

K&L GATES

**Constitution of**

**The Western Australian Yachting  
Foundation (Inc.)**

**Draft No: 3**  
**Date: 17 June 2019**

**K&L Gates**  
Perth office  
Ref: 7601297.00001

## Table of Contents

<b>1.</b>	<b>Name of Association</b>	<b>5</b>
<b>2.</b>	<b>Definitions and interpretation</b>	<b>5</b>
2.1	Definitions	5
2.2	Interpretation	7
2.3	Compliance with the Act	7
2.4	Transitional	7
<b>3.</b>	<b>Objects and powers of the Association</b>	<b>7</b>
<b>4.</b>	<b>Not for profit</b>	<b>8</b>
<b>5.</b>	<b>Membership of the Association</b>	<b>8</b>
5.1	Number of Members	8
5.2	Membership rights	9
5.3	Eligibility for membership	9
5.4	Initial Members	9
5.5	Applying for membership	9
5.6	Membership Fees	10
5.7	Liability of Members	10
5.8	No transfer of membership	10
<b>6.</b>	<b>Ceasing to be a Member</b>	<b>10</b>
6.1	When a Member ceases to be a Member	10
6.2	Revocation of membership	11
6.3	Consequences of ceasing to be a Member	11
<b>7.</b>	<b>Register of Members</b>	<b>12</b>
7.1	Maintaining the Register of Members	12
7.2	Inspecting and copying the Register	12
<b>8.</b>	<b>General meetings</b>	<b>12</b>
8.1	Annual General Meetings	12
8.2	Business at Annual General Meeting	13
8.3	Special General Meetings	13
8.4	Notice of General Meetings	14
8.5	Content of notice of General Meetings	14
8.6	Failure to give notice	15
8.7	Use of technology	15
8.8	Quorum	15
8.9	If a quorum not Present	15
8.10	Adjournments	15
<b>9.</b>	<b>Voting at General Meetings</b>	<b>16</b>
9.1	Voting rights	16
9.2	Members' resolutions	16
9.3	Voting by poll	17
9.4	Objection to qualification to vote	17
9.5	Direct voting	17
<b>10.</b>	<b>Minutes</b>	<b>18</b>
<b>11.</b>	<b>Resolving disputes</b>	<b>18</b>
11.1	Application of disputes procedure	18

11.2	Disputes procedure	18		
11.3	Mediation	19		
11.4	If dispute resolution results in decision to suspend or expel being revoked	20		
<b>12.</b>	<b>Committee</b>	<b>20</b>		
12.1	The Committee	20		
12.2	Powers of the Committee	21		
12.3	Payments to Committee Members	21		
<b>13.</b>	<b>Responsibilities of Committee Members</b>	<b>21</b>		
13.1	Responsibilities of Committee Members and declaring interests	21		
13.2	President	22		
13.3	Treasurer	22		
<b>14.</b>	<b>Election of Committee Members</b>	<b>23</b>		
14.1	Eligibility	23		
14.2	Term of office	23		
14.3	Nomination of Committee Member	24		
14.4	Election of Committee Members	24		
14.5	Committee Register	25		
14.6	Inspecting and copying the Committee Register	25		
<b>15.</b>	<b>Executive Officer</b>	<b>25</b>		
15.1	Appointment	25		
15.2	Responsibilities	25		
<b>16.</b>	<b>Resignation and removal from office</b>	<b>26</b>		
16.1	Vacancy on the Committee	26		
16.2	Filling casual vacancies	27		
16.3	Consequences of ceasing to be a Committee Member	<b>Error!</b>	<b>Bookmark</b>	<b>not</b>
	<b>defined.</b>			
16.4	Return of books and records	27		
<b>17.</b>	<b>Committee proceedings</b>	<b>27</b>		
17.1	Calling and holding Committee meetings	27		
17.2	Meetings by telecommunications	27		
17.3	Quorum	28		
17.4	Guests at Committee meetings	28		
17.5	Committee resolutions	28		
17.6	Committee resolutions without a meeting	28		
17.7	By-laws	28		
17.8	Acts valid despite defective appointment	29		
17.9	Sub-committees	29		
<b>18.</b>	<b>Execution of documents</b>	<b>29</b>		
18.1	Execution generally	29		
18.2	Common seal	29		
<b>19.</b>	<b>Notices</b>	<b>30</b>		
19.1	How notice to be given	30		
19.2	When notice is given	30		
<b>20.</b>	<b>Funds and accounts</b>	<b>30</b>		
20.1	Control of funds	30		

20.2	Source of funds	31
20.3	Financial Records	31
20.4	Financial reporting, audit and review	31
20.5	Financial Year	32
20.6	Inspection of records	32
<b>21.</b>	<b>Indemnity and insurance</b>	<b>32</b>
21.1	Definition	32
21.2	Association may indemnify Officers	32
21.3	Documentary indemnity and insurance policy	32
<b>22.</b>	<b>Affiliation and membership of other similar organisations</b>	<b>32</b>
<b>23.</b>	<b>Winding up, cancellation and distribution of surplus property</b>	<b>32</b>
<b>24.</b>	<b>Variation or amendment of Constitution</b>	<b>33</b>
	<b>Schedule 1 – Initial Members</b>	<b>34</b>

# The Western Australia Yachting Foundation (Inc.)

## An Incorporated Association

### 1. Name of Association

The name of the Association is The Western Australian Yachting Foundation (Inc.)

### 2. Definitions and interpretation

#### 2.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

**Act** means the *Associations Incorporation Act 2015* (WA) and any regulations made under that statute;

**Annual General Meeting** means the annual general meeting of the Association convened under clause 8.1;

**Association** means The Western Australia Yachting Foundation (Inc.);

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Perth, Western Australia;

**Commissioner** means the person designated as the commissioner from time to time under section 153 of the Act;

**Committee** means the management committee referred to in clause 12.1;

**Committee Member** means a person elected or appointed to the Committee from time to time;

**Committee Register** means the register maintained in accordance with section 58 of the Act and referred to in clause 14.5;

**Constitution** means this constitution as amended, supplemented or replaced from time to time;

**convene** means to call together for a formal meeting;

**Executive Officer** means the person elected or appointed by the Committee to the role of executive officer of the Association from time to time;

**Financial Records** includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (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** means a financial report of a tier 2 association or tier 3 association prepared in accordance with Part 5 of the Act and which consists of:

- (a) the Financial Statements for the relevant Financial Year;
- (b) the notes to the Financial Statements; and
- (c) the Committee's declaration about the Financial Statements and notes;

