

BALCOMBE ESTUARY RESERVES GROUP MT MARTHA INCORPORATED

RULES 2013

Updated 27 October 2018

Under section 46 of the Associations Incorporation Reform Act 2012, these Rules are taken to constitute the terms of a contract between the Association and its members.

PART 1—PRELIMINARY

1 Name

The name of the incorporated association is “Balcombe Estuary Reserves Group Mt Martha Incorporated”. No A0034645Y.

2 Purposes

To preserve and restore the precious ecology of the Balcombe Estuary and Reserves through our technical expertise and passionate volunteerism.

3 Financial year

The financial year of the Association is each period of 12 months ending on 30 June.

4 Definitions

In these Rules—

absolute majority, of the Committee, means a majority of the committee members currently holding office (as distinct from a majority of committee members present at a committee meeting);

associate member means a member referred to in rule 14(1);

Chair, of a general meeting or committee meeting, means the person chairing the meeting as required under rule 45;

Committee means the Committee having management of the business of the Association;

committee meeting means a meeting of the Committee held in accordance with these Rules;

committee member means a member of the Committee elected or appointed under Division 3 of Part 5;

disciplinary appeal meeting means a meeting of the members of the Association who are entitled to vote convened under rule 22(3);

disciplinary meeting means a meeting of the Committee convened for the purposes of rule 21;

financial year means the 12 month period specified in rule 3;

joining fee means the amount determined from time to time under rule 12(3);

general meeting means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting and a special general meeting but does not include a disciplinary appeal meeting;

member means a member of the Association;

member entitled to vote means a member who under rule 13(3) is entitled to vote at a general meeting;

special resolution means a resolution that requires at least three-quarters of the members to vote in favour of it to be passed;

the Act means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act;

the Registrar means the Registrar of Incorporated Associations.

PART 2—POWERS OF ASSOCIATION

5 Powers of Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to the attainment of its purposes.
- (2) Without limiting subrule (1), the Association may—
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on any terms and in any manner as it thinks fit;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf;
 - (g) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6 Association must not secure pecuniary profit for members

The Association must not secure pecuniary profit for the members.

PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1—Membership

7 Minimum number of members

The Association must have at least 5 members.

8 Eligibility

Any person who supports the purposes of the Association is eligible for membership.

9 Application for membership

- (1) To apply to become a member of the Association, a person must submit a written application to a committee member stating that the person—
 - (a) wishes to become a member of the Association; and
 - (b) supports the purposes of the Association; and
 - (c) agrees to comply with these Rules.
- (2) The application—
 - (a) must be signed by the applicant; and
 - (b) may be accompanied by the joining fee.

10 Consideration of application

- (1) As soon as practicable after an application for membership is received, the Committee must decide by resolution whether to accept or reject the application.

- (2) The Committee must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) If the Committee rejects the application, it must return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.

11 New membership

- (1) If an application for membership is approved by the Committee—
 - (a) the resolution to accept the membership must be recorded in the minutes of the committee meeting; and
 - (b) an authorised designate of the BERG Mt Martha Committee must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.
- (2) A person becomes a member of the Association and is entitled to exercise his or her rights of membership from the date, whichever is the later, on which—
 - (a) the Committee approves the person's membership; or
 - (b) the person pays the joining fee.

12 Annual subscription and joining fee

- (1) At each annual general meeting, the Association must determine—
 - (a) the amount of the annual subscription (if any) for the following 12 months; and
 - (b) the date for payment of the annual subscription.
- (2) The Association may determine that a lower annual subscription is payable by associate members.
- (3) The Association may determine that any new member who joins must pay a joining fee equal to—
 - (a) the full annual subscription; or
 - (b) a fixed amount determined from time to time by the Association.
- (4) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.

13 General rights of members

- (1) A member of the Association who is entitled to vote has the right—
 - (a) to receive notice of general meetings and special resolutions in the manner and time prescribed by these Rules; and
 - (b) to submit items of business for consideration at a general meeting; and
 - (c) to attend and be heard at general meetings; and
 - (d) to vote at a general meeting.
 - (e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 74; and (f) to inspect the register of members.
- (2) A member is entitled to vote if—
 - (a) the member is a member other than an associate member; and (b) more than 10 working days have passed since he or she became a member of the Association; and
 - (c) the member's membership has not been suspended for any reason.

