

# **RULES OF**



## **ESKLEIGH FOUNDATION INCORPORATED**

**Adopted by the Association on October 27 2020**

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## **RULES OF ESKLEIGH FOUNDATION INCORPORATED**

### **NAME OF ASSOCIATION:**

1. The name of the association is Eskleigh Foundation Incorporated (in these Rules called "the Association"). It is incorporated under the *Associations Incorporations Act 1964* (Tas).

### **INTERPRETATION:**

2. (1) In these Rules, unless the contrary intention appears –
  - "ACNC Act" means the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth) or any legislation which replaces it;
  - "Association" means the person or body which provides services, and where the context so permits, includes:
    - (i) the employees, agents and authorised sub-contractors of the organisation within their authorised delegated power; and/or
    - (ii) the Association's successors and permitted assigns.
  - "Auditor" means the auditor of the Association;
  - "Bank" means financial institution;
  - "Board" means some or all of the Directors acting as the Board of the Association;
  - "Board member" means a member of the Board (as per Rule 25);
  - "Business Day" means any week day on which Banks are generally open for business in Launceston, Australia;
  - "CEO" means the Chief Executive Officer of the Association;
  - "General Meeting" means a general meeting of Members convened in accordance with these Rules and includes the annual general meeting and any special general meeting;
  - "Member" means a person who is entered on the Register of Members as a member of the Association;
  - "Regulator" means any regulator of the Association;
  - "Surplus Assets" means any assets of the Association that remain after paying all debts and other liabilities, including the costs of winding up;
  - "Tax Act" means the *Income Tax Assessment Act 1997* (Cth);
  - "The Act" means the *Associations Incorporation Act 1964* (Tas).
- (2) In these Rules, expressions referring to writing will, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.
- (3) Words or expressions contained in these Rules will be interpreted in accordance with the provisions of the *Acts Interpretation Act 1931* and the Act as in force on the date on which these Rules are adopted by the Association.
- (4) A reference to:
  - (i) one gender includes every other gender;
  - (ii) the singular includes the plural and the plural includes the singular;
  - (iii) a person includes a body corporate or unincorporate;

- (iv) a party includes the party's executors, administrators, successors and permitted assigns;
  - (v) a statute, regulation or provision of a statute or regulation (Statutory Provision) includes:
    - (A) that Statutory Provision as amended or re-enacted from time to time;
    - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision; and
    - (C) another regulation or other statutory instrument made or issued under that Statutory Provision; and
  - (vi) money is to Australian dollars, unless otherwise stated.
- (5) "Including" and similar expressions are not words of limitation.
- (6) A reference to a Rule is a reference to a rule in this document.
- (7) A reference to a document (including, without limitation, a reference to this document) is to that document as amended, novated or replaced.
- (8) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (9) Headings and any table of contents or index are for convenience only and do not form part of this document or affect its interpretation.
- (10) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (11) All references to time are to Australian Eastern Standard time.

ASSOCIATION'S OFFICE:

3. The registered office of the Association is at Eskleigh Home, 16087 Midland Highway, Perth, Tasmania 7300 or such other place as the Board may, from time to time, determine.

OBJECTS AND PURPOSES OF THE ASSOCIATION:

4. The Association's objects and purposes include –
- (a) the provision of high-quality care and support for the disabled, their families and carers;
  - (b) the acquiring of any real or personal property thought necessary or convenient for any of the objects or purposes of the Association;
  - (c) the buying, selling, and supplying of, and dealing in goods and services of all kinds;
  - (d) the construction, maintenance, and alteration of buildings or works necessary or convenient for any of the objects or purposes of the Association;
  - (e) the accepting of any gift, whether subject to a special trust or not, for any one or more of the objects or purposes of the Association;
  - (f) the taking of such steps from time to time as the Association may think desirable for procuring contributions to the funds of the Association, whether by way of donations, subscriptions, or otherwise;
  - (g) the printing and publishing of such newspapers, periodicals, books,

- leaflets, or other documents as the Association may think desirable for the promotion of the objects or purposes of the Association;
- (h) the borrowing and raising of money in such manner, and on such terms, as the Association may think fit;
  - (i) the investment of any moneys of the Association, not immediately required for any of its objects or purposes, in such manner as the Association, may from time to time, determine;
  - (j) the making or gifts, subscriptions, or donations to any of the funds, authorities, or institutions to which Subdivision 30-BA of the Tax Act relates;
  - (k) the establishment and support, or aiding in the establishment or support, of any other association formed for any of the objects or purposes of the Association;
  - (l) entering into a partnership, joint venture, alliance, merger or amalgamation with any other entity via any means suitable including the transfer, purchase or acquisition and undertaking, of all or any part of the property, assets, liabilities and engagements of either entity; and
  - (m) the doing of all such other lawful things as are incidental or conducive to the attainment of any of the objects or purposes of the Association.