**Financial Statements** means financial statements prepared in accordance with Division 3 of the Act;

**Financial Year** has the meaning given in clause 20.5;

**General Meeting** means a meeting of the Members that all Members are entitled to receive notice of and attend;

**Member** means a member of the Association entered in the Register;

**Membership Fee** has the meaning given in clause 5.6(a);

**Objects** means the objects of the Association as set out in clause 3(a);

**Ordinary Resolution** means a resolution of the Association other than a Special Resolution;

**poll** means voting conducted in written form (as opposed to a show of hands);

**Present** means, in connection with a meeting, a Member being present in person or by proxy, attorney or Representative, and includes being present at a different venue from the venue at which other Members are participating in the same meeting, providing the pre-requisites for a valid meeting at different venues are observed;

**President** means the Committee Member appointed to the office of president of the Committee from time to time;

**Register** means the register of Members of the Association referred to in clause 7.1;

**Special Resolution** has the meaning given in clause 9.2(b);

**Term** has the meaning given in clause 14.2;

**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; and

**Treasurer** means the person appointed to the office of treasurer of the Association from time to time; and

**Vice-President** means the Committee Member appointed to the role of vice-president of Committee from time to time.

## 2.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) the headings are used for convenience only and do not affect the interpretation of this Constitution;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a document includes the document as modified from time to time and any document replacing it;
- (e) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (f) the word "person" includes a natural person, partnership, body corporate, association, governmental or local authority, agency and any other body or entity whether incorporated or not;
- (g) the word "month" means calendar month and the word "year" means 12 months;
- (h) the words "written" or "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (i) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (j) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body that performs most closely the functions of the defunct body; and
- (k) any expression in a provision of this Constitution that relates to a particular provision of the Act has the same meaning as in that provision of the Act.

## 2.3 Compliance with the Act

This Constitution is subject to the Act, which overrides any clause in this Constitution that is inconsistent with or not permitted by the Act.

## 2.4 Transitional

Everything done under this Constitution continues to have the same operation and effect after the adoption of any successor Constitution as if properly done under that Constitution.

## 3. Objects and powers of the Association

- (a) The objects of the Association are:
  - (i) to promote and encourage international yacht racing in Western Australia and world class sailing competitions in Western Australian waters;

- (ii) to establish a fleet of matched international standard racing yachts to be made available for sailing events held in Western Australia and for the training of yachtsmen in Western Australia at junior and senior levels;
  - (iii) to promote and encourage championship sailing events including match racing world events, Australian and interstate match racing events, metropolitan and country match racing events, and corporate championships;
  - (iv) to promote and encourage sailing training programmes for young people which may include young people at risk or suffering from disability;
  - (v) to promote and encourage corporate sailing activities; and
  - (vi) to promote and encourage tourism oriented sailing activities.
- (b) The Association has all the powers of an incorporated association under the Act. The Association may only use its powers to do:
- (i) anything which it considers will advance or achieve the Objects; and
  - (ii) all other things that are incidental to carrying out the Objects.

#### **4. Not for profit**

- (a) All property and income of the Association must be applied solely towards promoting the Objects, and no part of the Association's property or income may be paid or otherwise distributed, directly or indirectly to any Member, except in good faith in promoting the Objects.
- (b) A payment may be made (directly or indirectly) to a Member out of the funds of the Association only if it is authorised under clause 4(c).
- (c) A payment to a Member out of the funds of the Association is authorised if it is:
  - (i) a payment in good faith to that Member of reasonable remuneration for services provided to the Association; or reasonable compensation for goods supplied to the Association in the ordinary course of business;
  - (ii) a payment of interest on money borrowed from a Member by the Association, at a rate not exceeding the cash rate published from time to time by the Reserve Bank of Australia;
  - (iii) a payment of reasonable rent to the Member for any premises leased by the Member to the Association; or
  - (iv) the reimbursement of reasonable expenses properly incurred by a Member on behalf of the Association.

#### **5. Membership of the Association**

##### **5.1 Number of Members**

- (a) The minimum number of Members of the Association is 6.
- (b) The maximum number of Members of the Association is at the discretion of the Committee.



## 5.2 Membership rights

- (a) A Member has all the rights provided to Members under this Constitution, including (but not limited to) the right to:
  - (i) receive notices from the Association;
  - (ii) attend, request the convening of and vote at all General Meetings of the Association; and
  - (iii) be elected to the Committee and any sub-committees of the Association.
- (b) Subject to the Act, and without derogating from the rights of existing Members, the Association may by resolution create additional classes of associate membership of the Association and determine the eligibility criteria, rights and obligations of those associate members.

## 5.3 Eligibility for membership

Any person who supports the Objects is eligible to apply for membership.

## 5.4 Initial Members

The persons who appeared in the Register prior to the date of adoption of this Constitution (and are listed in Schedule 1) (**Initial Members**) continue to be Members of the Association and do not have to re-apply for membership in accordance with this Constitution.

## 5.5 Applying for membership

- (a) Every application for membership of the Association must be:
  - (i) in writing and signed by:
    - (A) the applicant;
    - (B) two nominating Members; and
  - (ii) submitted to the Executive Officer or in any other way approved by the Committee.
- (b) The Committee will consider membership applications and in its absolute discretion may approve or reject an application, without giving reasons. The Committee may require the applicant to supply evidence of eligibility for membership.
- (c) The Executive Officer must inform applicants of the outcome of their application within a reasonable period.
- (d) If the Committee approves the membership application, the Executive Officer must:
  - (i) notify the applicant and request payment of any applicable Membership Fee; and
  - (ii) within 28 days after the person becomes a Member, enter the person's name in the Register.
- (e) An applicant whose membership application has been approved will not become a Member until:

- (i) the Association has received payment of any required Membership Fee; and
- (ii) the applicant's details are entered in the Register in accordance with clause 7.1.

## **5.6 Membership Fees**

- (a) Membership Fees may consist of any fees determined by the Committee from time to time for each class of membership, including (but not limited to):
  - (i) an entrance fee for membership; and
  - (ii) subscription fees payable annually or on another basis.
- (b) The Committee may:
  - (i) set different Membership Fees for different classes of membership; and
  - (ii) in its absolute discretion may waive all or part of a Membership Fee payable by any Member.
- (c) Membership Fees must be paid in the manner and by the date directed by the Committee from time to time.
- (d) If any amount owing under this clause 5.6 remains unpaid for a period of 60 days after it falls due, the Executive Officer will send a notice to the Member requiring payment of the outstanding amount within 28 days of the date of the notice.
- (e) If the amount is not paid within this 28 day period then the Committee may revoke that Member's membership.
- (f) The Committee may, in its absolute discretion, reinstate the Member on payment of all arrears of amounts owing.

