e) provide for any other matter the Association considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these Rules.
- (4) Without limiting sub-rule (3), a by-law made for the purposes of sub-rule (2)(d) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (5) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

70. Executing documents and common seal

- (1) The Association does not require the use of a common seal.
- (2) The Association may execute a document without using a common seal if the document is signed by:-
 - (a) 2 Board members (one of which must be an officeholder and either the Chairperson, Secretary or Treasurer); or
 - (b) one Board member (who must be an officeholder and either the Chairperson, Secretary or Treasurer) and a person authorised by the Board.

71. Giving notices to members

- (1) In this rule —
recorded means recorded in the register of members.
- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and —
 - (a) delivered by hand to the recorded address of the member; or
 - (b) sent by prepaid post to the recorded postal address of the member; or
 - (c) sent by facsimile, email or other electronic transmission to an appropriate recorded number or recorded electronic address of the member.

72. Custody of books and securities

- (1) Subject to sub-rule (2), the books and any securities of the Association must be kept in the secretary's custody or under the secretary's control.
- (2) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the treasurer's custody or under the treasurer's control.
- (3) Sub-rules (1) and (2) have effect except as otherwise decided by the Board.
- (4) The books of the Association must be retained for at least 7 years.

73. Record of office holders

The record of Board members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the secretary's custody or under the secretary's control and must contain:

- (1) the names and addresses of the persons who are members of its management Board; or hold other offices of the Association;
- (2) the name and address of any person who is authorised to use the common seal of the Association (if it has a common seal); and
- (3) the name and address of any person who is appointed or acts as trustee on behalf of the Association.

74. Inspection of records and documents

- (1) Sub-rule (2) applies to a member who wants to inspect —
 - (a) the register of members under section 54(1) of the Act; or
 - (b) the record of the names and addresses of Board members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
 - (c) any other record or document of the association.
- (2) The member must contact the secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the member wants to inspect a document that records the minutes of a Board meeting, the right to inspect that document is subject to any decision

the Board has made about minutes of Board meetings generally, or the minutes of a specific Board meeting, being available for inspection by members.

- (5) The member may make a copy of or take an extract from a record or document referred to in sub-rule (1)(c) but does not have a right to remove the record or document for that purpose.
- (6) The member must not use or disclose information in a record or document referred to in sub-rule (1)(c) except for a purpose —
 - (a) that is directly connected with the affairs of the Association; or
 - (b) that is related to complying with a requirement of the Act.

75. Publication by Board members of statements about Association business prohibited

A Board member must not publish, or cause to be published, any statement about the business conducted by the Association at a general meeting or Board meeting unless —

- (a) the Board member has been authorised to do so at a Board meeting; and
- (b) the authority given to the Board member has been recorded in the minutes of the Board meeting at which it was given.

76. Distribution of surplus property on cancellation of Association or winding up

- (1) In this rule —

surplus property, in relation to the Association, means property remaining after satisfaction of —

- (a) the debts and liabilities of the Association; and
- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include books relating to the management of the Association.

- (2) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

- (3) The surplus property must be given or transferred to another association incorporated under the Act which (without limitation shall include the following considerations):-
- i. has similar objectives to the Objectives of the Association;
 - ii. which is not carried out for the purposes of profit or gain to its individual members;
 - iii. is approved by the Commissioner of Taxation as deductible gift recipient under Item 6.1.1 of subsection 30-55(1) of the ITAA 97;
 - iv. is approved by the Commissioner of Taxation as exempt from income tax under Division 50 of the ITAA 97;
 - v. is an institution whose governance rules or constitution prohibit the distribution of its income and property among its members to an extent at least as great as imposed on the Association under these Rules; and
 - vi. which association/s and what proportions shall be determined by ordinary resolution of the members.
- (4) In particular, in relation to the Gift Fund, at the first occurrence of:
- i. the winding up of the Gift Fund; or
 - ii. the Foundation ceasing to be endorsed as a deductible gift recipient under Item 6.1.1 of subsection 30-55(1) of the ITAA 97;
- any surplus assets and the satisfaction of all debts and liabilities of the Gift Fund must be transferred to another fund with similar objectives that appears on the Register of Environmental Organisations, as the Board decides.

77. Alteration of rules

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act. Amendments to the rules do not take effect until required documents are lodged with the Commissioner, even if the amendments do not require the approval of the Commissioner under section 31 or section 33 of the Act. The required documents must be lodged within one month after the special resolution is passed.