#### MEMBERSHIP OF ASSOCIATION:

- 5. (1) The membership of the Association will be made up of:
  - (a) Members; and
  - (b) Life Members.
- (2) A person who is nominated and approved for membership as provided in these Rules is eligible to be a Member of the Association on payment of the annual subscription prescribed in, or fixed under, these Rules.
- (3) A nomination of a person for membership of the Association –
  - (a) will be made in writing, signed by two Members of the Association;
  - (b) will be accompanied by the written consent of the person nominated (which may be endorsed on the form of nomination) and;
  - (c) will be lodged with the Public Officer of the Association.
- (4) As soon as is practicable after the receipt of a nomination, the Public Officer will refer the nomination to the Board.
- (5) Upon a nomination being approved by the Board, the Public Officer will, with as little delay as possible, notify the nominee in writing and, upon receipt of the sum payable for the first year's subscription, enter the nominee's name and address in a register of Members to be kept by the Public Officer.
- (6) A person may be elected to be a Life Member of the Association by a resolution of not less than three quarters of the Members present at a duly constituted meeting of the Board. A Life Member will be entitled to all privileges of the Association without the payment of any further subscriptions.
- (7) Each Member of the Association will pay an annual subscription of such amount as may be fixed from time to time by the Board. Each annual

subscription will be payable on admission as a Member and thereafter at the beginning of each financial year and will fall due on that date. A Member will not be entitled to vote at a meeting of the Association unless the subscription has been paid in advance of the date of the meeting.

- (8) A Member of the Association may, at any time, resign from the Association by delivering or sending by post to the Public Officer a written notice of resignation.
- (9) Upon receipt of a notice under Sub-Rule (8) of this Rule, the Public Officer will remove the name of that Member from the register of Members.
- (10) A right, privilege, or obligation of a person by virtue of the membership of the Association –
  - (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates upon cessation of membership, whether by death, resignation or otherwise.
- (11) (a) In the event of the Association winding up, every person who was a Member, within the period of twelve (12) months immediately preceding the beginning of the winding up is liable to contribute, if required, to the payment of the debts or liabilities of the Association and for the costs, charges, and expenses of the winding up. Such sum not to exceed \$20.
  - (b) Any Member who was not a Member during the period of twelve (12) months immediately preceding the beginning of the winding up is not liable to contribute in respect of any debt or liability contracted after membership ceased.

#### INCOME AND PROPERTY OF ASSOCIATION:

- 6. (1) The income and property of the Association, however derived, will be applied solely to promoting the objects and purposes of the Association and no portion will be paid or transferred, directly or indirectly, by dividend, bonus, or otherwise, to any Member of the Association.
- (2) Subject to Rule 6(3), the Association will not –
  - (a) appoint a person who is a member of the Board to any external officer where there is payable any remuneration by way of salary, fees or allowances; or
  - (b) pay to a member of the Board any remuneration or other benefit.
- (3) Nothing in the foregoing provisions of this Rule prevents the payment in good faith to a Director, or Member of the Association of –
  - (a) remuneration in return for services actually rendered to the Association outside their role as Member or Director (as is applicable) or for goods supplied to the Association by the Director or Member in the ordinary course of business;
  - (b) costs for a volunteer's (including a Director's) reasonable development and training for his/her role with the Association;
  - (c) an honorarium no greater than the maximum amount approved by Members pursuant to Rule 12(5)(g);
  - (d) reimbursement for reasonable out of pocket expenses as approved by Members pursuant to Rule 12(5)(h); and

- (e) travel, accommodation and food and beverages costs associated with their role;
- (f) interest at a rate not exceeding the long term fund rate of Tasmanian Perpetual Trustees Limited on moneys lent to the Association, such interest rate to be calculated as at the time moneys are lent and, should any question arise or touch upon the interest rate, it is to be determined by the General Manager of that organization for the time being; or
- (g) a reasonable and proper sum by way of rent for premises let to the Association by the Director or Member.

