

# Philanthropy Australia Inc.

## Rules

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Adopted on 15 April 2014

Approved with effect from 30 May 2014

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# Rules

## Philanthropy Australia Inc.

### An incorporated association

#### 1 Association's name

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The name of the association is Philanthropy Australia Inc. (**Association**).

#### 2 Purposes

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The Association's purposes are to advance philanthropy in Australia for public charitable benefit by, without limitation:

- (a) inspiring and supporting new philanthropists and the establishment of foundations supporting charities;
- (b) promoting the contribution of philanthropy and advancing public awareness of the work carried out by Australian philanthropists;
- (c) strengthening communication and partnerships between the philanthropic sector and the not-for-profit, business and government sectors;
- (d) providing information and resources, education and training to those seeking to understand, access and partner with the philanthropic sector;
- (e) consulting with and representing the interests of the philanthropic sector to Government, policy makers and others who have influence over the philanthropic sector in order to strengthen and grow the sector;
- (f) promoting strong and transparent governance in the philanthropic sector;
- (g) supporting philanthropists by providing training, information and development opportunities to foster best practice in giving and grant making for charitable purposes;
- (h) carrying out research and investigations; and
- (i) providing opportunities for networking and collaboration to increase the effectiveness of philanthropy.

#### 3 Powers

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Solely for carrying out the Association's purposes, the Association may:

- (a) raise funds through membership fees or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or by any other manner;

- (b) accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so;
- (c) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;
- (d) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- (e) invest, deal with and lend money and otherwise provide financial accommodation and guarantee or otherwise secure loans;
- (f) construct, improve, maintain, develop, work, manage and control real or personal property;
- (g) enter into contracts and deeds;
- (h) borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the Association's property (both present and future) and purchase, redeem or pay off those securities;
- (i) print and publish information in hard copy or by electronic means;
- (j) appoint patrons and honorary members of the Association;
- (k) co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums; and
- (l) do all other things for carrying out the purposes and that are incidental or conducive to the purposes.

## 4 Not for profit status

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### 4.1 Application of the Association's income and property

- (a) The Association's income and property must be applied solely towards promoting the Association's purposes.
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any of the members.
- (c) This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any Council member to the extent permitted by law and these Rules.

### 4.2 Payments to Council members

All payments to Council members must be approved by the Council including, but not limited to:

- (a) out-of-pocket expenses incurred by a Council member in performing a duty as a Council member of the Association; or

- (b) a service rendered to the Association by a Council member in a professional or technical capacity or as an employee, other than in the capacity as a Council member of the Association, where:
  - (1) the provision of the service has the prior approval of the Council; and
  - (2) the amount payable is not more than an amount which commercially would be reasonable payment for the service.

## 5 Membership

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### 5.1 Members

The members are:

- (a) the members under the existing Rules at the date of the adoption of these Rules; and
- (b) the members who are admitted to membership in accordance with this rule 5.

### 5.2 Eligibility

There are 3 classes of membership at the time of adoption of these Rules and the eligibility of each class is as set out below and as further expanded and applied by the Council in accordance with a Membership Policy adopted by the Council:

- (a) **Member** (all Full Members at the time of adoption of these Rules become Members): to be eligible to become a Member and remain a Member, the applicant must support, in the Council's opinion, the advancement of philanthropy and the Association's objects and must be able to demonstrate, in the Council's opinion, a contribution to the community through giving of money or property that is generally planned and ongoing.
- (b) **Associate** (all Associate Members at the time of adoption of these Rules become Associates): to be eligible to become an Associate and remain an Associate, the applicant must support, in the Council's opinion, the advancement of philanthropy and the Association's objects.
- (c) **Honorary Member** (all Honorary Members at the time of adoption of these Rules remain Honorary Members): to be appointed by invitation to individuals at the discretion of the Council.

### 5.3 Application

- (a) Every applicant for membership of the Association as a Member or an Associate must apply in the form and manner decided by the Council.
- (b) After the receipt of an application for membership, the Council, or a delegate approved by the Council, must consider the application and decide whether to admit or reject the admission of the applicant and decide the appropriate class of membership. The Council or its delegate need not give any reason for rejecting an application nor for the Council's decision as to the appropriate class of membership.
- (c) Honorary Members are appointed by invitation from the Council, at the discretion of the Council, on the terms and for the period decided by the Council.

#### 5.4 Change to membership class

- (a) The Council may at any time review a Member's eligibility to the class of membership and may request further information from the Member to be provided within a specified time frame.
- (b) If Council decides that a Member is no longer eligible as a Member, it may change the membership class to Associate and refund any excess money that may have been paid as a subscription fee, apportioned from the date the membership class is changed.

#### 5.5 Subscription fee

- (a) There are no entrance fees payable by members. Varying annual subscription fees may be decided by the Council. There are no fees payable by Honorary Members.
- (b) The Council must notify all persons entered on the register of members (other than Honorary Members) of the amount and time for payment of any annual subscription fee, any alteration to the annual subscription fee and may require confirmation or further information that a member still meets the requirements for that class of membership.
- (c) The Membership Policy or another policy may set out reasonable timeframes for any notification of late payments, suspension of membership rights and cessation of membership where the annual subscription fee is not received by the due date.

#### 5.6 Register of members

- (a) The Council must keep a register of members. The full name, address, class of membership and the date the membership commenced, of each member must be entered.
- (b) A member may request in writing to the Secretary to restrict access to the member's personal information on the register.
- (c) The date on which a person ceases to be a member of the Association, or on which the member's class of membership changes, must be entered in the register of members, within 14 days of the cessation or change of membership.
- (d) Information about a person who is no longer a member, other than the name of the person and the date on which the person ceased to be a member, must be removed from the register of members, within 14 days of the cessation of membership.
- (a) The register of members may be kept in any manner or form the Council thinks fit, so long as it is readily convertible to written or printed form.
- (e) The register of members (less any personal information the Secretary has agreed to restrict access to) must be available for inspection by members on the member providing reasons for the inspection and giving reasonable notice to the Association. The Council members may require the member to confirm in writing they will only use information for a proper purpose as permitted by the Act. The Council members may require a fee for any copy of the register provided.