14 Associate members

- (1) An associate member of the Association includes—
 - (a) members under the age of 15 years; and
 - (b) any other category of member as determined by resolution at a general meeting.

- (2) An associate member must not vote but may have other rights as determined by the Committee or by resolution at a general meeting.

15 Rights not transferable

The rights of a member are not transferable and end on the cessation of the membership.

16 Cessation of membership

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, without delay, enter the date the person ceased to be a member in the register of members.

17 Resignation

- (1) A member may resign by written notice addressed and posted to the Association or given personally to a committee member.
- (2) A member is taken to have resigned if—
- (a) the member's annual subscription is more than 12 months in arrears; or
 - (b) if no annual subscription is payable—
 - (i) the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
 - (ii) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

18 Register of members

- (1) The Secretary must keep and maintain a register of members that includes—
- (a) for each current member—
 - (i) the member's name;
 - (ii) the address for notice last given by the member;
 - (iii) the date of becoming a member;
 - (iv) if the member is an associate member, a notation to that effect;
 - (v) any other information determined by the Committee; and
 - (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time, inspect the register of members.

Division 2—Disciplinary action

19 Grounds for taking disciplinary action

The Committee may take disciplinary action against a member in accordance with this Division if the Committee is satisfied that the member—

- (a) has refused to comply with these Rules; or
- (b) has engaged in conduct prejudicial to the Association.

20 Notice to member

- (1) Before taking disciplinary action against a member, the Secretary must give written notice to the member—
- (a) stating that the Committee intends to take disciplinary action against the member; and
 - (b) stating the grounds for the proposed disciplinary action; and

(c) specifying the date, place and time of the meeting at which the Committee intends to take the disciplinary action (the ***disciplinary meeting***); and

(d) advising the member that he or she may do one or both of the following—

(i) attend the disciplinary meeting and address the Committee at that meeting;

(ii) give to the Committee at any time before the disciplinary meeting a written statement; and

(e) setting out the member's appeal rights under rule 22.

(2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

21 Decision of Committee

(1) At the disciplinary meeting, the Committee must—

(a) give the member an opportunity to be heard; and

(b) consider any written statement submitted by the member.

(2) After complying with subrule (1), the Committee may—

(a) take no further action against the member; or

(b) subject to subrule (3)—

(i) reprimand the member; or

(ii) suspend the membership of the member for a specified period; or

(iii) expel the member from the Association.

(3) The Committee must not take action under subrule (2)(b) unless an absolute majority of the Committee vote at the disciplinary meeting in favour of taking the action.

(4) The suspension or expulsion of a member by the Committee under this rule takes effect immediately the vote is passed.

22 Appeal rights

(1) A person whose membership has been suspended or who has been expelled from the Association under rule 21 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.

(2) The notice must be in writing and given—

(a) to the Committee immediately after the vote to suspend or expel the person is taken; or

(b) to the Secretary not later than 48 hours after the vote.

(3) If a person has given notice under subrule (2), a disciplinary appeal meeting must be convened by the Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.

(4) Notice of the disciplinary appeal meeting must be given to each member of the Association who is entitled to vote as soon as practicable and must—

(a) specify the date, time and place of the meeting; and

(b) state—

(i) the name of the person against whom the disciplinary action has been taken; and

(ii) the grounds for taking that action; and

(iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

23 Conduct of disciplinary appeal meeting

(1) At a disciplinary appeal meeting—

(a) no business other than the question of the appeal may be conducted; and

(b) the Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and

- (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with subrule (1), the members present at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members present at the meeting vote in favour of the decision.

Division 3—Grievance procedure

24 Application

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
 - (a) a member and another member;
 - (b) a member and the Committee;
 - (c) a member and the Association.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

25 Parties must attempt to resolve the dispute

The parties to a dispute must first attempt to resolve the dispute between themselves.

26 Appointment of mediator

- (1) If the parties to a dispute are unable to resolve the dispute between themselves, the parties must—
 - (a) notify the Committee of the dispute; and
 - (b) agree to or request the appointment of a mediator; and
 - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
 - (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement—
 - (i) if the dispute is between a member and another member—a person appointed by the Committee; or
 - (ii) if the dispute is between a member and the Committee or the Association—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Committee may be a member or former member of the Association but in any case must not be a person who—
 - (a) has a personal interest in the dispute; or
 - (b) is biased in favour of or against any party.