#### ACCOUNTS OF RECEIPTS AND EXPENDITURE:

7. (1) The Association will keep such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association and enable true and fair financial statements to be prepared and audited and, as are required by the Act or other regulations, including true accounts:
  - (a) of all the Association's receipts and expenditures and the manner in which they take place; and
  - (b) of the property, assets and liabilities of the Association.
- (2) The Association will faithfully keep all general records, accounting books, and records of receipts and expenditure connected with the operations and business of the Association in such form and manner and in such systems as the Board may decide.
- (3) The accounts, books, and records referred to in Sub-Rules (1) and (2) of this Rule will be kept at the Association's registered office or at such other place as the Board may decide.

#### BANKING AND FINANCE:

8. (1) The Association will promptly ensure that all monies it receives are included in the financial records of the Association.
- (2) The Board or persons designated by it in its delegations will cause to be opened with such Bank as the Board selects, a banking account in the name of the Association into which all moneys received will be paid as soon as possible after receipt.
- (3) No cheques, electronic transfers or credit card payments shall be drawn on the Association's Bank account unless authorized or undertaken in accordance with the delegations approved by the Board.

#### AUDITOR:

9. (1) At each annual general meeting of the Association, the Members present will appoint a duly qualified auditor of the Association who, in accordance with the Act, must not be –
  - (a) the Public Officer;
  - (b) a member of the Board of the Association;
  - (c) a servant of the Association; or
  - (d) a partner, employer or employee of the Public Officer or of a member of the Board of the Association.



- (2) A person or persons so appointed will hold office until the next annual general meeting after that at which he/she is appointed.
- (3) If an appointment is not made at an annual general meeting the Board will appoint an auditor of the Association for the then current financial year of the Association.
- (4) The auditor may only be removed from office by special resolution of the Board.
- (5) If a casual vacancy occurs in the role of auditor during the course of a financial year of the Association, the Board may appoint a person or persons to hold this role until the next succeeding annual general meeting.

#### AUDIT OF ACCOUNTS:

10. (1) At least once in each financial year, the accounts of the Association will be examined by the auditor.
- (2) The auditor will conduct an audit of the Annual financial statements in accordance with the Australian Auditing Standards and prepare a report in accordance with those standards to be attached to the Annual financial statements presented at the annual general meeting.
- (3) A report certifying to the accounts, will state –
  - (a) whether the required information has been obtained;
  - (b) whether, in the opinion of the auditor, the accounts are properly drawn up to present a true and correct view of the financial position of the Association;
  - (c) whether the Rules relating to the administration of the fund of the Association have been observed;
  - (d) any other information required to satisfy the reporting requirements outlined in Rule 11 below or any additional requirements that may become applicable.
- (4) The Public Officer of the Association will cause to be delivered to the auditor a list of all business accounts, books, and records of the Association.
- (5) The auditor –
  - (a) has a right of access to the accounts, books, records, vouchers and documents of the Association in whatever system they may reside;
  - (b) may require from the employees of the Association such information and explanations as may be necessary for the performance as auditor;
  - (c) may employ persons to assist him/her in investigating the accounts of the Association; and
  - (d) may, in relation to the accounts of the Association, examine any member of the Board or any employee of the Association.

#### REPORTING

11. (1) The Association will, within a period of six (6) months after the end of its financial year, lodge with the Regulator an annual return containing-
- (a) a report on the accounts of the Association stating whether it has, in the opinion of the auditor, kept proper accounting records and other books during the period covered by those accounts;
  - (b) such financial statements as in the opinion of the auditor are adequate to explain its financial transactions for that financial year and its financial position at the end of that financial year;
  - (c) a report by the auditor on the statements referred to in Sub-Rule (b) of this Rule; and
  - (d) a list, signed by the auditor, of the names of the members of the Board for that financial year.
- (2) The Association will also meet any other reporting requirements of any Regulator or other authority that may apply to it from time to time at State or Federal level.