## **5.7 Liability of Members**

- (a) The liability of Members is limited to payment of any applicable Membership Fees in accordance with clause 5.6.
- (b) A Member is not liable, by reason of their membership, for the liabilities of the Association or the cost of winding up the Association.

## **5.8 No transfer of membership**

A right, privilege or obligation of a person by reason of their membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of membership.

## **6. Ceasing to be a Member**

### **6.1 When a Member ceases to be a Member**

A Member will cease to be a Member:

- (a) if the Member resigns by notice in writing to the Executive Officer, on the date that the notice is received by the Executive Officer, or any later date specified in the notice;
- (b) if their membership is revoked in accordance with clause 5.6(e) or 6.2 or clause **Error! Reference source not found.**;
- (c) where the Member is an individual, if the Member dies; or
- (d) where the Member is an organisation, if it is wound up, dissolved, deregistered or otherwise ceases to be an organisation.

## **6.2 Revocation of membership**

- (a) Subject to this clause 6.2, the Committee may at a Committee meeting resolve to revoke a Member's membership if in its opinion:
  - (i) the Member's status or conduct is detrimental to the interests of the Association, including (without limitation) if the Member has brought the Association into disrepute;
  - (ii) the Member has failed to comply with this Constitution or any by-laws of the Association; or
  - (iii) the Member no longer meets the applicable criteria for membership in clause 5.3.
- (b) At least 7 days before the Committee meeting referred to in clause 6.2(a) (**Revocation Meeting**), the Executive Officer must give written notice to the Member:
  - (i) of the proposed revocation of membership and the reasons for that proposed revocation;
  - (ii) of the date, time and place of the Revocation Meeting;
  - (iii) informing the Member that the Member may attend the Revocation Meeting and will be given a full and fair opportunity to make oral and written submissions to the Committee.
- (c) At the Revocation Meeting, the Committee must:
  - (i) give the Member a full and fair opportunity to make oral submissions and give reasonable consideration to any written submissions; and
  - (ii) determine whether the Member's membership should be revoked.

## **6.3 Consequences of ceasing to be a Member**

- (a) Any person ceasing to be a Member:
  - (i) will have its name removed from the Register; and
  - (ii) is not entitled to any refund (or part refund) of any Membership Fee paid; and
  - (iii) will remain liable for and must pay to the Association all fees and any other amounts which were due to the Association at the date they cease to be a Member.

- (b) The Executive Officer must keep a record, for at least 1 year after a person ceases to be a Member, of:
  - (i) the date on which the person ceased to be a Member; and
  - (ii) the reason why the person ceased to be a Member.

## **7. Register of Members**

### **7.1 Maintaining the Register of Members**

- (a) The Executive Officer (or any other person authorised by the Committee) must keep and maintain a Register in accordance with section 53 of the Act, containing:
  - (i) the name and residential, postal and/or email address of each Member;
  - (ii) the class of membership of each Member (if applicable);
  - (iii) the date on which each Member's name was entered into the Register; and
  - (iv) the name and date of appointment of each Representative (if applicable).
- (b) Any change in the membership of the Association must be recorded in the Register within 28 days.

### **7.2 Inspecting and copying the Register**

- (a) The Register is available for inspection free of charge by any current Member upon written request to the Executive Officer.
- (b) A Member may make a copy of entries in the Register.
- (c) A Member may apply in writing to the Committee for a copy of the Register. The Committee may in its discretion require the Member to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
- (d) The Committee may charge a reasonable fee for providing a copy of the Register.
- (e) A Member must not use or disclose any information in the Register for any purpose other than a purpose that:
  - (i) is directly connected with the affairs of the Association; or
  - (ii) relates to the administration of the Act.

## **8. General meetings**

### **8.1 Annual General Meetings**

- (a) The Association must hold an Annual General Meeting once in each calendar year and no later than 6 months after the end of each Financial Year, except where the Commissioner has allowed for a longer period under the Act.
- (b) The Committee must determine the place, date and time of the Annual General Meeting.

## **8.2 Business at Annual General Meeting**

Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:

- (a) reviewing the Association's activities and finances since the last preceding Annual General Meeting;
- (b) confirming the minutes of the last preceding Annual General Meeting and of any other General Meeting held since the last preceding Annual General Meeting;
- (c) receiving and considering:
  - (i) the Committee's annual report on the Association's activities during the preceding Financial Year;
  - (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;
  - (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; and
  - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the review report or the auditor's report on the Financial Statements or Financial Report (as applicable);
- (d) electing Committee Members;
- (e) (where relevant) appointing an auditor or reviewer in accordance with the Act; and
- (f) transacting any other business which under this Constitution or the Act may properly be brought before the meeting.

## **8.3 Special General Meetings**

- (a) The Committee may at any time convene a General Meeting of the Members, or of any class of Members.
- (b) The Committee must convene a General Meeting of Members if it receives a request to do so which meets the following requirements:
  - (i) the request is made by at least 20% of Members eligible to vote at a General Meeting;
  - (ii) the request is in writing, signed by all the Members making the request, and states the business to be conducted at the General Meeting; and
  - (iii) the request is lodged with the Executive Officer, or the President in the absence of the Executive Officer.
- (c) On receipt of a request from Members under clause 8.3(b), the Committee must:
  - (i) give all Members 21 days' notice of the General Meeting; and
  - (ii) hold the General Meeting within 2 months of the date of the request.

- (d) Subject to the Act, the Committee may cancel or postpone any General Meeting or change its venue by giving notice to all persons to whom the notice of the original meeting was given, but may not cancel a General Meeting which was called or requested by Members, without the prior written consent of those Members.

#### **8.4 Notice of General Meetings**

- (a) Notice of every General Meeting must be given in the manner authorised by clause 19.1 to every Member and Committee Member; and to any reviewer or auditor of the Association.
- (b) No other person is entitled to receive notice of a General Meeting, except any person authorised by the Committee.
- (c) Notice of General Meetings (including Annual General Meetings) must be provided to Members:
  - (i) at least 21 clear days before any General Meeting at which a Special Resolution is proposed; and
  - (ii) (excluding special General Meetings called in accordance with clause 8.3(b)) at least 14 clear days before any other General Meeting.
- (d) Subject to clause 8.4(e), shorter notice of General Meetings (including Annual General Meetings) may be provided if:
  - (i) for an Annual General Meeting, all the Members entitled to vote at the Annual General Meeting agree prior to the Annual General Meeting; and
  - (ii) for any other General Meeting, Members holding at least 95% of the votes that may be cast at the General Meeting agree prior to the General Meeting.
- (e) The Association cannot call a General Meeting or Annual General Meeting on shorter notice than that specified in clause 8.4(c) if a resolution will be moved at the meeting to:
  - (i) appoint or remove a Committee Member; or
  - (ii) remove an auditor or reviewer.