- (f) All persons may treat the register of members as complete and accurate. Nothing done in good faith based on the completeness and accuracy of the register of members will be rendered ineffective, void or voidable by any subsequently discovered omission from, or inaccuracy in, the register of members.

## 5.7 Grievance procedure

- (a) Any dispute under these Rules between a member and another member or between a member and the Association must, unless the parties otherwise agree, be dealt with by the procedure in this rule 5.7.
- (b) Any party to a dispute between members, may refer the dispute to the Council for determination or mediation.
- (c) The Council may, subject to rule 5.7(e) below, act as a mediator or decision maker (provided they are unbiased) or may appoint a third party as a mediator or decision maker.
- (d) If there is a dispute between the Association and a member, either party may require the dispute be referred to mediation or for determination.
- (e) The mediator or decision-maker must be unbiased and:
- (1) a person chosen by agreement between the parties to the dispute; or
  - (2) in the absence of agreement within 14 days of a party requiring mediation:
    - (A) in the case of a dispute between a member and another member, a person appointed by the Council;
    - (B) in the case of a dispute between a member and the Association, a person who is a mediator or decision-maker appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice) or its successor in law or the Law Institute of Victoria or its delegate.
- (f) A member can be a mediator or decision-maker, provided they are unbiased.
- (g) Any party to a dispute may appoint any person to act on behalf of that party.
- (h) In each dispute:
- (1) the parties to the dispute must have a reasonable opportunity to be heard;
  - (2) due consideration must be given to any written statement submitted by a party; and
  - (3) natural justice must be accorded to the parties to the dispute throughout the process.
- (i) If the mediation process does not result in the dispute being resolved, within a reasonable time as decided by the mediator, or failing this decision, within one month of the party requiring mediation, any party to the dispute may refer the matter to an unbiased decision maker.
- (j) A determination made under this rule is final and binding on all parties to the dispute.

## 5.8 Rights, obligations and liabilities of members

- (a) The members have the rights set out in the Act and at law, as modified, deleted, varied or added to by these Rules.
- (b) The Members have the right to receive notices of general meetings, attend and vote at general meetings and ballots, and nominate and be nominated for Council.
- (c) The Associates have the right to receive notices of general meetings and attend and participate in discussion but not to vote at general meetings or by ballot.
- (d) The Honorary Members have the same rights as the Members.
- (e) Where a Member is a body corporate or a trust with more than one trustee, it may appoint representatives for:
  - (1) voting under clause 10.8;
  - (2) attending events or other occasions offered to Members; and
  - (3) the purposes of appointment or nomination to the Council.
- (f) The appointment of a representative must be in writing or other form permitted by the Council and notified to the Secretary. The appointment can be a standing appointment of representatives for all purposes or the Member may appoint a representative for one or more of the purposes in rule 5.8(e). The Member can vary the appointments by notice in writing or other form permitted by the Council, and notified to the Secretary.
- (g) The Council may allow a Member to appoint more than one representative for the purpose of rule 5.8(e) in relation to attending events or other occasions referred to in rule 5.8(e)(2) but in all other cases, only one representative can vote and only one representative may be nominated or appointed to Council.
- (h) The members are required to comply with these Rules and any by-rules, regulations, codes of conduct, policies or guidelines applicable to members adopted by the Council from time to time provided they are consistent with these Rules and made available to the members.
- (i) The liabilities of a member, as a member, are limited to the amount, if any, unpaid by the member in respect of any subscription or other membership fee.

## 6 When membership ceases

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### 6.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

- (a) dies;
- (b) resigns as a member by giving written notice to the Association;
- (c) becomes a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (d) becomes bankrupt or insolvent or makes any arrangement or composition with the member's creditors;
- (e) is expelled under rule 6.2; or

- (f) fails to pay the annual subscription fee by the due date or within the time allowed in any membership or other policy referred to in rule 5.5(c).

## 6.2 Disciplinary action

- (a) The Council members may decide there are grounds to discipline or expel a member if:
  - (1) a member has failed to comply with the Rules or any procedures or policies of the Association; or
  - (2) it is in the interests of the Association for a member to no longer remain a member; or
  - (3) the member is not supporting the purposes of the Association or by act or omission may cause detriment to the Association or its reputation.
- (b) If the Council decides there are grounds to discipline or expel a member, it may investigate the matters and make a decision in accordance with this rule, itself or by a sub-committee or by a third party, provided the decision maker is unbiased.
- (c) The decision maker must hold a meeting to consider the issues referred to in rule 6.2(a). At least two weeks before any meeting the decision maker must give the member written notice:
  - (1) stating the date, place and time of the meeting;
  - (2) setting out the issues; and
  - (3) informing the member that the member or a representative may attend the meeting and may give an oral and written explanation or submission.
- (d) The decision maker has 4 weeks to consider the issues from the date of the meeting and may call for further information and hearings. The decision maker may decide on the appropriate disciplinary action, if any, including a decision to expel the member. Any decision must be notified to the member by the Council within 6 weeks from the meeting referred to in rule 6.2(c).
- (e) A member who has received notice under rule 6.2(c) must not initiate a grievance procedure under rule 5.7 until the determination of the disciplinary procedure.
- (f) A determination by the decision maker is final and binding on all parties.

## 7 Winding up

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- (a) If, on the winding up or dissolution of the Association, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an organisation:
  - (1) that is charitable at law;
  - (2) whose constitution prohibits distributions or payments to its members to an extent at least as great as is outlined in rule 4; and
- (b) The identity of the organisation referred to in rule 7(a) must be decided by the Council, or if the Council does not wish to decide or does not decide, it must be

decided by the Members by ordinary resolution at or before the time of winding up or dissolution of the Association and, if the Members cannot decide, by the Supreme Court of Victoria.

## 8 Deductible Gift Recipient status

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### 8.1 Application of this rule

This rule only applies if the Association is a deductible gift recipient under ITAA97.