ANNUAL GENERAL MEETING:

12. (1) The Association will, in each year, hold an annual general meeting.
- (2) The annual general meeting will be called by the Board and held on such day (being not later than the 30 November of each year) as the Board may determine.
- (3) The annual general meeting will be in addition to any other general meetings that may be held in the same year.
- (4) The annual general meeting will be specified as such in the notice convening it.
- (5) The ordinary business of the annual general meeting will be –
- (a) to confirm the minutes of the last previous annual general meeting and of any general meeting held since that meeting;
  - (b) to receive from the Board, auditor and employees of the Association reports on activities of the Association during the previous financial year;
  - (c) to receive a review of the Association's finances for the previous financial year;
  - (d) to receive the auditor's report for the previous financial year;
  - (e) to elect the members of the Board;
  - (f) to appoint the auditor;
  - (g) to determine the maximum amount of honorariums to be received by members of the Board; and
  - (h) to determine the maximum amount of reimbursements to members of the Board for their out-of-pocket expenses.
- (6) The annual general meeting may transact special business of which notice is given (Rule 14).
- (7) All general meetings other than the annual general meeting will be called special general meetings.

SPECIAL GENERAL MEETINGS:

13. (1) The Board may, whenever it thinks fit, convene a special general meeting of the Association.
- (2) The Board will, on the requisition in writing of not less than six (6) Members, convene a special general meeting of the Association.
- (3) A request for a special general meeting will state the objects of the meeting and any resolution to be proposed at the meeting and will be signed by the Members requesting the meeting and deposited at the registered office of the Association and may consist of several documents in the like form, each signed by one or more of the Members requesting the meeting.
- (4) If the Board does not cause a special general meeting to be held within twenty-one (21) days from the date on which a request is deposited at the registered office of the Association by Members, the Members requesting the meeting, or any of them, may convene the meeting using the list of Members on the register which the Association must provide to the Members making the request at no cost, and any meeting so convened must be held within three months from the date of the deposit of the request.
- (5) A special general meeting convened by Members requesting the meeting in pursuance of these Rules must, as far as possible, follow the procedures for General Meetings set out in these Rules, and all reasonable expenses incurred in convening the meeting will be refunded by the Association to the persons incurring them.

#### NOTICES OF GENERAL MEETINGS:

14. The Public Officer of the Association will, at least fourteen (14) days before the date fixed for holding a general meeting of the Association, give notice of this meeting by instantaneous communication to every Member, the auditor, the CEO and the Directors, specifying the place, day, and time for the meeting, and the nature of the business to be transacted at it. The Notice must state the objects of the meeting and any resolution to be proposed there.

#### BUSINESS AND QUORUM AT GENERAL MEETINGS:

15. (1) All business that is transacted at general meetings, with the exception of the ordinary business of the annual general meeting (see Sub-Rule 12 (5)), will be deemed to be special business.
- (2) No item of business will be transacted at a general meeting unless a quorum of Ten (10) Members (entitled under these Rules to vote) is present when the meeting is considering that item.
- (3) If, within one hour after the appointed time for the beginning of a general meeting, a quorum is not present, the meeting will be adjourned. The meeting will resume at the same time and place on the same day in the next week; or at another time and place determined by the Chairperson. The Chairperson will declare any revised time and place at the time of the adjournment or by written notice to Members given before the revised day of meeting. If, at the resumed meeting, a quorum is not present within one hour after the appointed time, the meeting will be dissolved.

#### CHAIRPERSON TO PRESIDE AT GENERAL MEETINGS:

16. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Vice Chairperson, will preside at general meetings of the Association.
- (2) If both the Chairperson and Vice Chairperson are absent from a general meeting, the Members present will elect one of their number to preside.

#### ADJOURNMENT OF GENERAL MEETINGS:

17. (1) The Chairperson of a general meeting at which a quorum is present may, by ordinary resolution of the meeting, adjourn the meeting from time to time and place to place, but no business will be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) Where a meeting is adjourned for fourteen (14) days or more, the like notice of the adjourned meeting will be given as in the case of the original meeting. Where the adjournment is less than fourteen (14) days, no notice is required beyond the resolution of the original meeting as per Sub-Rule 15(3).