#### **8.5 Content of notice of General Meetings**

The notice of General Meeting must:

- (a) specify the place, date and time for the General Meeting (and, if the meeting is to be held in two or more places in accordance with clause 8.7, the technology that will be used to facilitate this);
- (b) state the general nature of the business to be transacted at the General Meeting;
- (c) if a Special Resolution is to be proposed at the General Meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) contain a statement of each Member's right to appoint a natural person who is also a Member to act as their proxy.

## **8.6 Failure to give notice**

Any resolution passed at a General Meeting is not invalidated by:

- (a) the accidental omission to give notice of a General Meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument by a Member.

## **8.7 Use of technology**

- (a) The Association may hold a General Meeting (including an Annual General Meeting) at 2 or more venues using any technology that gives Members a reasonable opportunity to participate, provided that arrangements are made at each venue for the recording of all votes cast.
- (b) The General Meeting is taken to be held where the President of the General Meeting conducts the General Meeting. All proceedings conducted in accordance with this clause 8.7 are as valid as if conducted at a single gathering of a quorum of those entitled to be Present.

## **8.8 Quorum**

- (a) No business may be transacted at a General Meeting unless a quorum of Members is Present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a quorum constitutes:
  - (i) 6 Members Present; or
  - (ii) where the total number of Members is less than 6, all those Members being Present.

## **8.9 If a quorum not Present**

If a quorum is not Present within 30 minutes after the time appointed for the General Meeting in the notice:

- (a) where the meeting is convened on the requisition of Members, the meeting must be automatically dissolved; or
- (b) in any other case:
  - (i) the meeting stands adjourned to a day and at a time and place as the Committee decides or, if no decision is made by the Committee, to the same day in the next week at the same time and place; and
  - (ii) if no quorum is Present at the resumed meeting within 30 minutes after the time appointed for the meeting, provided at least 2 Members are Present at the resumed meeting, they will be taken to constitute a quorum.

## **8.10 Adjournments**

- (a) The President may, and must if directed to do so by the General Meeting, adjourn a General Meeting from time to time and from place to place.

- (b) Only business left unfinished at a meeting which was adjourned may be transacted at a meeting resumed after an adjournment.
- (c) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting. In all other cases it is not necessary to give notice of the adjourned meeting.

## **9. Voting at General Meetings**

### **9.1 Voting rights**

- (a) At General Meetings each Member entitled to attend and vote in accordance with this Constitution:
  - (i) has one vote on a show of hands or on a poll; and
  - (ii) may attend and vote in person or by proxy, or attorney and (where the Member is an organisation) by Representative.
- (b) Each person Present at the General Meeting who represents more than one Member, either personally, by proxy, attorney or as Representative, has one vote on a show of hands.
- (c) A Member ordinarily entitled to vote is not entitled to vote if his or her Membership Fee (where a Membership Fee is payable) is more than 60 days in arrears at the commencement of the relevant General Meeting, unless the Committee resolves otherwise.
- (d) A Member may appoint a natural person who is also a Member as their proxy to attend and vote at General Meetings on behalf of the Member.

### **9.2 Members' resolutions**

- (a) A resolution put to the vote at a General Meeting must be decided by a majority of votes cast by the Members Present at the General Meeting, except where it is required by this Constitution or otherwise by law that the resolution be a Special Resolution.
- (b) A Special Resolution is a resolution passed by the Association at a General Meeting in accordance with section 51 of the Act by the votes of not less than three-fourths of the Members who validly cast a vote at the General Meeting.
- (c) A resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded in accordance with clause 9.3.
- (d) Before a vote is taken, the President must inform the General Meeting whether any proxy votes have been received and how the proxy votes are to be cast on the resolution.
- (e) In the case of an equality of votes on a show of hands or on a poll, the President of the relevant General Meeting has a casting vote, in addition to any vote that the President may otherwise be entitled.



- (f) A declaration by the President that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting is conclusive evidence of that fact. Neither the President nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against the resolution.

### **9.3 Voting by poll**

- (a) A poll may be demanded by:
  - (i) the President; or
  - (ii) at least 3 Members Present entitled to vote on the resolution.
- (b) A poll may be demanded:
  - (i) before a vote is taken; or
  - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) A demand for a poll may be withdrawn.
- (d) Subject to clause 9.3(e), if a poll is demanded, it is to be taken in the manner and at the time the President directs.
- (e) A poll demanded on the election of a President or on a question of adjournment must be taken immediately.
- (f) The result of the poll will determine whether the resolution on which the poll was demanded is carried or lost.
- (g) A demand for a poll does not prevent a General Meeting from proceeding with any other business.

### **9.4 Objection to qualification to vote**

- (a) An objection to a person's right to vote at a General Meeting:
  - (i) may only be raised at the General Meeting or adjourned meeting at which the vote objected to is tendered; and
  - (ii) must be determined by the President of the meeting, whose decision is final.
- (b) A vote allowed after an objection is valid for all purposes.

### **9.5 Direct voting**

- (a) The Committee may determine that, at any General Meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to vote by direct vote in respect of that resolution. A direct vote includes a vote delivered to the Association by post or any other means approved by the Committee, subject to compliance with the Act.
- (b) Where clause 9.5(a) applies, the notice of meeting must indicate that direct voting is available at the relevant meeting or on particular resolutions.
- (c) The Committee may prescribe procedures in relation to direct voting, including (without limitation):

- (i) specifying the form, method and timing of casting a direct vote at a meeting for the vote to be valid; and
- (ii) the circumstances in which a direct vote may be withdrawn by the Member or deemed withdrawn.

## **10. Minutes**

- (a) The Committee must cause minutes to be made of:
  - (i) proceedings and resolutions of General Meetings of the Members and resolutions passed by Members without a meeting;
  - (ii) all appointments of Committee Members; and
  - (iii) proceedings and resolutions of Committee meetings and resolutions passed by the Committee without a meeting,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Act.
- (b) The Association must ensure that minutes are signed within a reasonable time after the date of the meeting or of the resolution being passed by:
  - (i) the President of the meeting;
  - (ii) the President of the next meeting; or
  - (iii) in the case of a resolution without a meeting, a Committee Member.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 10 is evidence of the matters shown in the minute.

