

RULES OF THE ASSOCIATION ESPERANCE SONSHINE BROADCASTERS INC

Trading as 103.9HopeFM Esperance Community Radio

Adopted at a Special General Meeting held 31st
August 2024



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RULES of the ASSOCIATION

1. Name of the Association

The name of the Association is Esperance Sonshine Broadcasters Inc

2. Objects of the Association

The objects of the Association are:

- I. To establish, acquire and operate a Community Radio Station based on Christian principles, to broadcast quality music, items of general interest and news for the enjoyment, encouragement and the wellbeing of the Esperance and surrounding regional community.
- II. To encourage the appreciation of moral, compassionate and Christian values and to promote and advance a compassionate culture, and community interests as will be for the common good.
- III. To apply for and hold licences under the provisions of the ~~Federal Radio Communications~~ Australian Communications and Media Authority (ACMA) and Broadcasting Services Acts of 1992.
- IV. To develop and maintain DGR endorsement with the Australian Taxation Office in the category of a Cultural Organisation.
- V. Under section 14 of the Act the Association may do all things necessary or convenient for carrying out its objects or purposes.

PART 1 — PRELIMINARY

3. Terms used.

In these rules, unless the contrary intention appears —

Act means the *Associations Incorporation Act 2015*;

associate member means a member with the rights referred to in rule 10(6);

Association means the incorporated association to which these rules apply;

books, of the Association, includes the following —

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

by laws means by-laws made by the Association under rule 70;

chairperson means the Committee member holding office as the chairperson of the Association;

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

committee means the management committee of the Association;

committee meeting means a meeting of the committee;

committee member means a member of the committee;

financial records includes —

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

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

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

financial year, of the Association, has the meaning given in rule 4;

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

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

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

ordinary member means a member with the rights referred to in rule 10(5);

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

rules means these rules of the Association, as in force for the time being;

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

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

special resolution means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

subcommittee means a subcommittee appointed by the committee under rule 54:

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

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

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

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

4. Financial year

- (1) The first financial year of the Association is to be the period notified to the Commissioner under section 7(4)(e) or, if relevant, section 29(5)(e) of the Act.
 - (a) The association's financial year will be the period of 12 months commencing on the **1st of January and ending on the 31st of December of each year.**
 - (b) Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination.

PART 2 — ASSOCIATION TO BE NOT FOR PROFIT BODY

5. Not-for-profit body

- (1) The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (3).
- (3) A payment to a member out of the funds of the Association is authorised if it is —
 - (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
 - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
 - (c) the payment of reasonable rent to the member for premises leased by the member to the Association; or
 - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

PART 3 — MEMBERSHIP

Division 1 — Membership

6. Members

- (1) As per Section 4 and 17 of the Act, the Association must always have at least 6 members with full voting rights

- (2) As per Section 19 of the Act, a member of the management committee, trustee or member of the association is not liable in respect of the liabilities of the association, except for their own outstanding membership fees payable under rule 14.

7. Membership Eligibility

- (1) A person is eligible to be a member of the association if:
- (a) the person
 - (i) is willing to support the objects or purposes of the Association;
 - (ii) has applied for membership of the association as provided by rule 8; and
 - (iii) has been approved for membership of the association by the committee of the association;
 - (b) the person has not ceased to be a member of the association at any time after incorporation of the association under the Act; or
- (2) An individual who has not reached the age of 15 years is not eligible to apply for a class of membership that confers full voting rights.

8. Application for Membership

- (1) An application for membership of the association
- (a) shall be made by the applicant in writing in the form agreed by the management committee and
 - (b) shall be lodged with the secretary of the association.
- (2) As soon as practicable after receiving an application for membership, the secretary shall refer the application to the committee which shall determine whether to approve or reject the application. An application may only be rejected if:
- (i) there are reasonable grounds to believe that the applicant would not support the objectives of the association or follow the rules of the organisation;
 - (ii) required by law; or
 - (iii) there are reasonable grounds to believe that the applicant would not abide by the Community Broadcasting Codes of Practice, or
 - (iv) there are reasonable grounds to believe that the applicant would pose a security risk to the members or premises of the association-
- (3) Where the committee resolves -
- (a) to approve an application for membership, the secretary shall, as soon as practicable after that resolution, notify the applicant of that approval and request the applicant to pay within the period of 28 days after receipt by the applicant of the notification the sum payable under these rules by a member as membership fee.

(b) to reject an application for membership, the applicant shall have the right of reply and appeal under rule 22(1) and 23. Where the applicant exercises the right of reply the resolution of the committee is of no effect unless the committee, at a meeting held not earlier than 14 days and not later than 28 days after the service on the applicant of a notice under rule 22(1), confirms the resolution in accordance with this rule.