27 Mediation process

- (1) The mediator to the dispute, in conducting the mediation, must—
 - (a) give each party every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties throughout the mediation process. (2) The mediator must not determine the dispute.

28 Failure to resolve dispute by mediation

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 4—GENERAL MEETINGS OF THE ASSOCIATION

29 Annual general meetings

- (1) The Committee must convene an annual general meeting of the Association within 5 months after the end of each financial year.
- (2) The Committee may determine the date, time and place of the annual general meeting.
- (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;
 - (b) to receive and consider—
 - (i) the annual report of the Committee on the activities of the Association during the preceding financial year; and (ii) the financial statements of the Association for the preceding financial year submitted by the Committee in accordance with Part 7 of the Act;
 - (c) to elect the members of the Committee;
 - (d) to confirm or vary the amounts (if any) of the annual subscription and joining fee.
- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

30 Special general meetings

- (1) Any general meeting of the Association, other than an annual general meeting, is a special general meeting.
- (2) The Committee may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 32 may be conducted at the meeting.
- (4) However, if notice is given that items of general business may be considered at the meeting any other item of business may be considered unless opposed by a majority of members present.

31 Special general meeting held at request of members

- (1) The Committee must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 10% of the total number of members.
- (2) A request for a special general meeting must—
 - (a) be in writing; and
 - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
 - (c) include the names and signatures of the members requesting the meeting; and
 - (d) be given to the Secretary.
- (3) If the Committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under subrule (3)—
 - (a) must be held within 3 months after the date on which the original request was made; and (b) may only consider the business stated in that request.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

32 Notice of general meetings

- (1) The Secretary (or, in the case of a special general meeting convened under rule 31(3), the members convening the meeting) must give to each member of the Association—
 - (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 a special resolution is to be proposed—
 - (i) state in full the proposed resolution; and
 - (ii) state the intention to propose the resolution as a special resolution; and
 - (d) comply with rule 33(4).

33 Proxies

- (1) A member may appoint another member as his or her proxy to attend, speak and vote on his or her behalf at a general meeting.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (3) If the Committee has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- (4) Notice of a general meeting given to a member under rule 32 must —
 - (a) state that the member may appoint another 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.
- (5) A form appointing a proxy must be given to the Chair of the meeting before or at the commencement of the meeting.
- (6) A member must not act as proxy for more than 10 members or more than 10% of the members (whichever is the lesser) on any one occasion.

34 Use of technology

- (1) A member not physically present at a general meeting may participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

35 Quorum at general meetings

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence (physically or as allowed under rule 34) of 5% of the members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
 - (a) in the case of a meeting convened by, or at the request of, members under rule 31—the meeting must be dissolved;

Note

If a meeting convened by, or at the request of, members is dissolved under rule 35(3)(a), the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 31.

- (b) in any other case—

- (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
 - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

36 Adjournment of general meeting

- (1) The Chair of a general meeting at which a quorum is present may, with the consent of a majority of 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.

Example

The members may wish to have more time to examine the financial statements submitted by the Committee at an annual general meeting.

- (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 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 32.

37 Voting at general meeting

- (1) On any question arising at a general meeting—
- (a) subject to subrule (3), each member who is entitled to vote has one vote; and
 - (b) members may vote personally or by proxy; and
 - (c) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) If votes are divided equally on a question, the Chair of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting only members who were present at that meeting may vote.

38 Special resolutions

A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

Note

In addition to certain matters specified in the Act, a special resolution is required—

- (a) to remove from office a committee member;
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

39 Determining whether resolution carried

- (1) Subject to subsection (2), the Chair of a general meeting may, on the basis of 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—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—
 - (a) the poll must be taken at the meeting in the manner determined by the Chair of the meeting; and
 - (b) the Chair must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chair or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chair.

40 Minutes of general meeting

- (1) The Committee must ensure that minutes are taken and kept 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 include—
 - (a) the financial statements submitted to the members in accordance with rule 29(3)(b)(ii); and
 - (b) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART 5—MANAGEMENT COMMITTEE

Division 1—Powers of Committee

41 Role and powers

- (1) The business of the Association must be managed by or under the direction of a Management Committee.
- (2) The Committee may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.
- (3) The Committee may—
 - (a) appoint and remove staff;
 - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.
- (4) A general meeting of the members may by resolution direct the Committee on any matter within the Committee's powers.