### 8.2 Establishment of Public Fund

- (a) There is established a public fund to be known as Philanthropy Australia's Public Fund (**Public Fund**) for the purpose of receiving Gifts and Deductible Contributions to the Association for the furtherance of the Association's purposes as set out in rule 2.
- (b) The Association must establish a bank account in the name of the Public Fund into which all Gifts and Deductible Contributions of money and money earned from the Gifts and Deductible Contributions must be deposited (**Public Fund Bank Account**). No other money is to be deposited into the Public Fund Bank Account.
- (c) The Association must invite the public to make Gifts and Deductible Contributions to the Public Fund.
- (d) The Public Fund must be operated in accordance with rule 4 and this rule 8.

### 8.3 Use of Public Fund

The Association must ensure that:

- (a) the Public Fund does not contain any property other than the Gifts and Deductible Contributions and all money (including interest) derived from money or property in the Public Fund; and
- (b) the Public Fund is only used in furtherance of the Association's purposes as set out in rule 2.

### 8.4 Winding up or ceasing to be a deductible gift recipient

- (a) At the first occurrence of:
  - (1) the winding up of the Association; or
  - (2) the Association ceasing to be a deductible gift recipient under the ITAA 97,
 any surplus assets of the Public Fund must be transferred to a fund, authority or institution:
  - (3) which is charitable at law;
  - (4) whose constitution prohibits distributions or payments to its members to an extent at least as great as is outlined in rule 4; and
  - (5) Gifts to which can be deducted under Division 30 of the ITAA 97.

- (b) The identity of the fund, authority or institution referred to in rule 8.4(a) must be decided by the Council, or if the Council does not wish to decide or does not decide, it must be decided by the Members by ordinary resolution and, if the Members do not decide, by the Supreme Court of Victoria.

## 8.5 Receipts

Receipts for Gifts and Deductible Contributions of money or property to the Public Fund must:

- (a) be issued in the name of the Public Fund; and
- (b) state the information required in the applicable provisions of section 30-228 of the ITAA 97.

## 8.6 Notifying the ATO

The Association must notify the Commissioner, as soon as practicable, of:

- (a) any changes to the purposes or the constitution or the Public Fund; and
- (b) any change to the name of the Association or the Public Fund.

## 8.7 Public Fund administration

- (a) The Public Fund must be administered by the Council. If there is not a majority of the Council who are Responsible Persons, the Council may delegate the power to administer the Public Fund to a committee of at least 3 people, the majority of whom are Responsible Persons.
- (b) If at any time the requirement in rule 8.7(a) is not met, the subcommittee must not exercise any discretion or power until the requirement is met, except:
  - (1) to protect the Public Fund; or
  - (2) in the case of urgency.
- (c) The Council may specify:
  - (1) the manner in which the committee's proceedings are to be conducted;
  - (2) the matters which the committee must have regard to in carrying out its functions; and
  - (3) any other matters concerning the committee or its functions that the Council decide.

## 8.8 Records and financial statements

- (a) The Association must keep and maintain proper books of account and records (which are written up in accordance with generally accepted accounting standards and principles consistently applied) relating to all receipts and outgoings for the Public Fund.
- (b) For each Financial Year, the Association must have financial statements (including a profit and loss account and balance sheet) prepared by a suitably qualified person (in accordance with generally accepted accounting standards and principles consistently applied) which detail the affairs of the Public Fund for that Financial Year.

## 9 Altering the Rules

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- (a) The Association must not pass a special resolution altering these Rules, if, as a result, the Association will cease to be a charity.
- (b) These Rules may only be altered, deleted or added to, in accordance with the Act.

## 10 General meetings

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### 10.1 Holding and calling general meetings

- (a) The Association must in each calendar year convene an annual general meeting of the members within 5 months of the end of the financial year.
- (b) A general meeting (including an annual general meeting or a special general meeting) may only be called:
  - (1) by a resolution of the Council;
  - (2) by a Council member under these Rules;
  - (3) on requisition in writing of not less than 15% of the Members setting out valid purposes for a special general meeting; or
  - (4) as otherwise provided in the Act.
- (c) If a special general meeting is validly requisitioned, the Council must send a notice of meeting within one month of receipt of the requisition. If it fails to do so then the requisitioners may send the notice in accordance with rules 10 and 15 so the meeting is held within 3 months of the receipt of the requisition. The reasonable costs of convening the meeting must be borne by the Association.

### 10.2 Notice of general meetings

- (a) At least 21 days' notice of every general meeting must be given in any manner authorised by rule 15 to each person who is at the date of the notice:
  - (1) a member;
  - (2) a Council member; or
  - (3) the Auditor, if any.
- (b) A notice of a general meeting must:
  - (1) specify the date, time and place of the meeting;
  - (2) state the general nature of the business to be transacted at the meeting;
  - (3) state in full any proposed special resolution and state that the resolution is being proposed as a special resolution; and
  - (4) specify the manner and time for the receipt of proxies and direct votes (if any) by Members and Honorary Members.
- (c) The non-receipt of notice of a general meeting or proxy form by any person entitled to receive notice of a general meeting does not invalidate any thing

done or resolution passed at the general meeting if the non-receipt or failure occurred by accident or error.

- (d) A person's attendance at a general meeting waives any objection to a failure to give notice, or the giving of a defective notice, of the meeting.
- (e) A member may give notice at any time to the Secretary of special business the member wishes to be raised at a general meeting. If the special business is valid and proper for raising at a general meeting, the Secretary will include it in the notice of meeting of the next general meeting. If the notice of meeting for the next general meeting has already been finalised or distributed, the business will be held over to the following general meeting.

### **10.3 Quorum at general meetings**

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of 10 members entitled to vote and present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting the meeting stands adjourned to the day, and at the time and place, that the Chairperson decides or, if the Chairperson does not make a decision, to the same day in the next week at the same time and place.
- (d) If at the adjourned meeting under rule 10.3(c), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

### **10.4 General meetings by technology**

- (a) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a meeting of the members, provided each member can clearly and simultaneously communicate with each other.
- (b) All the provisions in these Rules relating to meetings of the members apply, so far as they can and with any necessary changes, to meetings of the members by telephone or other electronic means.
- (c) A member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

### **10.5 Chairperson of general meetings**

- (a) The chairperson of the Council must preside as chairperson at a general meeting if:
  - (1) present within 30 minutes after the time appointed for the meeting; and
  - (2) willing to act.
- (b) If there is no chairperson of the Council or the conditions in rule 10.5(a) have not been met, the deputy chairperson (if any) must preside as chairperson at

the meeting (if present within 30 minutes after the time appointed for the meeting and willing to act).