(4) The secretary shall -

(a) on payment by the applicant of the amounts referred to in clause (3) within the period referred to in that clause; or

(b) upon resolution of the committee to reject an application being overturned on reply or appeal and payment of the required membership fee by the applicant; enter the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association.

(5) The applicant becomes a member, when rule 8(4) has been fulfilled, and is entitled to exercise all the rights and privileges of membership, including the right to vote (if applicable), and must comply with all of the obligations of membership under these rules.

9 Members are to receive rules – under section 36(1)(b) of the Act.

- (1) The association must make available to each person who becomes a member of the association a copy of the rules in force at the time their membership commences.
- (2) The association may provide a copy of the rules to members by electronic transmission or, provide the details for the website where the rules may be downloaded. A hard copy must be provided if a member requests that the rules be provided in that manner.

10 Classes of membership

- (1) The Association consists of ordinary members and any associate members provided for under subrule (2).
- (2) The Association may have any class of associate membership approved by resolution at a general meeting, including junior membership, senior membership, honorary membership and life membership.
- (3) An individual who has not reached the age of 15 years is only eligible to be an associate member.
- (4) A person can only be an ordinary member or belong to one class of associate membership.

- (5) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the committee.
- (a) Each ordinary member of the Association has one vote at a general meeting of the Association.
- (6) An associate member has the rights referred to in subrule (5) other than full voting rights.
- (7) Each ordinary member of the Association that is a representative of a member organisation or body corporate has one vote at a general meeting.
- (8) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.
- (9) Under sections 4 and 17 of the Act an association must always have at least 6 members with full voting rights.

11 When membership ceases

- (1) A person ceases to be a member when any of the following takes place —
 - (a) for a member who is an individual, the individual dies;
 - (b) for a member who is a body corporate, the body corporate is wound up;
 - (c) the person resigns from the Association under rule 12;
 - (d) the person is expelled from the Association under rule 20;
 - (e) the person ceases to be a member under rule 14(4).
- (2) The secretary must keep a record, for at least one year after a person ceases to be a member, of —
 - (a) the date on which the person ceased to be a member; and
 - (b) the reason why the person ceased to be a member.

12 Resignation

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

13 Rights not transferable

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

Division 2 — Membership fees

14 Membership fees

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

15 Members' Liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by rule 14.

Division 3 — Register of members

16 Register of members

- (1) The secretary, or another person authorised by the committee, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
 - (a) Under Section 53 of the Act, any change to the register must be recorded within 28 days after the change occurs.
 - (b) Under Section 53 (2) of the Act the register of members must include each member's name and a residential, postal or email address.

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

the committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.
- (6) The member has no right to remove the register from the address it is located for the purpose of making a copy or taking an extract of the register.
- (7) The management committee reserves the right to determine a reasonable charge for providing a copy of the membership register.

PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

Division 1 — Term used.

17 Term used: member.

In this Part —

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

Division 2 — Disciplinary action

18 Disciplining of members

- (1) A complaint may be made by any member of the association that some other member of the association:
 - (a) has persistently refused or neglected to comply with a provision or provisions of these rules; or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association.

- (2) On receiving such a complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned; and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint; and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (3) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.

19 Suspension or expulsion

- (1) The committee may decide to suspend a member's membership or to expel a member from the Association if —
 - (a) the member contravenes any of these rules; or
 - (b) the member acts detrimentally to the interests of the Association.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the committee meeting at which the proposal is to be considered by the committee.
- (3) The notice given to the member must state —
 - (a) when and where the committee meeting is to be held; and
 - (b) the grounds on which the proposed suspension or expulsion is based; and
 - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion;
- (4) At the committee meeting, the committee must —
 - (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and
 - (b) give due consideration to any submissions so made; and
 - (c) decide —
 - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
 - (ii) whether or not to expel the member from the Association.
- (5) A decision of the committee to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The committee must give the member written notice of the committee's decision, and the reasons for the decision, within 7 days after the committee meeting at which the decision is made.

- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Committee's decision under subrule (6), give written notice to the secretary requesting the appointment of a mediator under rule 29.
- (8) If notice is given under subrule (7), the member who gives the notice and the committee are the parties to the mediation.

20 Consequences of suspension

- (1) During the period a member's membership is suspended, the member —
 - (a) loses any rights (including voting rights) arising as a result of membership; and
 - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (2) When a member's membership is suspended, the secretary must record in the register of members —
 - (a) that the member's membership is suspended; and
 - (b) the date on which the suspension takes effect; and
 - (c) the period of the suspension.
- (3) When the period of the suspension ends, the secretary must record in the register of members that the member's membership is no longer suspended.