42 Delegation

- (1) The Committee may delegate to a subcommittee or staff any of its powers and functions other than—

- (a) this power of delegation; or
 - (b) a duty imposed on the Committee by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
 - (3) The Committee may, in writing, revoke a delegation wholly or in part.

Division 2—Composition of Committee and duties of members

43 Composition of Committee

The Committee consists of—

- (a) a President;
- (b) a Vice-President;
- (c) a Secretary;
- (d) a Treasurer;
- (e) up to 10 ordinary members.

44 General Duties

- (1) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act.
- (2) The Committee is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Committee comply with these Rules.

Note

See also Division 3 of Part 6 of the Act which imposes general duties on the office holders of an incorporated association.

- (3) In addition to any duties imposed by these Rules, a committee member must perform any other duties imposed from time to time by resolution at a general meeting.

45 President and Vice-President

- (1) Subject to subrule (2), the President or, in the President's absence, the Vice-President is the Chair for any general meetings and for any committee meetings.
- (2) If the President and the Vice-President are both absent, the Chair of the meeting must be—
 - (a) in the case of a general meeting—a member elected by the other members present; or
 - (b) in the case of a committee meeting—a committee member elected by the other committee members present.
- (3) Before the election of new committee members at an annual general meeting, the President must present to the meeting the annual report of the Committee on the activities of the Association during the last financial year

46 Secretary

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

Example

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

- (2) The Secretary must—
 - (a) maintain the register of members in accordance with rule 18; and

(b) keep custody of the common seal (if any) of the Association and all books, documents and securities of the Association in accordance with rules 71 and 74;

(c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and (d) perform any other duty or function imposed on the Secretary by these Rules.

- (3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

47 Treasurer

- (1) The Treasurer must—

(a) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association; and

(b) ensure that all moneys received are paid into the account of the Association within 10 working days after receipt; and

(c) make any payments authorised by the Committee or by a general meeting of the Association from the Association's funds; and

(d) ensure cheques are signed by at least 2 committee members.

- (2) The Treasurer must—

(a) ensure that the financial records of the Association are kept in accordance with the Act; and

(b) coordinate the preparation of the financial statements of the Association and their submission to the annual general meeting of the Association.

- (3) The Treasurer must ensure that at least one other committee member has access to the accounts and financial records of the Association.

Division 3—Election of Committee members and tenure of office

48 Eligibility

A member is eligible to be elected or appointed as a committee member if the member—

(a) is 18 years or over; and

(b) resides in Australia; and

(c) is entitled to vote at a general meeting.

49 Positions to be declared vacant

- (1) This rule applies to—

(a) the first annual general meeting of the Association after its incorporation; or

(b) any subsequent annual general meeting of the Association, after the annual report and financial statements of the Association have been received.

- (2) The Chair of the meeting must declare all positions on the Committee vacant and hold elections for those positions in accordance with rules 50 to 53.

50 Nominations

- (1) Prior to the election of each position, the Chair of the meeting must call for nominations to fill that position.

- (2) An eligible member of the Association may—

(a) nominate himself or herself; or

(b) with the member's consent, be nominated by another member.

- (3) A member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

51 Election of President etc.

- (1) At the annual general meeting, separate elections must be held for each of the following positions—
 - (a) President;
 - (b) Vice-President;
 - (c) Secretary;
 - (d) Treasurer.
- (2) If only one member is nominated for the position, the Chair of the meeting must declare the member elected to the position.
- (3) If more than one member is nominated, a ballot must be held in accordance with rule 53.
- (4) On his or her election, the new President may take over as Chair of the meeting.

52 Election of ordinary members

- (1) The annual general meeting must by resolution decide the number, not exceeding 10, of ordinary members of the Committee it wishes to elect.
- (2) A single election may be held to fill all of those positions.
- (3) If the number of members nominated for the position of ordinary committee member is less than or equal to the number to be elected, the Chair of the meeting must declare each of those members to be elected to the position.
- (4) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 53.