## **11. Resolving disputes**

### **11.1 Application of disputes procedure**

The disputes procedure set out in this clause applies to disputes under or relating to this Constitution between:

- (a) a Member and another Member or Members; and
- (b) a Member or Members and the Association.

### **11.2 Disputes procedure**

- (a) The parties to the dispute must attempt to resolve the dispute (in person or by telephone, email, or any other means of communication) within 28 days after the dispute comes to the attention of all of the parties. In the case of a dispute involving the Association, the President or another Committee Member nominated by the President will represent the Association.
- (b) If the parties are unable to resolve the dispute within the 28 day period specified in clause 11.2(a), either party may initiate the dispute resolution procedure by giving a

written notice to the Executive Officer identifying the parties to the dispute and the subject of the dispute.

- (c) Within 28 days of receipt of a notice under clause 11.2(a), a Committee meeting must be convened to determine the dispute.
- (d) The Executive Officer must give the parties to the dispute at least 7 days' prior written notice of the Committee meeting, informing them that they may attend the meeting (in person or via telephone, video conferencing or any other available means of instant communication) and make oral or written submissions (or both).
- (e) At the Committee meeting, the Committee must:
  - (i) give each party to the dispute, or the party's Representative, a full and fair opportunity to make oral or written submissions and must give reasonable consideration to any submissions; and
  - (ii) determine the dispute, or if it thinks appropriate, refer the dispute to an alternative dispute resolution process.
- (f) Written notice of the Committee's decision regarding the dispute must be given to all parties to the dispute within 7 days after the Committee meeting.
- (g) Following the Committee's decision, any party to the dispute may request the dispute to be referred to mediation within 14 days of receipt of the notice under clause 11.2(f).

### **11.3 Mediation**

- (a) Where a dispute is referred to mediation under this Constitution, a mediator who is eligible in accordance with clause 11.3(b) must be appointed by:
  - (i) agreement between the parties to the dispute within 28 days of the referral; or
  - (ii) the Committee, if the parties fail to agree on the mediator within the period specified in clause 11.3(a)(i).
- (b) The person appointed as mediator may be a Member or former Member, but must not have any personal interest in the subject matter of the dispute, or be biased in favour of or against any party to the mediation.
- (c) The mediation must be commenced within 28 days after the mediator has been appointed and must be concluded within 1 month after the mediator has been appointed, unless otherwise agreed between the parties to the dispute.
- (d) The mediator's costs are to be paid by the party or parties to the mediation that requested the appointment of the mediator.
- (e) Each party must meet its own costs of and in connection with the mediation.
- (f) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation and must comply with requests by the mediator, including requests to provide evidence, attend meetings and pay the mediator's fees.
- (g) Unless otherwise agreed between the parties, the parties must exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the date on which the mediation is to occur.

- (h) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard;
  - (ii) allow due consideration by all parties of any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (i) The mediator must not determine the dispute.
- (j) The mediation must be confidential and without prejudice.
- (k) If the mediation process does not result in the dispute being resolved, the parties may apply to the State Administrative Tribunal (or any other appropriate body) to determine the dispute in accordance with the Act or otherwise at law.

#### **11.4 If dispute resolution results in decision to suspend or expel being revoked**

If a disputes procedure under this clause 11 takes place concerning the revocation of a Member's membership and the result of the disputes procedure is that the Member's membership is reinstated, that revocation decision does not affect the validity of any decision made at a Committee meeting or General Meeting during the period in which the Member's membership was purported to be revoked.

## **12. Committee**

### **12.1 The Committee**

- (a) The affairs of the Association will be managed by a Committee consisting of:
  - (i) the following office holders:
    - (A) a President;
    - (B) a Vice-President;
    - (C) a Treasurer; and
    - (D) any other office holders designated by the Committee from time to time; and
  - (ii) such number of ordinary Committee Members as the Committee thinks fit, provided that the total number on the Committee does not exceed 10.
- (b) As at the date of adoption of this Constitution, the Committee Members are as follows:
  - (i) President – Grantham Kitto
  - (ii) Vice President – Mark Fitzhardinge
  - (iii) Treasurer – Michael McAullay
  - (iv) Committee Member – Peter Leonhardt
  - (v) Committee Member – Phil Mostyn

- (vi) Committee Member – Cameron Shephard
- (vii) Committee Member – Ben Durham
- (viii) Committee Member – Keith Swinton
- (c) The Association in a General Meeting may by ordinary resolution alter the number of Committee Members, provided that the minimum number is not reduced below 5.

## **12.2 Powers of the Committee**

- (a) The Committee is responsible for managing the business of the Association and may exercise all powers of the Association which are not required by the Act or this Constitution to be exercised by the Association in a General Meeting.
- (b) Without limiting the generality of clause 12.2(a), the Committee may exercise all the powers of the Association to:
  - (i) acquire, hold, deal with, and dispose of any real or personal property;
  - (ii) open and operate bank accounts;
  - (iii) borrow money on terms and conditions as the Committee thinks fit;
  - (iv) invest money not immediately required for the Objects as the Committee thinks fit;
  - (v) grant security for the discharge of liabilities and obligations of the Association;
  - (vi) appoint agents to transact business on behalf of the Association; and
  - (vii) enter into any contract or arrangement.

## **12.3 Payments to Committee Members**

- (a) The Association must not pay fees to a Committee Member for acting as a Committee Member.
- (b) Clause 12.3(a) does not apply to any payments for out-of-pocket travel and accommodation expenses properly incurred in connection with the performance of the Committee Member's functions, including (but not limited to) attending Committee meeting and General Meetings.

## **13. Responsibilities of Committee Members**

### **13.1 Responsibilities of Committee Members and declaring interests**

- (a) Each Committee Member must exercise his or her powers and discharge his or her duties as Committee Member in accordance with the Act and all applicable laws.
- (b) A Committee Member who has a material personal interest in a matter which is or will be considered at a Committee meeting must, to the extent required by the Act:
  - (i) as soon as the Committee Member becomes aware of the interest, disclose to the Committee the nature and extent of the interest and how the interest relates to the activity of the Association;

- (ii) not be present while the matter is being considered at the Committee meeting or vote on the matter; and
  - (iii) ensure the nature and extent of the interest and how the interest relates to the activity of the Association is disclosed at the next General Meeting.
- (c) Clause 13.1(b) does not apply to any material personal interest that:
  - (i) exists only because the Committee Member:
    - (A) is an employee of the Association;
    - (B) is a member of a class of persons for whose benefit the Association is established; or
  - (ii) the Committee Member has in common with all, or a substantial proportion of, the Members.