- (c) If there is no chairperson or deputy chairperson of the Council present or willing to act as set out in rule 10.5(a) and (b), the Members and Honorary Members present must elect another chairperson of the meeting in accordance with rule 10.5(d).
- (d) A chairperson elected under rule 10.5(c) must be:
  - (1) another Council member who is present and willing to act; or
  - (2) if no other Council member present at the meeting is willing to act, a Member or Honorary Member who is present and willing to act.

## 10.6 Conducting and adjourning general meetings

- (a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original general meeting.
- (d) Except as provided by rule 10.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (e) Where a meeting is adjourned, the Council may change the venue of the adjourned meeting.

## 10.7 Decisions at general meetings

- (a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the Members and Honorary Members by direct votes (if permitted) and by those present at the meeting. Such a decision is for all purposes a decision of the members.
- (b) Where the votes on a proposed resolution are equal the chairperson of the meeting may exercise a second or casting vote.
- (c) The manner in which a resolution is put to the vote of a general meeting must be decided as the chairperson determines, unless before the vote is taken or before or immediately after the declaration of the result of the vote, a poll is demanded by:
  - (1) the chairperson of the meeting; or
  - (2) any Member or Honorary Member present.
- (d) A demand for a poll does not prevent a general meeting continuing for the transaction of any business except the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Association, is conclusive evidence of the



fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (f) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

## 10.8 Voting rights

- (a) Subject to these Rules, and to any rights or restrictions attached to any class of membership, every Member entitled to vote has one vote and every Honorary Member entitled to vote has one vote.
- (b) Each Member and Honorary Member entitled to vote at a meeting of members may vote:
  - (1) in person; or
  - (2) by proxy; or
  - (3) by direct vote (if expressly permitted by Council in the notice of general meeting); or
  - (4) where a Member is a body corporate or is a trust with more than one trustee, by its representative.
- (c) On a poll, a proxy or representative is entitled to a separate vote for each Member and Honorary Member the person represents, in addition to any vote the person may have as a Member or Honorary Member in his or her own right.
- (d) An objection to the qualification of a person to vote at a general meeting must be referred to the chairperson of the meeting, whose decision is final.
- (e) A vote not disallowed by the chairperson of a meeting is valid for all purposes.
- (f) The Council may decide to put resolutions (but not special resolutions) to the members for consideration and voting by ballot, without holding a general meeting, unless a meeting must be held under the Act. The Council may decide the manner in which the ballot will be held and will ensure it is accountable to the members in respect of the conduct of the ballot.

## 10.9 Member's proxy or representative/Honorary Member's proxy

- (a) Each proxy must be appointed by a Member or an Honorary Member, and each representative must be appointed by a Member, by notice in the form determined by or accepted by the Council and given to the Council no later than 24 hours before the time of the general meeting for which the proxy or representative is appointed.
- (b) A proxy or representative may, but need not, be a member of the Association.
- (c) A proxy or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Only one person may be a proxy or a representative to represent a Member at a particular meeting.

- (e) An instrument appointing a proxy or representative may direct the manner in which the proxy or representative is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or representative is not entitled to vote on the proposed resolution except as directed in the instrument.
- (f) Even though the instrument appointing a proxy or representative may refer to specific resolutions and may direct the proxy or representative how to vote on those resolutions, unless otherwise provided, it is taken also to confer authority:
  - (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
  - (2) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
  - (3) to act generally at the meeting.
- (g) The Council may waive all or any of the requirements for proxies or representatives, and in particular may, waive the time in which the proxy or instrument appointing a representative must be received, the form the instrument appointing a proxy or representative is in and, on the production of such other evidence as the Council requires to prove the validity of the appointment of a proxy or representative, accept:
  - (1) an oral appointment of a proxy or representative; or
  - (2) a copy (including a copy sent by fax or other electronic means) of an instrument appointing a proxy or representative or of the power of attorney or other authority under which the instrument is signed.
- (h) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution in person or by direct vote, the person acting as proxy for the appointer is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

### 10.10 Direct votes

- (a) A Member or Honorary Member who has cast a direct vote is entitled to attend a meeting. However, they are not able to vote on a poll or on a show of hands on resolutions the subject of the direct vote at that meeting. If a Member or Honorary Member attempts to cast more than one vote on a particular resolution the order of priority is:
  - (1) direct vote;
  - (2) a vote by a Member or Honorary Member present on a show of hands.
- (b) A direct vote may be in any form decided or accepted by the Council but is not valid unless the direct vote is received by the Secretary, no later than 24 hours before the time of the meeting or as otherwise specified in the notice of meeting.
- (c) The Chairperson must ensure that a certificate approved by the Secretary, of any direct votes received is available at the meeting ahead of any vote taken.
- (d) If a vote is taken at a meeting on a resolution on which a direct vote was cast, the Chairperson of the meeting must:
  - (3) where the meeting votes other than by a poll (i.e. on a vote on a show of hands) count each Member or Honorary Member who has

- submitted a direct vote for or against the resolution in accordance with their direct vote as well as the votes cast at the meeting; and
- (4) on a poll, count the votes cast by each Member or Honorary Member who has submitted a direct vote directly for or against the resolution.