53 Ballot

- (1) If a ballot is required for the election for a position, the Chair of the meeting must appoint a returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The returning officer must give a blank piece of paper to—
 - (a) each member present in person; and
 - (b) each proxy appointed by a member.
- (6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- (7) If the ballot is for more than one position—
 - (a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
 - (b) the voter must not write the names of more candidates than the number to be elected.
- (8) Ballot papers that do not comply with subrule (7)(b) are informal.
- (9) Each formal ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (11) If the returning officer is unable to declare the result of an election under subrule (10) because 2 or more candidates received the same number of votes, the returning officer must—
 - (a) conduct a further election for the position in accordance with subrules (4) to (10) to decide which of those candidates is to be elected; or
 - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

54 Term of office

- (1) Subject to subrule (3) and rule 55, a committee member holds office until the positions of the Committee are declared vacant at the next annual general meeting.
- (2) A committee member may be re-elected.
- (3) A general meeting of the Association may—
 - (a) by special resolution remove a committee member from office; and
 - (b) elect an eligible member of the Association to fill the vacant position in accordance with this Division.

55 Vacation of office

- (1) A committee member may resign from the Committee by written notice addressed to the Committee.
- (2) A person ceases to be a committee member if he or she—
 - (a) ceases to be a member of the Association; or (b) fails to attend 3 consecutive committee meetings without leave of absence under rule 66; or
 - (c) ceases to reside in Australia; or
 - (d) otherwise ceases to be a committee member by operation of section 78 of the Act.

56 Filling casual vacancies

- (1) The Committee may appoint an eligible member of the Association to fill a position on the Committee that—
 - (a) has become vacant because of rule 55; or
 - (b) is not filled by election at the last annual general meeting.
- (2) If the position of Secretary becomes vacant, the Committee must appoint a member to the position within 14 days after the vacancy arises.
- (3) Rule 54 applies to any committee member appointed by the Committee under subrule (1) or (2).
- (4) The Committee may continue to act despite any vacancy in its membership.

Division 4—Meetings of Committee

57 Meetings of Committee

- (1) The Committee must meet at least 4 times in each year at the dates, times and places determined by the Committee.
- (2) The date, time and place of the first committee meeting must be determined at the annual general meeting of the Association immediately after the members of the Committee are elected.
- (3) Special committee meetings may be convened by the President or by any 4 members of the Committee.

58 Notice of meetings

- (1) Notice of each committee meeting must be given to each committee member no later than 7 days before the date of the meeting.
- (2) Notice may be given of more than one committee meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.

59 Urgent meetings

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 58 provided that as much notice as practicable is given to each committee member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Committee.

60 Procedure and order of business

- (1) The procedure to be followed at a meeting of a Committee must be determined from time to time by the Committee.
- (2) The order of business may be determined by the members present at the meeting.
- (3) At a special committee meeting or an urgent meeting held under rule 59, the only business that may be conducted is the business for which the meeting is convened.

61 Use of technology

- (1) A committee member who is not physically present at a committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a committee member participating in a committee meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

62 Quorum

- (1) No business may be conducted at a Committee meeting unless a quorum is present.
- (2) The quorum for a committee meeting is the presence (in person or as allowed under rule 61) of a majority of the committee members holding office.
- (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;
 - (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 58.

63 Voting

- (1) On any question arising at a committee meeting, each committee member present at the meeting has one vote.
- (2) A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) If votes are divided equally on a question, the Chair of the meeting has a second or casting vote.
- (5) Voting by proxy is not permitted.

64 Conflict of interest

- (1) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.
- (2) The member—
 - (a) must not be present while the matter is being considered at the meeting; and
 - (b) must not vote on the matter.

Note

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest—
 - (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or

(b) that the member has in common with all, or a substantial proportion of, the members of the Association.

65 Minutes of meeting

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following—
 - (a) the business considered at the meeting;
 - (b) any resolution on which a vote is taken and the result of the vote;
 - (c) any material personal interest disclosed under rule 64.

66 Leave of absence

- (1) The Committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.
- (2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

PART 6—FINANCIAL MATTERS

67 Source of funds

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

68 Management of funds

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (2) Subject to any restrictions imposed by a general meeting of the Association, 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 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 must be signed by 2 committee members.
- (5) All funds of the Association must be deposited into the financial account of the Association no later than 10 working days after receipt.
- (6) With the approval of the Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

69 Financial records

- (1) The Association must keep financial records that—
 - (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared as required by the Act.
- (2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control—
 - (a) the financial records for the current financial year; and
 - (b) any other financial records as authorised by the Committee.