#### RESOLUTION AND REPORTING AT GENERAL MEETINGS:

18. At general meetings of the Association –
  - (1) motions will be determined on a show of hands unless a poll is demanded in accordance with Sub-Rule 18(4);
  - (2) on completion of a vote, the Chairperson will declare that the resolution has been carried or lost. In addition, the Chairperson, at his/her discretion, may declare that the vote was unanimous or may declare the number of votes for and the number against;
  - (3) the minutes should record the result of the vote in the form declared by the Chairperson;
  - (4) if a poll is demanded by a Member present at the meeting, the motion will be determined by a poll provided that the demand is made immediately on the Chairperson's declaration of the result of a vote, or before that declaration.

#### VOTES:

19. At general meetings of the Association –
  - (1) each Member has one (1) vote, and any Chairperson will not have a vote except as per Sub-Rule 19 (3);
  - (2) all votes will be given personally. Proxy votes are not permitted;
  - (3) in the case of a tied vote, the Chairperson of the meeting is entitled to exercise a casting vote.

#### MINUTES:

20. Minutes of every General Meeting and Board meeting will be kept in a minute book, which will be kept at the Association's registered office.

#### TAKING OF POLL:

21. If at a meeting a poll on any motion is demanded, it will be taken at that meeting in such manner as the Chairperson may direct, and the result of the poll will be the resolution of the meeting on that motion.

#### WHEN POLL TO BE TAKEN:

22. A poll that is demanded on the election of a Chairperson, or on a question of adjournment, will be taken forthwith. A poll that is demanded on any other question will be taken at such time before the close of the meeting as the Chairperson may direct.

#### THE BOARD:

23. (1) The affairs of the Association will be managed by a Board constituted as provided in Rule 25.
- (2) The Board -
- (a) will control and manage the business and affairs of the Association;
  - (b) may, subject to these Rules, exercise all such powers and functions as may be exercised by the Association, other than those powers and functions that are required by these Rules to be exercised by general meetings of Members of the Association;
  - (c) may delegate any of its powers to:
    - (i) a member or members of the Board;
    - (ii) a committee or sub-committee of the Board; or
    - (iii) the CEO.Such delegations of its powers shall be in writing and form organisational policy. The Board may not delegate this power of delegation or a function which is imposed on the Board by the Act or any other law;
  - (d) subject to the Act and these Rules, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association.
- (3) (a) The Board will appoint, and determine the role of, a CEO. The appointment process is to be guided by a written position description.
- (b) The specific responsibilities and powers of the CEO are to be documented by the position description and a formal delegation of duties.
- (c) The CEO will, unless otherwise directed, attend all general meetings of the Association.
- (d) The Board will determine each year the remuneration of the CEO.

#### OFFICE HOLDERS OF THE BOARD:

24. (1) The office holders of the Board will be -
- (a) a Chairperson,
  - (b) a Vice-Chairperson,
  - (c) a Treasurer,
  - (d) a Public Officer.
- (2) Each officer holder of the Association excepting the Public Officer, will hold office until the annual general meeting next after the date of election but is eligible for re-election.
- (3) In the event of a casual vacancy in any office holder role mentioned in Sub-Rule (1) of this Rule, the Board may appoint one of its Members to the vacant office. That appointee will hold office until the next annual general meeting.

#### COMPOSITION OF THE BOARD:

25. (1) The Board will consist of between six (6) and nine (9) Members comprising -
- (a) the officers of the Association who will be elected by the Board from Board members following the annual general meeting of the Association in each year; and
  - (b) between two (2) and five (5) other Board members.
- (2) Each Board member must be a Member of the Association and will, subject to these Rules, hold office for a maximum period of three (3) years but is eligible to seek re-election up to a maximum of three (3) terms (nine (9) years in aggregate).
- (3) In exceptional circumstances (e.g. where the Board member is involved on a strategic project or has strategic insights critical to the Association), the Board may resolve to extend the maximum term beyond nine years for a particular Director and put to Members that this person be considered for a further term of three (3) years or a lesser amount depending on what is necessary given their role.
- (4) In the event of a casual vacancy occurring in a Board position, the Board may appoint a Member of the Association (who is not ineligible to be a Director under the *Corporations Act* 2001 (Cth) or ACNC Act) to fill the vacancy until the next annual general meeting.
- (5) Sub-Rule 25 (2) applied with effect from 31<sup>st</sup> October 2018 and Directors cannot hold office for more than nine (9) years in aggregate from that date. Service prior to that date will not be counted towards the maximum nine (9) years.