21 Right of reply of rejected applicant or disciplined member.

- (1) Where the committee passes a resolution under rule 8(3)(b) or rule 18(3), the secretary shall, as soon as practicable, cause a notice in writing to be served on the applicant or member subject of the resolution-
 - (a) setting out the resolution of the committee and the grounds on which it is based;
 - (b) stating that the applicant or member subject of the resolution may address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after the service of the notice;
 - (c) stating the date, place and time of that meeting; and
 - (d) informing the applicant or member subject of the resolution that he may do either or both of the following:
 - (i) attend and speak at that meeting;
 - (ii) submit to the committee at or prior to the date of that meeting written representations relating to the resolution.
- (2) At a meeting of the committee held as referred to in clause (1) the committee shall-
 - (a) give the applicant or member subject of the resolution an opportunity to make oral representations.
 - (b) give due consideration to any written representations submitted to the committee by the applicant or member subject of the resolution at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or to revoke the resolution.

- (3) Where the committee confirms a resolution under clause (2), the secretary shall, within 7 days after that confirmation, by notice in writing inform the applicant or member subject of the resolution of the reasons for the confirmation and of the right of appeal under rule 22.
- (4) A resolution confirmed by the committee does not take effect:
 - (a) until the expiration of the period within which the applicant or member subject of the resolution is entitled to appeal against the resolution where the applicant or member subject of the resolution does not exercise the right of appeal within that period; or
 - (b) where within that period the applicant or member subject of the resolution exercises the right of appeal, unless and until the association confirms the resolution under rule 22(4), whichever is the later.

22 Right of appeal of rejected applicant or disciplined member.

- (1) A rejected applicant or member may appeal to the association at a general meeting against a resolution of the committee under rule 18, within 7 days after notice of the resolution is served on the rejected applicant or member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the rejected applicant or member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a rejected applicant or member under clause (1), the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under clause (3):
 - (a) no business other than the question of the appeal is to be transacted; and
 - (b) the committee and the rejected applicant or member must be given the opportunity to state their respective cases orally or in writing, or both; and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) If at the general meeting the association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

Division 3 — Resolving disputes.

23 Terms used.

In Division 3 – Resolving disputes:

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person –

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

24 Application of Division

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

- (a) between members; or
- (b) between one or more members and the Association.

25 Parties to attempt to resolve dispute.

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

26 How grievance procedure is started

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 19, any party to the dispute may start the grievance procedure by giving written notice to the secretary of —
 - (a) the parties to the dispute; and
 - (b) the matters that are the subject of the dispute.
- (2) Within 28 days after the secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.
- (3) The secretary must give each party to the dispute written notice of the committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (4) The notice given to each party to the dispute must state —
 - (a) when and where the committee meeting is to be held; and
 - (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute.
- (5) If —
 - (a) the dispute is between one or more members and the Association; and
 - (b) any party to the dispute gives written notice to the secretary stating that the party —
 - (i) does not agree to the dispute being determined by the committee; and
 - (ii) requests the appointment of a mediator under rule 23,the committee must not determine the dispute.

27 Determination of dispute by committee

- (1) At the committee meeting at which a dispute is to be considered and determined, the committee must —
 - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and
 - (b) give due consideration to any submissions so made; and
 - (c) determine the dispute.
- (2) The committee must give each party to the dispute written notice of the committee's determination, and the reasons for the determination, within 7 days after the committee meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the committee's determination under subrule (1)(c), give written notice to the secretary requesting the appointment of a mediator under rule 23.
- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

Division 4 — Mediation

28 Application of Division

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator —
 - (a) by a member under rule 15(7); or
 - (b) by a party to a dispute under rule 20(5)(b)(ii) or 21(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 23.

29 Appointment of mediator

- (1) The mediator must be a person chosen —
 - (a) if the appointment of a mediator was requested by a member under rule 15(7) — by agreement between the Member and the committee; or
 - (b) if the appointment of a mediator was requested by a party to a dispute under rule 20(5)(b)(ii) or 21(3) — by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the committee must appoint the mediator.
- (3) The person appointed as mediator by the committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
 - (a) a member under rule 15(7); or
 - (b) a party to a dispute under rule 20(5)(b)(ii); or
 - (c) a party to a dispute under rule 21(3) and the dispute is between one or more members and the Association.
- (4) The person appointed as mediator by the committee may be a member or former member of the Association but must not —
 - (a) have a personal interest in the matter that is the subject of the mediation; or
 - (b) be biased in favour of or against any party to the mediation.

30 Mediation process

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must —
 - (a) give each party to the mediation every opportunity to be heard; and
 - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and

- (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.
- (7) Section 182(1) of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the Association's Rules.