## 11 Council members

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### 11.1 Composition of Council

- (a) The Council members will be those persons who were Council members immediately before the adoption of these Rules.
- (b) The minimum number of Council members is 4. The maximum number of Council members is to be fixed by the Council members, but may not be more than 15. The Council members must not determine a maximum which is less than the number of Council members in office at the time the determination takes effect.
- (c) Subject to Rule 11.1(d) the Council members may appoint any individual Member, representative of a Member, an Honorary Member or the Chief Executive Officer (CEO) as a Council Member, either to fill a casual vacancy or as an addition to the existing Council members, provided the number of Council members does not exceed the maximum number fixed under rule 11.1(b).
- (d) Other than the CEO, to be eligible to be nominated, elected or appointed as, and to continue to be, a Council member the person must:
- (1) be a Member or a representative of a Member or an Honorary Member;
  - (2) not be disqualified from managing a corporation under the *Corporations Act 2001* (Cth) nor from being a responsible entity under the *Australian Charities and Not for Profit Commission Act 2012* (Cth).
- (e) Subject to rule 11.6, the maximum term for a Council member (other than the Chairperson and CEO) is up to the first annual general meeting following the expiry of 9 years from the date of the Council member's appointment or election (whichever is the earliest). The chairperson may remain on the Council for a further term of up to 3 years, as the Council decides.
- (f) Any Council members who have served 9 years as at the date of adoption of these rules, may continue in office, notwithstanding rule 11.1(e), until the first annual general meeting following the adoption of these rules, at which time they will not be eligible for re-election.
- (g) After a break of at least 3 years from ceasing to be a Council member, a person who has served a maximum term is able to be re-appointed and re-elected.
- (h) Subject to rule 11.6, the Council members must retire from office as provided in rule 11.2.

### 11.2 Retirement of Council members by rotation

- (a) A Council member appointed by the Council members under rule 11.1(c) (other than the CEO) holds office only until the conclusion of the next annual general meeting following his or her appointment.

- (b) At every annual general meeting one third, or the number nearest to but not exceeding one third, of Council members (excluding the CEO and any Council members appointed under rule 11.1(c) as a casual vacancy or as an addition, and standing for election) must retire from office.
- (c) No Council member (other than the CEO and the chairperson, if the Council has extended his or her term under rule 11.1(e)) may hold office without re-election beyond the third annual general meeting following the meeting at which the Council member was last elected or re-elected.
- (d) The Council members to retire under rule 11.2(b) are those Council members who wish to retire and not offer themselves for re-election, those Council members required to retire under rule 11.2(c) and, so far as is necessary to obtain the number required, those who have been longest in office since their last election or appointment. As between Council members who were last elected or appointed on the same day, those to retire must, unless they can agree among themselves, be decided by lot.
- (e) The Council members to retire under rule 11.2(b) (both as to number and identity) is decided having regard to the composition of the Council on the date 7 days prior to either the date of the notice calling the annual general meeting or the date the ballot papers are to be sent, as applicable. A Council member is not required to retire and is not relieved from retiring because of a change in the number or identity of the Council members after the applicable date.
- (f) A Council member retiring from the Council (other than the CEO) is eligible for re-election subject to rules 11.1(e) and (f).
- (g) Elections can take place at the annual general meeting or by ballot prior to the meeting. If the number standing for re-election or election is equal or less than the number of vacancies, those standing for re-election and election are deemed re-elected and elected at the annual general meeting.
- (h) The retirement of a Council member from office and the re-election of the Council member or the election of another person to that office (as the case may be) takes effect at the conclusion of the annual general meeting at which the retirement and re-election or election occur, or is deemed to occur or, in the case of an election by ballot, the annual general meeting next following the determination of the ballot.

### 11.3 Nomination of Council members

- (a) Nominations of candidates for election as Council members will be called for at least **45** days prior to either the annual general meeting of the Association at which elections will be held or before a postal ballot will be held. The notice calling for nominations must list those Council members ceasing to be Council members and whether they are standing for re-election or election, the maximum number of Council members the Council has fixed under rule 11.1(b), and the date the nominations must be received by the Secretary.
- (b) The nominations must be:
  - (1) for a candidate who is eligible under rule 11.1(d); and
  - (2) made in writing, signed by two Members or Honorary Members, other than the candidate; and
  - (3) accompanied by a short biographical statement and the written consent of the candidate (which may be endorsed on the form of nomination); and

- (4) delivered to the Secretary before the date notified.

#### 11.4 Council positions

- (a) The Council members must elect a chairperson and a deputy chairperson and may decide the period for which that Council member is to hold the position.
- (b) The Council may elect other positions as and when the Council members decide and may decide the period for which that Council member is to hold that position.

#### 11.5 Removal of Council members

- (a) Subject to this rule, a special resolution may be passed at a general meeting, to remove any Council member (other than the CEO).
- (b) The Council member who is the subject of a proposed special resolution under rule 11.5(a) must be given at least 6 weeks' notice of the general meeting. The Council member may make a representation in writing to the chairperson or the deputy chairperson (not exceeding a reasonable length) and request that the representation be notified to the members and the chairperson or deputy chairperson must send a copy of the representation to each member if received at least 28 days before the general meeting and the Council member may require that it be read out at the general meeting, prior to the vote.

#### 11.6 Vacation of office

- (a) The office of a Council member becomes vacant if the Council member:
- (1) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);
  - (2) is found guilty of or convicted of an indictable offence punishable by imprisonment, whether or not a term of imprisonment is imposed;
  - (3) becomes a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
  - (4) is disqualified from managing a corporation, within the meaning of the *Corporations Act 2001* (Cth);
  - (5) is disqualified from being a responsible entity within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);
  - (6) is removed from office by special resolution of the members in accordance with rule 11.5;
  - (7) fails to attend meetings of the Council for at least 3 consecutive meetings or at least 4 meetings over a period of 12 months without leave of absence, unless the Council members subsequently decide to grant a leave of absence;
  - (8) resigns by written notice to the Association;
  - (9) is the CEO and ceases to hold the office of CEO;
  - (10) if, when appointed or elected, was a representative of a Member, ceases to be a representative of that Member; or

- (11) ceases to be a Member or Honorary Member or if the Council member is a representative, the Member who appointed the representative, ceases to be a Member.
- (b) All Council members cease to be in office if a statutory manager is appointed under the Act to conduct the affairs of the Association.