## **13.2 President**

- (a) The Committee:
  - (i) must resolve to appoint a Committee Member to serve as President; and
  - (ii) may resolve to appoint a different Committee Member to serve as Vice-President.
- (b) The President will chair Committee meetings and General Meetings.
- (c) Where a Committee meeting is held and the President is not present or declines to act as chair, the Vice-President will chair the meeting and where the Vice-President is not present or declines to act, the Committee Members present must elect one of their number to chair the meeting.
- (d) Where a General Meeting is held and the President is not present or declines to act as chair, the Vice-President will chair the meeting and where the Vice-President is not present or declines to act, the Members present must elect a Committee Member present to chair the meeting.
- (e) Where a person is appointed to chair a meeting under rule 13.2(a) or 13.2(d), in relation to that meeting, references to the President in this Constitution include a reference to that person.

## **13.3 Treasurer**

The Treasurer's duties include:

- (a) coordinating the collection of amounts payable to the Association, crediting them to the appropriate account of the Association and issuing receipts on behalf of the Association;
- (b) paying out the funds of the Association in accordance with authority from the Committee or the Members;
- (c) ensuring the Association complies with all financial reporting obligations imposed on it under the Act, including (but not limited to):

- (i) keeping and retaining Financial Records in accordance with Division 2 of Part 5 of the Act;
- (ii) coordinating the preparation of the Association's Financial Report or Financial Statements in accordance with the applicable requirements of Division 3 of Part 5 of the Act, for submission to Members at the Annual General Meeting;
- (iii) where a review or audit of the Association's Financial Report or Financial Statements is being conducted, providing any assistance required by the auditor or reviewer;
- (iv) unless the Committee resolves otherwise, being responsible for the secure custody of the Association's Financial Records, Financial Reports and Financial Statements (as applicable), for at least 7 years after their creation;
- (d) reporting to the Committee on the financial status and performance of the Association; and
- (e) generally performing all duties incidental to the office of treasurer and such other duties as may be assigned to him or her by the Committee from time to time.

## **14. Election of Committee Members**

### **14.1 Eligibility**

- (a) Any person may become a Committee Member either:
  - (i) by election at an Annual General Meeting under clause 14.4; or
  - (ii) by appointment of the Committee under clause 16.2.
- (b) A person is eligible for election to the Committee only if they:
  - (i) are aged 18 or over;
  - (ii) are a Member;
  - (iii) are not disqualified from being an office holder of the Committee under sections 39 and 40 of the Act or any other legislation which applies to the Association; and
  - (iv) satisfy any eligibility requirements determined by the Committee from time to time.

### **14.2 Term of office**

The term of office of a Committee Member (**Term**):

- (a) begins when the member is elected at an Annual General Meeting under clause 14.4, or is appointed under clause 16.2; and
- (b) ends at the conclusion of the third Annual General Meeting after his or her appointment, or otherwise under clause 15.

### **14.3 Nomination of Committee Member**

- (a) A Member who wishes to be elected to the Committee must send a nomination to the Executive Officer at least 28 days before the Annual General Meeting, indicating whether they wish to nominate for an officeholder position or as a general Committee Member.
- (b) A nomination under clause 14.3(a) must be in writing in such form as is approved by the Committee from time to time and signed by the Member.
- (c) In the nomination form the Member must certify that they are eligible to be elected to the Committee in accordance with clause 14.1.

### **14.4 Election of Committee Members**

- (a) Subject to the Act, the Association may by resolution appoint or remove a Committee Member from the Committee.
- (b) The persons (if any) standing for election at each Annual General Meeting are any one or more of the following, as applicable:
  - (i) any Committee Member required to retire under clause 14.2(b) and standing for re-election;
  - (ii) any Committee Member required to retire under clause 16.2(b) and standing for election; or
  - (iii) a person standing for election as a new Committee Member who has nominated in accordance with clause 14.1.
- (c) A retiring Committee Member is eligible for re-election to any Committee position without needing to give any prior notice of an intention to submit for re-election and holds office as a Committee Member until the conclusion of the meeting at which the Committee Member retires.
- (d) There must be a separate election for each position on the Committee that is open for election, whether as office holder or ordinary Committee Member. No person may be elected to more than one position on the Committee.
- (e) If there is no nomination for any Committee position under rule 14.2, the President may call for nominations from the Members Present at the Annual General Meeting.
- (f) If only one person has nominated for any Committee position, the President must declare that person elected to the position.
- (g) If more than one person has nominated for a Committee position, the Members Present must vote to elect the Committee Member, in accordance with any procedures agreed by the Committee. A Member who has nominated for a Committee position may vote for himself or herself.
- (h) Any person elected to the Committee who has not completed a nomination in accordance with clause 14.3 must within 14 days confirm in writing to the Committee their eligibility under clause 14.1(b). If the person is not eligible, their appointment to the Committee is deemed not to have taken place.



## **14.5 Committee Register**

- (a) The Executive Officer (or any person authorised by the Committee) must keep and maintain a Committee Register in accordance with section 58 of the Act, including:
  - (i) the name; and
  - (ii) at least one of the residential address, business address, post office box address or email address,for each person identified in clause 14.5(b).
- (b) Clause 14.5(a) applies to:
  - (i) each Committee Member;
  - (ii) any other person who holds any office in the Association;
  - (iii) every person who is authorised to use the seal of the Association (if any); and
  - (iv) any person who is appointed or who acts as trustee on behalf of the Association.

## **14.6 Inspecting and copying the Committee Register**

- (a) The Committee Register is available for inspection free of charge by any current Member upon written request to the Executive Officer.
- (b) A Member may make a copy of entries in the Committee Register or take an extract but a Member does not have the right to remove the Committee Register for that purpose.
- (c) A Member must not use or disclose any information in the Committee Register for any purpose other than a purpose that:
  - (i) is directly connected with the affairs of the Association; or
  - (ii) relates to the administration of the Act.

## **15. Executive Officer**

### **15.1 Appointment**

- (a) Subject to the Act and this Constitution, the Committee may resolve to elect a person to the office of Executive Officer on such terms and on such remuneration as the Committee thinks fit.
- (b) The Executive Officer has a standing invitation to attend all meetings of the Committee and the Association.