31 If mediation results in decision to suspend or expel being revoked

If —

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 15(7); and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

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

PART 5 — COMMITTEE

Division 1 — Powers of Committee

32 Committee

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

Division 2 — Composition of Committee and duties of members

33 Committee members

- (1) The committee members consist of —
 - (a) the office holders of the Association; and
 - (b) between one (1) and four (4) ordinary committee member each of whom is to be elected at the annual general meeting of the association under rule 40.
- (2) The following are the office holders of the Association —
 - (c) the chairperson;
 - (d) the deputy chairperson;
 - (e) the secretary;
 - (f) the treasurer.
- (3) The committee must consist of a minimum of 5, and no more than 9 members in total.
- (4) The committee must determine the maximum number of members who may be ordinary committee members.
- (5) The maximum term of a management committee member is 12 years, or as determined by the members at a general meeting.
- (6) A management committee member may not serve more than four (4) consecutive terms in any one position, where a term is two (2) years,
- (7) Each member of the committee is, subject to these rules, to hold office until the conclusion of the annual general meeting following the date of the member's election but is eligible for re-election.
- (8) A person may be a committee member if the person is —
 - (g) an individual who has reached 18 years of age; and
 - (h) an ordinary member.
- (9) A person must not hold 2 or more of the offices mentioned in subrule (3) at the same time.
- (10) As per section 39 of the Act the following persons must not, without leave of the Commissioner, accept an appointment or act as a member of a management committee of an Association, and therefore cannot be a member of this association;
 - (i) A person who is, according to the Interpretation Act 1984 section 13D, a bankrupt or person whose affairs are under insolvency laws;
 - (j) A person who has been convicted, within or outside the State of Western Australia, of:
 - i. An indictable offence in relation to the promotion, formation or management of a body corporate; or
 - ii. An offence involving fraud or dishonesty punishable by imprisonment for period of not less than three months; or
 - iii. An offence under Part 4 Division 3 or section 127 or the Act.

Note that Section 39 only applies to a person who has been convicted of the above offences only for a period of 5 years from the time of the person's conviction, or if the conviction results in a term of imprisonment, from the time of the person's release from custody.

- (11) Section 3 of the Act provides for the definition of 'officer'. The duties provisions will apply to committee members and to those persons who have the ability to influence the management committee but who do not hold a formal committee position.
- (12) As per Section 44 of the Act, an officer of the association must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise if that person;
 - (a) Were an officer of the association in the association's circumstances, and
 - (b) occupied the office held by, and had the same responsibilities within the association as, the officer.
- (13) As per Section 45 of the Act, an officer of the association must exercise his or her powers and discharge his or her duties;
 - (c) In good faith in the best interests of the Association, and
 - (d) For proper purpose.
- (14) As per Section 46 of the Act, an officer of the Association must not improperly use his or her position to;
 - (e) Gain an advantage for the officer or another person; or
 - (f) Cause detriment to the Association.
- (15) As per Section 47 of the Act, a person who obtains information because the person is or has been an officer of the Association must not improperly use the information to:
 - (g) Gain advantage for that person or another person, or
 - (h) Cause detriment to the Association.

34 Chairperson

- (1) It is the duty of the chairperson to consult with the secretary regarding the business to be conducted at each committee meeting and general meeting.
- (2) The chairperson has the powers and duties relating to convening and presiding at committee meetings and presiding at general meetings provided for in these rules.

35 Secretary

The Secretary has the following duties —

- (a) dealing with the Association's correspondence;
- (b) consulting with the chairperson regarding the business to be conducted at each committee meeting and general meeting;
- (c) preparing the notices required for meetings and for the business to be conducted at meetings;

- (d) unless another member is authorised by the committee to do so, maintaining on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (e) maintaining on behalf of the Association an up-to-date copy of these rules, as required under section 35(1) of the Act;
- (f) unless another member is authorised by the committee to do so, maintaining on behalf of the Association a record of committee members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
- (g) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (h) maintaining full and accurate minutes of committee meetings and general meetings;
- (i) carrying out any other duty given to the secretary under these rules or by the committee.

36 Treasurer

The treasurer has the following duties —

- (a) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (b) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the committee;
- (c) ensuring that any payments to be made by the Association that have been authorised by the committee or at a general meeting are made on time;
- (d) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (e) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (f) if the Association is a tier 1 association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
- (g) if the Association is a tier 2 association or tier 3 association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;
- (h) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
- (i) carrying out any other duty given to the treasurer under these rules or by the committee.

Division 3 — Election of committee members and tenure of office

37 How members become Committee members

A member becomes a committee member if the member —

- (a) is elected to the committee at a general meeting; or
- (b) is appointed to the committee by the committee to fill a casual vacancy under rule 38.