## 11.7 Council members' interests

- (a) Subject to rule 11.7(b), a Council member who has a perceived or actual material conflict of interest (including a material personal interest) in a matter being considered by the Council must:
  - (1) as soon as he or she becomes aware of his or her interest, disclose to the Council members the nature and extent of his or her interest and the relation of the interest to the activities of the Association; and
  - (2) where it is a material personal interest, disclose the nature and extent of the interest to the members at the next general meeting.
- (b) Rule 11.7(a) does not apply in respect of an interest that exists only by virtue of the fact that the Council member:
  - (1) is an employee of the Association;
  - (2) is a member of a class of persons for whose benefit the Association is established; or
  - (3) has the interest in common with all or a substantial proportion of the members.
- (c) A Council member who has a perceived or actual material conflict of interest in a contract, or proposed contract, with the Association, or who has a perceived or actual material conflict of interest in a matter being considered by the Council members, must not, unless Rule 11.7(b)(2) and (b)(3) applies:
  - (1) be present while the matter is being considered; or
  - (2) vote on the matter.
- (d) A disclosure under rule 11.7(a)(1) and (2) must be recorded in the minutes of the meetings at which the disclosure was made. This may be a standing notice of disclosure.
- (e) A contract is not liable to be avoided by the Association on any ground arising from the fiduciary relationship between the Council member and the Association and the Council member is not liable to account for profits derived from the contract, provided rules 11.7(a) and (c) have been complied with (if applicable) by the Council member.
- (f) If there are not enough Council members to form a quorum to consider a matter due to rule 11.7(c), any Council member (including a Council member with a perceived or actual material conflict of interest) may call a general meeting to consider the matter.
- (g) The Council members may make regulations or adopt a policy dealing with a conflict of interest, including requiring the disclosure of interests that a Council member, and any person considered by the Council members as related to or associated with the Council member, may have, or may be perceived to have, in any matter concerning or which may affect the Association, in any way.

## 11.8 Use of information or position

- (a) A Council member must not:
- (1) while a Council member; or
  - (2) after ceasing to be a Council member,
- knowingly or recklessly make improper use of information acquired by virtue of his or her position in the Association so as to:
- (3) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
  - (4) cause a detriment to the Association.
- (b) A Council member must not knowingly or recklessly make improper use of his or her position in the Association so as to:
- (1) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
  - (2) cause detriment to the Association.

## 11.9 Powers and duties of Council members

- (a) The Council members have the duties at law and as set out in the Act and in the regulations of the *Australian Charities and Not-for-profits Commission Act 2012*.
- (b) The Council members are responsible for managing the Association's affairs and carrying out the purposes of the Association in good faith and subject to the Act, the *Australian Charities and Not-for-profits Commission Act 2012* and these Rules.
- (c) The Council members may exercise, to the exclusion of the Association in general meeting, all the Association's powers which are not required, by the Act or by these Rules, to be exercised by the Association in general meeting.
- (d) The Council members may:
- (1) appoint or employ any person and delegate the powers, discretions and duties vested in or exercisable by the Council members, on the terms the Council members decide;
  - (2) subject to any contract between the Association and the relevant person, remove or dismiss the person at any time, with or without cause.

## 11.10 Proceedings of the Council

- (a) The Council members may meet together and adjourn and otherwise regulate their meetings as they think fit.
- (b) The simultaneous linking together by telephone or other electronic means of a sufficient number of the Council members to constitute a quorum constitutes a meeting of the Council members. All the provisions in these Rules relating to meetings of the Council members apply, so far as they can and with any necessary changes, to meetings of the Council members by telephone or other electronic means.
- (c) A Council member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.

- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the Council members involved was at that place for the duration of the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more Council members cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of Council members remains present, continue with the meeting.

### 11.11 Convening Council meetings

- (a) A Council member may convene a meeting of the Council members whenever he or she thinks a meeting is reasonably necessary.
- (b) The Secretary must, on the requisition of a Council member, convene a meeting of the Council members.

### 11.12 Notice of Council meetings

- (a) Subject to these Rules, reasonable notice of a meeting of the Council must be given to each person who is at the time of giving the notice a Council member, except a Council member on leave of absence approved by the Council members.
- (b) A notice of a Council meeting:
  - (1) must specify the time and place of the meeting;
  - (2) need not state the nature of the business to be transacted at the meeting;
  - (3) may be given immediately before the meeting; and
  - (4) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Council member may waive the requirement of notice of a meeting of Council members by notifying the Association to that effect in person or by post, telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of Council members by, or a failure to give notice of a meeting of Council members to, a Council member does not invalidate any thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) the Council member has waived or waives notice of that meeting under rule 11.13(c) before or after the meeting;
  - (3) the Council member has notified or notifies the Secretary or chairperson of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means before or after the meeting; or
  - (4) the Council member attended the meeting.
- (e) Attendance by a person at a meeting of Council members waives any objection which that person may have to a failure to give notice of the meeting.



### 11.13 Quorum at Council meetings

- (a) No business may be transacted at a Council meeting unless a quorum of Council members is present at the time the business is dealt with.
- (b) A quorum consists of at least 50% of Council members or 4 Council members, whichever is the greater number.
- (c) If the number of Council members in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of Council members fixed under these Rules, the remaining Council members must act as soon as possible to appoint additional Council members, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

### 11.14 Chairperson

- (a) The chairperson must preside as chairperson at each Council meeting if present within 10 minutes after the time appointed for the meeting and willing to act. If the chairperson is not present within 10 minutes after the time appointed for the meeting or is not willing to act, the deputy chairperson must preside as chairperson at the meeting (if present within 10 minutes after the time appointed for the meeting and willing to act).
- (b) If there is no chairperson or the conditions in rule 11.14(a) have not been met, the Council members present must elect one of the Council members as chairperson of the meeting.

### 11.15 Decisions of Council members

- (a) A meeting of Council members at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Council members under these Rules.
- (b) Questions arising at a meeting of Council members must be decided by a majority of votes cast by the Council members present. Such a decision is for all purposes a decision of the Council members.
- (c) Where the votes on a proposed resolution are equal the chairperson of the meeting may exercise a second or casting vote.