#### ELECTION OF MEMBERS OF THE BOARD:

26. (1) The Board will establish and follow a process based on principles of good corporate governance to identify potential new Board members.
- (2) Nominations of candidates for election as Board members will be made by the Board to the Members at the annual general meeting. Details of candidates nominated, and their skills, will be included in the notice of

annual general meeting. A candidate must not be ineligible to be a Director under the *Corporations Act 2001* (Cth), ACNC Act or similar applicable legislation.

- (3) The ballot for the election of Board members will be conducted at the annual general meeting in such usual and proper manner as the Board may direct. To appoint a particular person to the Board, an ordinary resolution must be passed by Members.

#### VACATION OF OFFICE:

27. (1) A Board member leaves the Board and relinquishes any role in Board matters, and creates a vacancy in the Board, if he or she -
  - (a) dies;
  - (b) becomes bankrupt or applies to take, or takes, advantage of any law relating to bankrupt or insolvent debtors;
  - (c) becomes of unsound mind;
  - (d) resigns office by writing addressed to the Board;
  - (e) fails, without leave granted by the Board to attend three consecutive meetings of the Board;
  - (f) ceases to be a Member of the Association;
  - (g) fails to pay all arrears of subscription due within fourteen days after a notice in writing signed by the Public Officer stating that they have ceased to be a financial Member of the Association;
  - (h) is removed by a resolution of the Board in accordance with sub-Rule (2) of this Rule; or
  - (i) ceases to be eligible to be a Director under the *Corporations Act 2001*(Cth) or ACNC Act or similar applicable legislation.
- (2) The Board may resolve to remove a Director for any reason by special resolution of a Board meeting (i.e. with the agreement of 75% of those present and entitled to vote). The conflict provisions in Rule 30 will apply so that a Director who is the subject of such a resolution may not vote on the matter but will have the right to be heard and then must leave the meeting while voting occurs. If the resolution is passed, the Director's removal will apply from the end of that meeting, and the Director will be notified in writing.

#### MEETINGS OF THE BOARD:

28. (1) The Board will meet at least ten (10) times in each year at such places and at times as the Board may determine.
- (2) Notice of each Board meeting will be delivered to each Member of the Board in a timely manner by mail or e-mail. This may be done by the Board agreeing a timetable of dates at any time.
- (3) Special meetings of the Board (in addition to those in the timetable) may be convened by the Chairperson, or any four (4) Board members. Notice will be given to Members of the Board of any special meeting, specifying the nature of the business to be transacted. No other business will be transacted at such a meeting.
- (4) Fifty percent (50%) of Board members plus one member constitute a quorum for a meeting of the Board.

- (5) No business will be transacted at a Board meeting unless a quorum is present and, if within half an hour of the time appointed for the meeting a quorum is not present, the meeting will stand adjourned to the same place and at the same hour of the same day in the following week unless the meeting was a special meeting, in which case it lapses.
- (6) At meetings of the Board -
  - (a) the Chairperson will preside; or
  - (b) in the absence of the Chairperson, the Vice-Chairperson will preside; or
  - (c) if both the Chairperson and the Vice-Chairperson are absent, the members present should choose one of their number to preside.
- (7) Motions arising at meetings of the Board, or of any sub-committee appointed by the Board, will be determined on the voices unless a poll is demanded. The person presiding is to determine the manner of taking any poll.
- (8) Each member of the Board or sub-committee present at a meeting (excluding the person presiding at the meeting and any co-opted member (Sub-Rule 31 (2))) is entitled to one (1) vote. In the event of a tied vote, the person presiding may exercise a casting vote. However, he/she may choose to abstain in order to preserve impartiality of office.
- (9) In the absence of a Board meeting, a resolution can be passed if a majority of the Board members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Board members and transmitted by a technology approved by the Board if the wording of the resolution and statement is identical in each copy. The resolution is passed when a majority of Board members sign. The passage of a resolution under this Sub-Rule must be recorded in the minutes of the next Board Meeting.
- (10) The Board may meet (other than in person) by linking together using electronic or other means of a number of consenting Board members (such as video-conferencing). In this event, all the sub-Rules of Rule 12 apply and -
  - (a) at least a quorum must have given prior approval of a means of linking together. The approval may be a standing one. A standing approval may be withdrawn by reasonable notice given prior to any notice of such a meeting;
  - (b) each of the Board members taking part in such a meeting must be able to hear and communicate with the other members taking part;
  - (c) a Board member may not intentionally leave such a meeting unless approved by the Chairperson; and
  - (d) if, during such a meeting, a Board member becomes aware that the communication device of another member has been disconnected (other than with approval), the Member must immediately advise the meeting which must be adjourned until the meeting may be reconvened.