38 Nomination of committee members

- (1) At least 42 days before an annual general meeting, the secretary must send written notice to all the members —
 - (a) calling for nominations for election to the committee; and
 - (b) stating the date by which nominations must be received by the secretary to comply with subrule (2).
- (2) A member who wishes to be considered for election to the committee at the annual general meeting must nominate for election by sending written notice of the nomination to the secretary at least 28 days before the annual general meeting.
- (3) The written notice must include a statement by another member in support of the nomination.
- (4) A member may nominate for one specified position of office holder of the Association or to be an ordinary committee member.
- (5) A member whose nomination does not comply with this rule is not eligible for election to the committee unless the member is nominated under rule 33(2) or 34(2)(b).

39 Election of office holders

- (1) At the annual general meeting, a separate election must be held for each position of office holder of the Association.
- (2) If there is no nomination for a position, the chairperson of the meeting may call for nominations from the ordinary members at the meeting.
- (3) If only one member has nominated for a position, the chairperson of the meeting must declare the Member elected to the position.
- (4) If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide who is to be elected to the position.
- (5) Each ordinary member present at the meeting may vote for one member who has nominated for the position.
- (6) A member who has nominated for the position may vote for himself or herself.

- (7) On the member's election, the new chairperson of the Association may take over as the chairperson of the meeting.

40 Election of ordinary committee members

- (1) At the annual general meeting, the Association must decide by resolution the number of ordinary committee members (if any) to hold office for the next year.
- (2) If the number of members nominating for the position of ordinary committee member is not greater than the number to be elected, the chairperson of the meeting —
 - (a) must declare each of those members to be elected to the position; and
 - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (3) If —
 - (a) the number of members nominating for the position of ordinary committee member is greater than the number to be elected; or
 - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,

the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide the members who are to be elected to the position of ordinary committee member.

- (4) A member who has nominated for the position of ordinary committee member may vote in accordance with that nomination.

41 Term of office

- (1) The term of office of a committee member begins when the member —
 - (a) is elected at an annual general meeting or under subrule 42(3)(b); or
 - (b) is appointed to fill a casual vacancy under rule 44.
- (2) Subject to rule 43, a committee member holds office until the positions on the committee are declared vacant at the next annual general meeting.
- (3) A committee member may be re-elected.

42 Resignation and removal from office

- (1) A committee member may resign from the committee by written notice given to the secretary or, if the resigning member is the secretary, given to the chairperson.
- (2) The resignation takes effect —
 - (a) when the notice is received by the secretary or chairperson; or
 - (b) if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Association may by resolution —
 - (a) remove a committee member from office; and
 - (b) elect a member who is eligible under rule 33(8) to fill the vacant position.

- (4) A committee member who is the subject of a proposed resolution under subrule (3)(a) may make written representations (of a reasonable length) to the secretary or chairperson and may ask that the representations be provided to the members.
- (5) The secretary or chairperson may give a copy of the representations to each member or, if they are not so given, the committee member may require them to be read out at the general meeting at which the resolution is to be considered.

43 When membership of committee ceases

- (1) A person ceases to be a committee member if the person —
 - (a) dies or otherwise ceases to be a member; or
 - (b) resigns from the committee or is removed from office under rule 36; or
 - (c) becomes ineligible to accept an appointment or act as a committee member under section 39 of the Act;
 - (d) becomes permanently unable to act as a committee member because of a mental or physical disability; or
 - (e) fails to attend 3 consecutive Committee meetings, of which the person has been given notice, without having notified the Committee that the person will be unable to attend.
- (2) When a person ceases to be a member of the Association’s Management Committee, as per Section 41 of the Act, that person is required to, as soon as practicable after their membership ceases, deliver to a member of the committee all of the relevant documents and records they hold pertaining to the management of the association’s affairs.

44 Filling casual vacancies

- (1) The committee may appoint a member who is eligible under rule 33(8) to fill a position on the committee that —
 - (a) has become vacant under rule 42; or
 - (b) was not filled by election at the most recent annual general meeting or under rule 42(3)(b).
- (2) If the position of secretary becomes vacant, the committee must appoint a member who is eligible under rule 33(8) to fill the position within 14 days after the vacancy arises.
- (3) Subject to the requirement for a quorum under rule 45, the committee may continue to act despite any vacancy in its membership.
- (4) If there are fewer committee members than required for a quorum under rule 51, the committee may act only for the purpose of —
 - (a) appointing committee members under this rule; or
 - (b) convening a general meeting.

45 Validity of acts

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

46 Payments to committee member

- (1) In this rule —
committee member includes a member of a subcommittee;
committee meeting includes a meeting of a subcommittee.
- (2) A committee member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —
 - (a) in attending a committee meeting or
 - (b) in attending a general meeting; or
 - (c) otherwise in connection with the Association's business.

Division 4 — Committee meetings

47 Committee meetings

- (1) The committee must meet at least 3 times in each year on the dates and at the times and places determined by the committee.
- (2) The date, time and place of the first committee meeting must be determined by the committee members as soon as practicable after the annual general meeting at which the committee members are elected.
- (3) Special committee meetings may be convened by the chairperson or any 2 committee members.