### 11.16 Written resolutions of Council members

- (a) A resolution is taken to have been passed by a meeting of Council members if:
  - (1) all of the Council members (other than any Council member on leave of absence approved by the Council members, any Council member who disqualifies himself or herself from considering the resolution in question and any Council member who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
  - (2) the Council members who sign or consent to the resolution would have constituted a quorum at a meeting of Council members held to consider that resolution.
- (b) A Council member may consent to a resolution by:
  - (1) signing the document containing the resolution (or a copy of that document);

- (2) giving to the Association at its registered address a written notice (including by fax or other electronic means) addressed to the Secretary or to the chairperson signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
- (3) telephoning the Secretary or the chairperson and signifying assent to the resolution and clearly identifying its terms.

### **11.17 Advisory councils**

The Council may establish one or more advisory councils. If so established, the composition, duties and responsibilities of any such advisory council will be set out in a policy, charter or resolution adopted by the Council members.

### **11.18 Committees of the Council**

- (a) The Council members may delegate any of their powers to one or more committees consisting of the number of Council members and other individuals they think fit.
- (b) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the Council.
- (c) The provisions of these Rules that apply to meetings and resolutions of Council members apply, so far as they can and with any necessary changes, to meetings and resolutions of any committee.

### **11.19 Validity of acts**

An act done by:

- (a) a person acting as a Council member;
- (b) a meeting of Council members; or
- (c) a committee under Rule 11.18,

is not invalidated merely because of one of the following circumstances, if that circumstance was not known by the person, the Council members or the committee (as applicable) when the act was done:

- (d) a defect in the appointment of the person as a Council member;
- (e) the person being disqualified to be a Council member or having vacated office; or
- (f) the person not being entitled to vote.

## **12 Secretary**

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### **12.1 Appointment**

- (a) The Council members must appoint a Secretary to hold the position subject to the Act and carry out the duties provided in the Act and any additional duties as decided by the Council members.
- (b) Before being appointed, the Secretary must:
  - (1) consent to the appointment;

- (2) be at least 18 years old; and
- (3) be a resident of Australia.
- (c) The Secretary may hold any other position or office in the Association but is not required to be a Council member nor a member of the Association.
- (d) Rule 11.8 relating to use of information or position applies to the Secretary as though he or she is a Council member.

## 12.2 Vacation of office

- (a) The office of a Secretary becomes vacant if the Secretary:
  - (1) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);
  - (2) is found guilty of or convicted of an indictable offence punishable by imprisonment, whether or not a term of imprisonment is imposed;
  - (3) becomes a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
  - (4) is removed from office by resolution of the Council members;
  - (5) resigns by written notice to the Association; or
  - (6) ceases to be a resident of Australia.
- (b) The Council members must appoint a new Secretary within 14 days of the office becoming vacant and provide notice as required under the Act.

## 13 Indemnity and insurance

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### 13.1 Persons to whom the indemnity and insurance apply

The indemnity and insurance referred to in this rule 13 apply to Indemnified Officers.

### 13.2 Indemnity

- (a) The Association must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an office holder of the Association.
- (b) This indemnity:
  - (1) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the Association; and
  - (2) operates only to the extent that the loss or liability in question is not covered by insurance.

### 13.3 Insurance

The Association may, to the extent permitted by law, purchase and maintain insurance; or pay or agree to pay a premium for insurance, for any Indemnified Officer against any

liability incurred by the person as an officer of the Association where the Council considers it appropriate to do so.

### **13.4 Savings**

Nothing in this rule 13:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- (b) limits the capacity of the Association to indemnify or provide or pay for insurance for any person to whom this rule 13 does not apply.

## **14 Financial records**

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### **14.1 Keep financial records**

- (a) The Council members must keep financial records that:
  - (1) correctly record and explain the Association's transactions and financial position and performance; and
  - (2) enable true and fair financial statements to be prepared as required by the Act or any other law.
- (b) The records must be retained for at least 7 years.

### **14.2 Tier one, tier two or tier three association**

- (a) Each year the Council must determine whether the Association is a tier one, tier two or tier three association in accordance with the Act and comply with the requirements of reporting, review and audit applicable to that tier as set out in the Act.
- (e) At the time of adoption of these Rules:
  - (1) Tier one has total revenue less than \$250,000 during the previous Financial Year;
  - (2) Tier two has total revenue of more than \$250,000 but less than \$1,000,000 during the previous Financial Year;
  - (3) Tier three has total revenue of more than \$1,000,000 during the previous Financial Year.

## **15 Notices**

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### **15.1 Notices by the Association to members**

The Association may give notices, including a notice of general meeting to a member:

- (a) personally;
- (b) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or

- (c) by sending it to the electronic address or fax number (if any) nominated by the member.

## 15.2 Notices by the Association to the Council members

Subject to these Rules, a notice may be given by the Association to any Council member by:

- (a) serving it personally at the Council member's usual residential or business address;
- (b) sending it by post in a prepaid envelope to the Council member's usual residential or business address; or
- (c) by electronic means or fax to such electronic address or fax number, as the Council member has supplied to the Association for giving notices.

## 15.3 Notices by member or Council member to the Association

Subject to these Rules, a notice may be given by a member or Council member to the Association by:

- (a) serving it on the Association at the registered address of the Association;
- (b) sending it by post in a prepaid envelope to the registered address of the Association; or
- (c) by electronic means or fax to the principal electronic address or fax number of the Association.

## 15.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
  - (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
  - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax, service of the notice is to be taken to be effected if the correct fax number appears on the fax report generated by the sender's fax machine and to have been effected at the time the fax is sent.
- (c) Where a notice is sent by electronic means by electronic messaging system that contains a delivery verification function, service of the notice is to be taken to be effected on the generation by the electronic messaging system of a delivery verification notice or log entry, or other confirmation.
- (d) Where notice is sent by electronic means by electronic mail or other electronic messaging system (other than those referred to in rule 15.4(c)), service of the notice is to be taken to be effected on the delivery to:
  - (1) where the addressee is a natural person, the addressee's electronic mail or electronic messaging system account; or
  - (2) where the addressee is a corporation, the corporation's computer systems.