### **15.2 Responsibilities**

The Executive Officer's responsibilities include:

- (a) preparing notices of meeting for Committee meetings and General Meetings;

- (b) keeping the minutes of Committee meetings and General Meetings and recording any resolutions passed by the Committee without a meeting;
- (c) maintaining the Register in accordance with section 53 of the Act and clause 7.1; and providing for Members to inspect the Register and take copies in accordance with the Act and clause 7.2;
- (d) recording in the relevant minutes disclosures of material personal interests of Committee Members made at Committee meetings and General Meetings;
- (e) maintaining records of Committee Members, any other office holders and any appointed trustees in accordance with section 58 of the Act and clause 14.5 and providing for Members to inspect these records and take copies in accordance with the Act and clause 14.6;
- (f) maintaining an up-to-date copy of this Constitution in accordance with section 35 of the Act and providing for Members to inspect this Constitution and take copies in accordance with the Act;
- (g) ensuring that all notices are duly given in accordance with this Constitution or as required by law;
- (h) unless the Committee resolves otherwise, being responsible for the secure custody of the books, records and documents of the Association, other than those required by clause 13.3 to be maintained by the Treasurer; and
- (i) generally performing all duties incidental to the office of Executive Officer and such other duties as may be assigned to him or her by the Committee from time to time.

## **16. Resignation and removal from office**

### **16.1 Vacancy on the Committee**

A Committee Member's term ends and that office becomes vacant if the Committee Member:

- (a) resigns by notice in writing delivered to the Executive Officer or, in the absence of the Executive Officer, to the President;
- (b) dies;
- (c) is or becomes ineligible to act as a Committee Member under clause 14.1;
- (d) becomes physically or mentally incapable of performing the Committee Member's duties and the Committee resolves that his or her office be vacated for that reason;
- (e) is absent from more than:
  - (i) 4 consecutive Committee meetings without leave of absence granted from the Committee; or
  - (ii) 4 Committee meetings in the same Financial Year without tendering an apology to the relevant President of each meeting, which apology is accepted by the President,

and the Committee determines that his or her office be vacated for that reason;

- (f) ceases to be a Member; or

- (g) is the subject of a resolution passed by Members terminating his or her appointment as a Committee Member.

## **16.2 Filling casual vacancies**

- (a) The Committee may in its discretion appoint a Member (who is eligible under rule 14.1(b)) at any time to fill a Committee position:
  - (i) that has become vacant under rule 16.1; or
  - (ii) that was not filled at the Annual General Meeting.
- (b) A Member appointed to the Committee under rule 16.2(a) holds office until the conclusion of the next Annual General Meeting, and is eligible for election to the Committee at that Annual General Meeting.

## **16.3 Return of books and records**

- (a) As soon as practicable after a Committee Member's term of office ends, that person (or if the Committee Member has died, their personal representative) must deliver to the Committee all books, records and documents of the Association in his or her possession, whether in hard copy or electronic format.

The Committee may require the outgoing Committee Member to certify in writing that, having complied with clause 16.3(a), he or she has destroyed all remaining electronic copies of books, records and documents of the Association.

## **17. Committee proceedings**

### **17.1 Calling and holding Committee meetings**

- (a) The Committee or a Committee Member may call a Committee meeting by giving reasonable notice to each Committee Member.
- (b) The Committee must meet at least 4 times per year.
- (c) The Committee may adjourn and otherwise regulate its meetings as it thinks fit.

### **17.2 Meetings by telecommunications**

Without limiting the Committee's power to regulate its meetings as it thinks fit, the Committee may hold a valid meeting using any medium by which each of the Committee Members can simultaneously hear all the other participants (including telephone, video conferencing or any other means of instant communication), and in that case:

- (a) the participating Committee Members are taken to be present at the meeting for the purposes of this Constitution;
- (b) the meeting is taken to be held where the President of the meeting is; and
- (c) all proceedings of the Committee conducted in accordance with this clause 17.2 are as valid and effective as if conducted at a meeting at which all of the Committee Members were present in person.

### **17.3 Quorum**

- (a) At a Committee meeting, the number of Committee Members whose presence is necessary to constitute a quorum is 5 Committee Members.
- (b) If any office on the Committee becomes vacant, the remaining Committee Members may act but, if the total number of remaining Committee Members is not sufficient to constitute a quorum at a Committee meeting, the Committee Members may act only for the purpose of increasing the number of Committee Members to a number sufficient to constitute a quorum or for the purpose of convening a General Meeting of the Association.

### **17.4 Guests at Committee meetings**

- (a) The Committee may invite a Member or any other person who is not a Committee Member to attend a Committee meeting.
- (b) A person invited to attend a Committee meeting under clause 17.4(a) has no right to receive any agendas, notices or papers relating to the Committee meeting; no right to vote; and no right to comment on any matters discussed at the Committee meeting without the Committee's consent.

### **17.5 Committee resolutions**

- (a) Subject to this Constitution, a resolution of the Committee must be passed by a majority of the votes of Committee Members present and entitled to vote on the resolution.
- (b) Each Committee Member has one vote.
- (c) In case of an equality of votes, the President has a second or casting vote in addition to his or her deliberative vote (if any).

### **17.6 Committee resolutions without a meeting**

The Committee may pass a resolution without a Committee meeting being held if all the Committee Members entitled to vote on the resolution:

- (a) sign a document (or separate identical copies of the document) containing a statement that they are in favour of the resolution set out in the document; or
- (b) confirm by email, text message or any other means approved by the Committee that they are in favour of the resolution, in accordance with any policies adopted by the Committee for this purpose.

### **17.7 By-laws**

- (a) The Committee has the power to make by-laws regulating the establishment, organisation and conduct of the Association, provided such by-laws are not inconsistent with this Constitution or the Act.
- (b) All by-laws made and in force from time to time are binding on the Members.

## **17.8 Acts valid despite defective appointment**

Subject to the Act, any act done at any Committee meeting by any person acting as a Committee Member, even if it is later discovered that there was some defect in the appointment of any such Committee Member or that the Committee Member was not eligible for election under clause 14.1, is valid as if the Committee Member had been duly appointed and was qualified to be a Committee Member.