## DUTIES OF DIRECTORS

29. (1) The Directors must comply with their duties as Directors under legislation and common law, including the duties described in governance standard 5 of the regulations made under the ACNC Act which are -
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Association;
  - (b) to act in good faith in the best interests of the Association and to further the objects of the Association;
  - (c) not to misuse their position as a Director;
  - (d) not to misuse information they gain in their role as a Director;
  - (e) to disclose any perceived or actual material conflicts of interest in the manner set out in Rule 30;
  - (f) to ensure that the financial affairs of the Association are managed responsibly; and
  - (g) not to allow the Association to operate while it is insolvent.
- (2) Directors must keep confidential any information which they gain in their role as a Director.

## DISCLOSURE OF INTEREST:

30. (1) A member of the Board who is conflicted in interest or duty by any contract or arrangement made or proposed to be made with the Association (Conflicted) must disclose his/her interest/duty at the first meeting of the Board at which the matter is considered, if his/her interest then exists.
- (2) If a member of the Board becomes Conflicted after a matter has already been considered by the Board, the Board member must disclose his/her interest at the next-following meeting.
- (3) No member of the Board may vote as a member of the Board in respect of any matter in which he/she is Conflicted. If he/she does so vote, that vote will not be counted.
- (4) If a dispute occurs the Board will determine if a Board member is Conflicted.

## SUB-COMMITTEES OF THE BOARD:

31. (1) The Board may at any time appoint a sub-committee from the Board as it may think fit and will prescribe the powers and functions of such bodies in a Charter.
- (2) A sub-committee must comprise at least one Board member. The Board may co-opt as Members of a sub-committee such persons as it thinks fit, whether or not those persons are Members of the Association, but a person so co-opted is not entitled to vote.
- (3) One half plus one appointed Members of a sub-committee constitute a quorum at a meeting of the sub-committee.

- (4) The Chairperson of a sub-committee is responsible for calling meetings of that sub-Committee.
- (5) Notice of each sub-committee meeting will be delivered to each Member of the sub-committee within a reasonable period of time by mail or e-mail or can be agreed in a timetable at any time.
- (6) The Chairperson, Vice-Chairperson and the Treasurer, will constitute a sub-committee known as the Executive Committee of the Board, which may issue instructions to the Public Officer and the servants of the Association in matters of urgency connected with the management of the affairs of the Association during the intervals between meetings of the Board, and where any such instructions are issued will report this to the next meeting of the Board.

#### ANNUAL SUBSCRIPTION:

- 32. (1) The amount of the annual subscription may be altered from time to time by the Members by special resolution.
- (2) The annual subscription of a Member is due and payable on or before the 1st day of the financial year of the Association.

#### FINANCIAL YEAR:

- 33. The financial year of the Association begins on the first day of July and ends on the following thirtieth day of June.

#### NOTICES:

- 34. A notice may be served by, or on behalf of, the Association upon any Member either personally or by sending it through the post or e-mail.

#### EXPULSION OF MEMBERS:

- 35. (1) Subject to this Rule, the Board may expel a Member from the Association if, in the opinion of the Board, the Member -
  - (a) has committed a persistent or material breach of any Rule of the Association; or
  - (b) has acted in a manner which is detrimental to the interests of the Association; or
  - (c) no longer complies with the membership requirements of the Association.
- (2) The expulsion of a Member pursuant to Sub-Rule (1) of this Rule does not take effect -
  - (a) until the expiration of fourteen (14) days after the service on the Member of a notice under Sub-Rule (3) of this Rule; or
  - (b) if the Member exercises the right of appeal under this Rule, until the conclusion of the special general meeting convened to hear the appeal, whichever is the later date.
- (3) Where the Board expels a Member of the Association, the Public Officer of the Association will, without undue delay, cause to be served on the Member a notice in writing -
  - (a) stating that the Board has expelled the Member;