48 Notice of committee meetings

- (1) Notice of each committee meeting must be given to each committee member at least 48 hours before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (3) Unless subrule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if the committee members at the meeting unanimously agree to treat that business as urgent.

49 Procedure and order of business

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

50 Use of technology to be present at committee meetings

- (1) The presence of a committee member at a committee meeting need not be by attendance in person but may be by that committee member and each other

committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

- (2) A member who participates in a committee meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

51 Quorum for committee meetings

- (1) A quorum for the conduct of the business of a committee meeting is half plus one of the elected committee members for that term.
- (2) Subject to rule 44(4), no business is to be conducted at a committee meeting unless a quorum is present.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting —
 - (a) in the case of a special meeting — the meeting lapses; or
 - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (4) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of a committee meeting held under subrule (2)(b); and
 - (b) at least 2 committee members are present at the meeting,those members present are taken to constitute a quorum.

52 Voting at committee meetings

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

53 Minutes of committee meetings

- (1) The committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following —
 - (c) the names of the committee members present at the meeting;
 - (d) the name of any person attending the meeting under rule 49(5);
 - (e) the business considered at the meeting;
 - (f) any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The minutes of a committee meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (4) The chairperson must ensure that the minutes of a committee meeting are reviewed and signed as correct by —
 - (a) the chairperson of the meeting; or
 - (b) the chairperson of the next committee meeting.
- (5) When the minutes of a committee meeting have been signed as correct, they are, until the contrary is proved, evidence that —
 - (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any appointment purportedly made at the meeting was validly made.
- (6) As per Section 42 (6) of the Act, any details relating to the disclosure of a committee member's material personal interest in a matter being considered at a committee meeting must be recorded in the minutes of that meeting.

Division 5 — Subcommittees and subsidiary offices

54 Subcommittees and subsidiary offices

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

55 Delegation to subcommittees and holders of subsidiary offices

- (1) In this rule —

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

PART 6 — GENERAL MEETINGS OF ASSOCIATION

56 Annual general meeting

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

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

57 Special general meetings

- (1) The committee may convene a special general meeting.
- (2) The committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.
- (3) The members requiring a special general meeting to be convened must —
- (a) make the requirement by written notice given to the secretary; and
 - (b) state in the notice the business to be considered at the meeting; and
 - (c) each sign the notice.
- (4) The special general meeting must be convened within 28 days after notice is given under subrule (3)(a).
- (5) If the committee does not convene a special general meeting within that 28-day period, the members making the requirement (or any of them) may convene the special general meeting.
- (6) A special general meeting convened by members under subrule (5) —
- (a) must be held within 3 months after the date the original requirement was made; and
 - (b) may only consider the business stated in the notice by which the requirement was made.

- (7) The Association must reimburse any reasonable expenses incurred by the members convening a special general meeting under subrule (5).

58 Notice of general meetings

- (1) The secretary or, in the case of a special general meeting convened under rule 57(5), the members convening the meeting, must give to each member —
 - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must —
 - (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the committee under rule 38(2); and
 - (d) if a special resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution; and
 - (iii) comply with rule 59(7).
- (3) As per Section 51(1) of the Act, a resolution is a special resolution if it is passed;
 - (a) At a general meeting of the Association, and
 - (b) Was agreed by votes of not less than three-fourths of the members of the association who cast a vote at the general meeting.

59 Proxies

- (1) Subject to subrule (2), an ordinary member may appoint an individual who is an ordinary member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) An ordinary member may be appointed the proxy for only one other member.**
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy **must** give specific directions as to how the proxy is to vote on his or her behalf.
- (5) If the committee has approved a form for the appointment of a proxy, the member may use that form or any other form —
 - (a) that clearly identifies the person appointed as the member's proxy; and
 - (b) that has been signed by the member.
- (6) Notice of a general meeting given to an ordinary member under rule 58 must —

- (a) state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and
 - (b) include a copy of any form that the committee has approved for the appointment of a proxy.
- (7) A form appointing a proxy must be given to the secretary before the commencement of the general meeting for which the proxy is appointed.

60 Use of technology to be present at general meetings

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

61 Presiding member and quorum for general meetings

- (1) The chairperson or, in the chairperson's absence, the deputy chairperson must preside as chairperson of each general meeting.
- (2) If the chairperson and deputy chairperson are absent or are unwilling to act as chairperson of a general meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present.
- (4) A quorum for the conduct of business at a general meeting shall be, twice the number of management committee members plus one (1), members personally present (being members entitled to vote under these rules at a general meeting).
- (5) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting —
 - (a) in the case of a special general meeting — the meeting lapses; or
 - (b) in the case of the annual general meeting — the meeting is adjourned to —
 - (i) the same time and day in the following week; and
 - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (6) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (4)(b); and
 - (b) at least 2 ordinary members are present at the meeting, those members present are taken to constitute a quorum.