## **17.9 Sub-committees**

- (a) The Committee may create sub-committees as it sees fit, consisting of such Members, Committee Members or other persons who are not Members as the Committee thinks fit. The Committee may delegate to any sub-committee the exercise of such functions of the Committee as are specified in the delegation other than:
  - (i) the power of delegation; and
  - (ii) a function which is a duty imposed on the Committee by the Act or any other law.
- (b) A sub-committee must exercise the powers granted to it in accordance with any direction of the Committee. Any power exercised in accordance with this clause 17.9(b) is taken to be exercised by the Committee.
- (c) Clauses 17.1, 17.2, 17.4 and 17.6 apply to any sub-committee as if each reference in those clauses to the Committee Members was a reference to the members of the sub-committee and each reference to a Committee meeting were to a sub-committee meeting.
- (d) Minutes of all the proceedings and decisions of every sub-committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Committee are required by the Act to be made, entered and signed.

## **18. Execution of documents**

### **18.1 Execution generally**

- (a) The Association may validly execute a document (including a deed) if the document is signed by a Committee Member and countersigned by another Committee Member or another person authorised by the Committee to countersign that document or a class of documents in which that document is included.
- (b) Clause 18.1(a) does not limit the Committee's ability to authorise a person who is not a Committee Member to execute a document for and on behalf of the Association.

### **18.2 Common seal**

- (a) The Association need not have or use a common seal to execute documents or deeds. The Committee may resolve whether or not the Association is to have or use a common seal.
- (b) Where the Association has a common seal, it must only be used with the authority of the Committee. The Executive Officer or any other Committee Member authorised by the Committee must ensure the safe custody of the seal.

- (c) The Executive Officer must record in a seal register details of every document to which the common seal of the Authority is fixed.

## **19. Notices**

### **19.1 How notice to be given**

- (a) All notices, including notices of meeting, may be given by the Association to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member's nominated address;
  - (iii) sending it by email to an email address nominated by the Member, or by any other electronic means nominated by the Member; or
  - (iv) giving it by any other means permitted or contemplated by the Act.

### **19.2 When notice is given**

A notice is deemed to be given by the Association and received by the Member:

- (a) if delivered in person, when delivered to the Member;
- (b) if posted, on the day after the date of posting to the Member, whether delivered or not;
- (c) if sent by facsimile transmission, on the day after the date of its transmission; or
- (d) if sent by email or other electronic means, on the day after the date of its transmission,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am (addressee's time) on the next Business Day.

## **20. Funds and accounts**

### **20.1 Control of funds**

- (a) The funds of the Association must be kept in an account or accounts in the name of the Association in a financial institution determined by the Committee.
- (b) The Committee is responsible for expenditure of the funds of the Association and may authorise the Treasurer or any other person to expend the funds of the Association within specified limits and any expenditure above those limits must be approved or ratified by the Committee.
- (c) The funds of the Association are to be used to do:
  - (i) anything which it considers will advance or achieve the Objects; and
  - (ii) all other things that are incidental to carrying out the Objects.
- (d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association are to be executed by:

- (i) any two Committee Members; or
  - (ii) any person or persons authorised by the Committee, within the expenditure limits set by the Committee.
- (e) All electronic payments by the Association are to be made or authorised by:
  - (i) the Treasurer; or
  - (ii) any person or persons authorised by the Committee, within the expenditure limits specified by the Committee.

## **20.2 Source of funds**

The Association may derive funds in any way permitted by the Act.

## **20.3 Financial Records**

- (a) The Association must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair Financial Statements to be prepared in accordance with Part 5 of the Act.
- (b) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.
- (c) The Association must allow the Committee Members and the auditor to inspect those accounts at all reasonable times.

## **20.4 Financial reporting, audit and review**

- (a) The Committee must cause the Association to comply with all financial reporting obligations imposed on it under the Act or any other applicable legislation.
- (b) Without limiting clause 20.4(a), the Committee must cause the Association to:
  - (i) if it is a tier 1 association, prepare annual Financial Statements, presented under Part 5 of the Act;
  - (ii) if it is a tier 2 association or tier 3 association, prepare an annual Financial Report, presented under Part 5 of the Act;
  - (iii) have its Financial Statements or Financial Report reviewed or audited (as applicable) if:
    - (A) it is required under the Act;
    - (B) it is directed by the Commissioner;
    - (C) the Members pass a resolution requiring it; or
    - (D) it is required as a condition of a funding arrangement; holding of a charitable collections licence or otherwise at law; and

- (iv) if required to be presented for consideration under Part 5 of the Act, present a copy of the report of the review or the auditor's report on the Financial Statements or Financial Report (as applicable) to the Annual General Meeting.

## **20.5 Financial Year**

The Financial Year of the Association is the 12 month period starting on 1 July.

## **20.6 Inspection of records**

- (a) Subject to the Act and to this Constitution, the Committee must determine whether and on what terms the books, records and other documents of the Association will be open to the inspection of Members other than Committee Members.
- (b) A Member other than a Committee Member does not have the right to inspect any document of the Association except as provided by the Act, or otherwise as authorised by the Committee or by the Association in General Meeting.

## **21. Indemnity and insurance**

### **21.1 Definition**

In this clause **Officer** has the meaning given in section 3 of the Act.

### **21.2 Association may indemnify Officers**

To the full extent permitted by law and without limiting the powers of the Association, the Association may indemnify any person who is or has been an Officer of the Association against all losses, liabilities, damages, costs, charges and expenses of any kind incurred by the Officer as an Officer of the Association.

### **21.3 Documentary indemnity and insurance policy**

To the extent permitted by the Act and any applicable law and without limiting the powers of the Association, the Committee may authorise the Association to, and the Association may, enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, an Officer of the Association, which indemnity or insurance policy may be in such terms as the Committee approves and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy.

## **22. Affiliation and membership of other similar organisations**

The Association may in a General Meeting determine to affiliate with or become a member of, or to accept affiliation or membership of, any organisation (including any regional or international association) having similar or like interests to the Association.

## **23. Winding up, cancellation and distribution of surplus property**

- (a) For the purposes of this clause **Surplus Property** has the meaning given in section 3 of the Act.



- (b) Subject to the Act, the Association may cease its activities and be wound up or cancelled in accordance with a Special Resolution.
- (c) Upon the winding up or cancellation of the Association, any Surplus Property will not be paid to or distributed among the Members, but will be distributed to one or more organisations listed in section 24(1) of the Act with objects similar to the Objects.

## **24. Variation or amendment of Constitution**

This Constitution may be varied, amended or rescinded from time to time by Special Resolution in accordance with Division 2 of Part 3 of the Act.

## **Schedule 1 – Initial Members**

Mr Grantham Kitto

Mr Michael McAullay

Mr Peter Leonhardt

Mr Phil Mostyn

Mr Mark Fitzhardinge

Mr Cameron Shephard

Mr Ben Durham

Mr Keith Swinton