- (b) specifying the grounds for the expulsion; and
  - (c) informing the Member, that within fourteen days after the service of the notice of expulsion, an appeal against the expulsion may be lodged as provided in this Rule.
- 36. (1) A Member on whom a notice under Sub-Rule 35 (3) Rule is served may appeal against the expulsion to a special general meeting by delivering or sending by post to the Public Officer of the Association, within fourteen days after the service of that notice, a requisition in writing demanding the convening of such a meeting for the purpose of hearing the appeal.
- (2) Upon receipt of a requisition under Sub-Rule 35 (1), the Public Officer will notify the Board of its receipt and the Board will cause a special general meeting of Members to be held within twenty-one (21) days after the date on which the requisition is received by the Public Officer.
- (3) At a special general meeting convened for the purpose of this Rule -
  - (a) no business other than the question of the expulsion will be transacted;
  - (b) the Board may place before the meeting details of the grounds of the expulsion and the Board's reasons for the expulsion;
  - (c) the expelled Member will be given an opportunity to be heard; and
  - (d) the Members present will vote by secret ballot on the question whether the expulsion should be lifted or confirmed.
- (4) If at the special general meeting a majority of the Members present vote in favour of the lifting of the expulsion of a Member, the expulsion will be deemed to have been lifted and the expelled Member is entitled to continue membership of the Association.
- (5) If at the special general meeting a majority of the Members present vote in favour of the confirmation of the expulsion of a Member, the expulsion takes effect, and the expelled Member ceases to be a Member of the Association.

#### DISPUTES:

- 37. (1) A party may not begin Court proceedings in relation to a dispute arising out of, or in connection with, this document unless it has exhausted the procedures in Sub-Rule 36(1).
- (2) A dispute between a Member of the Association, in the capacity as a Member, and the Association will be determined by arbitration in accordance with the provisions of the *Commercial Arbitration Act 1986*.
- (3) Nothing in this Rule affects the operation or effect of Rule 35 or 36.

#### AUTHORITY TO SIGN FOR THE ASSOCIATION

- 38. The authority to sign contracts and other documents on behalf of the Association or the Board, is outlined in the delegations approved by the Board. Signatories for such documents must include the Chairperson or Vice-Chairperson

## INDEMNITY

39. To the extent it is lawful to do so, any Board member or other officer shall be entitled to be indemnified out of the assets of the Association against all losses and other liabilities incurred by them in the execution or attempted execution, or as a consequence of the failure to exercise any of the authorities, power, duties and discretions contained in these Rules, or otherwise by virtue of their role with the Association provided. However, they will not be entitled to be indemnified for any such loss or liability directly attributable to-
- (a) any act or omission that was not in good faith; or
  - (b) the willful committing by them of an act known by them to be a breach of their obligations.

## INSURANCE

40. The Association will effect and maintain adequate insurance on its real property, major assets, in respect of its potential liabilities, to meet obligations under its contracts and to indemnify its Board members and employees undertaking services on its behalf.

## REVOCATION

41. If the Association is wound up, or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation in Australia which is a public benevolent institution with similar objects, which is charitable at law, to which income tax deductible gifts can be made, and complies with Rule 42-
- (a) gifts of money or property for the principal objects or purposes of the Association;
  - (b) contributions made in relation to an eligible fundraising event held for the principal objects or purposes of the Association; and
  - (c) money received by the Association because of such gifts and contributions.

## WINDING UP OF THE ASSOCIATION:

42. In the event of the Association being dissolved, any Surplus Assets which remain after such dissolution and the satisfaction of all debts and liabilities will be transferred to another organisation in Australia which has similar objects and is a public benevolent institution for the purposes of any Commonwealth taxation Act. The decision as to the charity or charities to be given such Surplus Assets must be made by special resolution of Members at or before the winding up.

## MERGER, TRANSFER, JOINT VENTURE, AMALGAMATION OF ASSOCIATION -

43. Where a proposal to merge, transfer, joint venture, amalgamate or make similar arrangements would fundamentally affect the nature of the Association or transfer a significant asset or assets of the Association to an unrelated party, entering into such an arrangement must be approved by an ordinary resolution of Members.