62 Adjournment of general meeting

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned —
 - (a) if there is insufficient time to deal with the business at hand; or
 - (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 58.

63 Voting at general meeting

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

- (a) must have been an ordinary member at the time notice of the meeting was given under rule 58; and
- (b) must have paid any fee or other money payable to the Association by the member.

64 When special resolutions are required

- (1) A special resolution is required if it is proposed at a general meeting —
 - (a) to affiliate the Association with another body; or
 - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (2) Subrule (1) does not limit the matters in relation to which a special resolution may be proposed.
- (3) As per the Act, a special resolution is required if the Association proposes to do any of the following:
 - (a) to adopt these model rules (Section 29(1) of the Act);
 - (b) to alter its rules, including changing the name of the association (section 30(1) of the Act);
 - (c) to decide to apply for registration or incorporation as a prescribed body corporate (section 93(1) of the Act);
 - (d) to approve the terms of an amalgamation with one or more other incorporated associations (section 102(4) of the Act);
 - (e) to be wound up voluntarily (section 121(2)) or by the Supreme Court (section 124(a) and Schedule 4 item 9 of the Act);
 - (f) to cancel its incorporation (section 129 of the Act).

65 Determining whether resolution carried

- (1) In this rule —

poll means the process of voting in relation to a matter that is conducted in writing.
- (2) Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
 - (a) carried; or
 - (b) carried unanimously; or
 - (c) carried by a particular majority; or
 - (d) lost.
- (3) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy —

- (a) the poll must be taken at the meeting in the manner determined by the chairperson;
 - (b) the chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.
- (7) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

66 Minutes of general meeting

- (1) The secretary, or a person authorised by the committee from time to time, must take and keep minutes of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must record —
- (a) the names of the ordinary members attending the meeting; and
 - (b) any proxy forms given to the chairperson of the meeting under rule 53(8); and
 - (c) the financial statements or financial report presented at the meeting, as referred to in rule 56(3)(b)(ii) or (iii); and
 - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 56(3)(b)(iv).
- (4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by —
- (a) the chairperson of the meeting; or
 - (b) the chairperson of the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct, they are in the absence of evidence to the contrary, taken to be proof that —
- (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any election or appointment purportedly made at the meeting was validly made.

PART 7 — FINANCIAL MATTERS

67 Source of funds

The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the committee.

68 Control of funds

- (1) The Association must open accounts in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) Subject to any restrictions imposed at a general meeting, the committee may approve expenditure on behalf of the Association.
- (3) The committee may authorise the treasurer to expend funds on behalf of the Association up to a specified limit set by the management committee without requiring approval from the committee for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by —
 - (a) 2 committee members; or
 - (b) one committee member and a person authorised by the committee.
- (5) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.

69 Financial statements and financial reports

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

- (3) As per Section 66 of the Act, the Association must keep financial records that:-
 - (a) Correctly record and explain the transactions and financial position and performance of the association, and
 - (b) Enable true and fair financial statements to be prepared in accordance with Part 5 Division 3 of the Act.
- (4) As per Section 67 of the Act, the association must retain its financial records for at least 7 years after the transactions covered by the records are completed.

PART 8 — GENERAL MATTERS

70 By-laws

- (1) The Association may, by resolution at a general meeting, make, amend or revoke by-laws.
- (2) By-laws may —
 - (a) provide for the rights and obligations that apply to any classes of associate membership approved under rule 10(2); and
 - (b) impose restrictions on the committee’s powers, including the power to dispose of the association’s assets; and
 - (c) impose requirements relating to the financial reporting and financial accountability of the association and the auditing of the association’s accounts; and
 - (d) provide for any other matter the association considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (4) Without limiting subrule (3), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (5) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

71 Executing documents and common seal

- (1) The Association may execute a document without using a common seal if the document is signed by —
 - (a) 2 committee members; or
 - (b) one committee member and a person authorised by the committee.
- (2) If the Association has a common seal —
 - (a) the name of the Association must appear in legible characters on the common seal; and,
 - (b) a document may only be sealed with the common seal by the authority of the committee and in the presence of —

- (i) 2 committee members; or
 - (ii) one committee member and a person authorised by the committee, and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) The secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept in the custody of the secretary, or another committee member authorised by the committee.

72 Giving notices to members

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

73 Custody of books and securities

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

74 Record of office holders

- (1) The record of committee members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the secretary's custody or under the secretary's control.
- (2) As per Section 58 of the Act, the association must maintain a record of:
- (a) The names and addresses of the persons who are members of the management committee; or hold other offices of the association provided for by these rules
 - (b) The names and addresses of any person who is authorised to use the common seal of the association; and
 - (c) The name and address of any persons who are appointed or acts as a trustee on behalf of the association.