- (e) If service under rules 15.4(b), 15.4(c) and 15.4(d) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day (addressee's time).
- (f) For the purposes of rule 15.4(e), **Business Day** means a day that is not a Saturday, Sunday or a public holiday or bank holiday in the place concerned.

## 15.5 Other communications and documents

Rules 15.1 to 15.4 (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

## 15.6 Notices in writing

A reference in these Rules to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

# 16 Source and management of funds

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- (a) The funds of the Association are to be derived from fees, subscriptions, gifts, sponsorships, donations, government grants, fundraising activities, investment income and such other sources as the Council determines.
- (b) The funds must be managed in a responsible manner as decided by the Council members.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed:
  - (1) as the Council members decide; or
  - (2) failing a decision, by any 2 Council members.

# 17 Records

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## 17.1 Custody of records

The Council or its delegate for this purpose must keep in its or their custody, or under its or their control, all records, books, documents and securities of the Association.

## 1.2 Minutes of meetings and minutes of resolutions

- (a) The Council members must ensure accurate minutes are recorded in books kept for the purpose of:
  - (1) proceedings of general meetings, of Council meetings and of committees of the Council; and
  - (2) resolutions put to Members, Council members and committee members.

- (b) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting as an accurate record, after the Council concurs the minutes are an accurate record.

## 17.2 Inspection of records

- (a) The Rules and the minutes of general meetings, including accounting records and financial statements submitted to that general meeting, must be made available for inspection by any member who gives the chairperson, the Secretary or delegate for this purpose, reasonable notice that the member wishes to inspect them.
- (b) The Council must give a member a copy of anything referred to in Rule 17.2(a) within 14 days of a written request from a member and payment of any reasonable fee set by the Council members.
- (c) A Member (other than a Council member) may apply in writing to the Council to have access to:
  - (1) minutes of Council meetings or meetings of committees;
  - (2) any resolutions of the Council or any committee;
  - (3) records, books, relevant documents or securities of the Association.
- (d) The application must state the Member's purpose of the access and specify how the Member will use the information.
- (e) The Council must review the application at the Council meeting following the receipt of the application, or if that is not practicable, at the next following Council meeting. The Council may request further information or written undertakings from the Member as to the use of the information. The Council may:
  - (1) agree to the application, subject to the Association's legal and other duties (including privacy, commercial confidentiality, governance) on such terms and conditions as it considers necessary, including setting access and time limits to control any disruption or inconvenience to management or volunteer time, and may require the Member to enter a confidentiality deed or deed restricting the use and disclosure, and any other conditions the Council considers necessary or desirable; or
  - (2) refuse the application in its absolute discretion without the need to provide reasons, if it considers it may not be in the interests of the Association, or any of the other entities referred to in the relevant documents, to allow the Member access.

## 17.3 Returning documents of the Association

Any person who has possession or control of documents that belong to the Association are required to return the documents to the Secretary within 28 days after the person ceases to be a member, or ceases to hold the position or role by virtue of which he or she had possession or control of the documents.

## 18 Common seal

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There is no common seal. Contracts and documents of the Association must be signed:

- (a) as authorised by the Council members; or
- (b) by any 2 Council members; or
- (c) by a Council member and the Secretary.

## 19 Definitions and interpretation

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### 19.1 Definitions

The meanings of the terms used in these Rules are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Act</b>	the <i>Associations Incorporation Act Reform 2012 (Vic)</i>
<b>Associate</b>	has the meaning in rule 5.2(b)
<b>Auditor</b>	the auditor of the Association for the purposes of audit or review under the Act
<b>Council</b>	the committee of management of the Association
<b>Commissioner</b>	the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97
<b>Deductible Contribution</b>	a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event held for the principal purpose of the Association
<b>Financial Year</b>	period of 12 months ending on 31 December.
<b>Gift</b>	a contribution of money or property as described in item 1 of the table in section 30-15 of the ITAA 97.
<b>Honorary Member</b>	has the meaning in rule 5.2(c).
<b>Indemnified Officer</b>	each person who is or has been a Council member or Secretary of the Association; and 1 any other officers or former officers of the Association as the Council members in each case decide; and



<b>Term</b>	<b>Meaning</b>
	2 an office holder of the Association within the meaning of the Act.
<b>ITAA 97</b>	the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>Member</b>	has the meaning in rule 5.2(a) and when the Member consists of a trust with more than one trustee, the trustees are taken as one Member.
<b>members</b>	all members being Members, Associates and Honorary Members (unless in the context it is a reference to Council members only).
<b>Membership Policy</b>	a policy covering eligibility, fees and other matters relating to Members as decided by the Council
<b>Responsible Person</b>	means an individual who: <ul style="list-style-type: none"> <li>3 performs a significant public function;</li> <li>4 is a member of a professional body having a code of ethics or rules of conduct;</li> <li>5 is officially charged with spiritual functions by a religious institution;</li> <li>6 is a director of a company whose shares are listed on the Australian Securities Exchange;</li> <li>7 has received formal recognition from government for services to the community;</li> <li>8 is an individual before whom a statutory declaration may be made; or</li> <li>9 is approved as a Responsible Person by the Commissioner.</li> </ul>
<b>Secretary</b>	the person occupying the office of secretary of the Association under the Act.

## 19.2 Interpretation

In these Rules:

- (a) references to notices include formal notices of meeting and all documents and other communications from the Association to its members;
- (b) a reference to any legislation or a provision of any legislation includes any amendment to that legislation or provision, any consolidation or replacement of that legislation or provision and any subordinate legislation made under that legislation;
- (c) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative either at the meeting or a participant by using technology as permitted under these Rules;

- (d) a reference to writing and written includes printing, lithography and other ways of representing or reproducing words in a visible form; and
- (e) the singular (including defined terms) includes the plural and the plural includes the singular.

### **19.3 Headings**

Headings are used for convenience only and do not affect the interpretation of these Rules.

## **20 Application of the Act**

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### **20.1 What parts of the Act apply?**

Unless the contrary intention appears:

- (a) an expression used in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
- (b) subject to rule 20.1(a), an expression in a rule that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

### **20.2 Model Rules**

The provisions of these Rules displace each provision of the Model Rules, except to the extent required by the Act.