- (3) As per Section 58 of the Act, any record maintained by the association as per subrule (1), may be made available for members of the association to inspect, make a copy of or take an extract from the said record; however,
 - (a) Any person who inspects, makes a copy or takes an extract from the said record must not disclose the information except for authorised purposes.

75 Inspection of records and documents

- (1) Subrule (2) applies to a member who wants to inspect —
 - (a) the register of members under section 54(1) of the Act; or
 - (b) the record of the names and addresses of committee members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
 - (c) any other record or document of the association.
- (2) The member must contact the secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the member wants to inspect a document that records the minutes of a committee meeting, the right to inspect that document is subject to any decision the committee has made about minutes of committee meetings generally, or the minutes of a specific committee meeting, being available for inspection by members.
- (5) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.
- (6) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose —
 - (a) that is directly connected with the affairs of the Association; or
 - (b) that is related to complying with a requirement of the Act.

76 Publication by committee members of statements about Association business prohibited.

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

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

77 The Association will seek to maintain DGR endorsement with the Australia Taxation Office under the category of advancing culture.

As per the [Australian Taxation Office and ACNC](#) guidelines:

- 1) The Association will establish and maintain a [gift](#) fund.
- 2) Donations will be deposited into the [gift](#) fund [as required by the Australian Taxation Officer](#). These monies will be kept separate from other funds of the Association and will only be used to further the principal purpose of the Association. Investment of monies in this fund will be made in accordance with guidelines for [gift](#) funds as specified by the Australian Taxation Office.
- 3) The fund will be administered by a management committee or a subcommittee of the management committee.
- 4) No monies/assets in this fund will be distributed to members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- 5) The Department responsible for the administration of the [Association's DGR endorsement](#) will be notified of any proposed amendments or alterations to provisions for the [gift](#) fund, to assess the effect of any amendments on the [gift](#) fund's continuing Deductible Gift Recipient status.
- 6) Receipts for gifts to the gift fund must state:
 - (a) that the receipt is for a gift made to the [gift](#) fund;
 - (b) the Australian Business Number of the company;
 - (c) the fact that the receipt is for a gift; and
 - (d) any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.
- 7) The [Association](#) must comply with any [rules and regulations related to DGR endorsement](#) to ensure that gifts made to the gift fund will only be used for the company's principal purpose.
- 8) If upon the winding-up or dissolution of the [gift](#) fund [with DGR endorsement](#) there remains after satisfaction of all its debts and liabilities, any surplus property or funds, the surplus property or funds shall not be paid to or distributed among its members, but shall be given or transferred to [another gift](#) fund, authority or institution having objects similar to the objects of this [gift](#) fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations ([DGR endorsement under the category of advancing culture](#))

78 Distribution of surplus property on cancellation of incorporation or winding up.

- (1) In this rule
 - **surplus property**, in relation to the Association, means property remaining after satisfaction of —
 - (a) the debts and liabilities of the Association; and
 - (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,but does not include books relating to the management of the Association.
- (2) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act, providing that it is an organisation with similar objects, that is charitable at law.
- (3) In addition, on the cancellation of the incorporation or the winding up of the Association, any distribution of funds or property must adhere to the directions set out in Section 77(8) of these rules.

79 Alteration of rules.

- (1) If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.
- (2) As per Section 31 of the Act, the Association is required to obtain the Commissioner's approval if the alteration of its rules has effect to change the name of the Association.
- (3) As per Section 33 of the Act the Association is required to obtain the Commissioner's approval if the alteration of these rules is to alter;
 - (a) the objects or the purposes of the association, or
 - (b) the manner in which surplus property of the association is to be distributed or dealt with if the Association is wound up or its incorporation cancelled.
- (4) Amendments to Rules of the Association will not take effect until the required documents are lodged with the Commissioner, even if the amendments do not require the approval of the Commissioner under Section 31 or 32 of the Act.
- (5) The required documents are to be lodged within one month after the special resolution is passed.

APPENDIX 1

(Rule 59(5))

FORM OF APPOINTMENT OF PROXY

I, _____ (full name)

of _____ (address)

being a member of Esperance Sonshine Broadcasters Inc (HopeFM)

hereby appoint _____ (full name of proxy)

of _____ (address)

being a member of Esperance Sonshine Broadcasters Inc (HopeFM), as my proxy to vote for me on my behalf at the general meeting of the association (annual general meeting or special general meeting, as the case may be) to be held on the _____ day of _____ 20 _____ and at any adjournment of that meeting.

Signature of member appointing proxy _____

Date _____

NOTE: A proxy vote may not be given to a person who is not a member of the association.