70 Financial statements

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (1), those requirements include—
 - (a) the preparation of the financial statements;
 - (b) if required, the review or auditing of the financial statements;
 - (c) the submission of the financial statements to the annual general meeting of the Association;
 - (d) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

PART 7—GENERAL MATTERS

71 Common seal

- (1) The Association may have a common seal.
- (2) If the Association has a common seal—
 - (a) the name of the Association must appear in legible characters on the common seal;
 - (b) a document may only be sealed with the common seal by the authority of the Committee and the sealing must be witnessed by the signatures of two committee members;
 - (c) the common seal must be kept in the custody of the Secretary.

72 Registered address

The registered address of the Association is—

- (a) the address determined from time to time by resolution of the Committee; or
- (b) if the Committee has not determined an address to be the registered address—the postal address of the Secretary.

73 Notice requirements

- (1) Any notice required to be given to a member or a committee member under these Rules may be given—
 - (a) by handing the notice to the member personally; or
 - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
 - (c) by email or facsimile transmission, if the member has requested that the notice be given to him or her in that manner.
- (2) Subrule (1) does not apply to notice given under rule 59.
- (3) Any notice required to be given to the Association or the Committee may be given—
 - (a) by handing the notice to a member of the Committee; or
 - (b) by sending the notice by post to the registered address; or
 - (c) if the Committee determines that it is appropriate in the circumstance—
 - (i) by email to the email address of the Association or the Secretary; or
 - (ii) by facsimile transmission to the facsimile number of the Association.

74 Custody and inspection of books and records

- (1) Other than the financial records referred to in rule 69(3), the Secretary must keep in his or her custody, or under his or her control, all books, documents and securities of the Association.
- (2) All financial records, books, securities and any other relevant document of the Association must be made available for inspection free of charge to any member upon request.

Note

However, see note following rule 18.

- (3) A member may make a copy of any accounts, books, securities and any other relevant documents of the Association.
- (4) For purposes of this rule—

relevant documents means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following—

 - (a) its membership records;
 - (b) its financial statements;
 - (c) its financial records;
 - (d) records and documents relating to transactions, dealings, business or property of the association.

75 Winding up and cancellation

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

76 Alteration of Rules

These Rules may only be altered by special resolution of a general meeting of the Association.

Note

An alteration of these Rules does not take effect unless or until it is approved by the Registrar. If these Rules (other than rule 1, 2 or 3) are altered, the Association is taken to have adopted its own rules, not the model rules.

77 Public Gift Fund

A public gift fund shall be established for the specific purpose of preserving and restoring the Balcombe Estuary, Creek and adjoining Reserves, and for making such improvements thereto as may be shown to be desirable from time to time. The name of the gift fund shall be 'Balcombe Estuary Reserves Group Mt Martha Inc. Public Gift Fund'.

- (b) The Rules of the Fund shall be:
 - (1) The purposes of the Fund are to support the environmental objectives of the Balcombe Estuary Reserves Group Mt Martha Inc.
 - (2) The Fund will be used only to support the Balcombe Estuary Reserves Group Mt Martha Inc's environmental purposes.
 - (3) Members of the general public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the Balcombe Estuary Reserves Group Inc.
 - (4) Money from interest on donations, income derived from donated property, and money from realisation of such property are to be deposited into the Fund.
 - (5) The Fund must not receive any other money or property, including corporate sponsorship money, and gifts to it are to be kept separate from other funds of the Balcombe Estuary Reserves Group Mt Martha Inc.
 - (6) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon.

- (7) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.
 - (8) The Fund shall be operated on a non-profit basis. None of the money or property accumulated by the Fund will be distributed to members of the Balcombe Estuary Reserves Group Inc. apart from proper remuneration for administrative services.
 - (9) In the event of the winding up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.
 - (10) The Fund will be administered by a committee of management of no fewer than three persons. The committee will be appointed by the Executive Committee of the Association. A majority of the members of the committee are required to have the requisite degree of responsibility to the general community, that is, persons who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole as distinct from obligations solely in regard to the environmental objectives of the Balcombe Estuary Reserves Group Mt Martha Inc.
 - (11) Any changes to the membership of the committee of management of the Fund are to be advised to the Registrar within a reasonable time following the making of the changes.
 - (12) Any changes to the Rules of the Fund are to be advised to the Registrar, within a reasonable time following the making of the changes.
 - (13) Statistical data about the gifts to the Fund during the financial year will be provided to the Registrar within four months after the end of the financial year and in the form required by the Department.
 - (14) The allocations by Balcombe Estuary Reserves Group Mt Martha Inc. Public Gift Fund of any funds or property to other organisations, persons or groups will be made in accordance with the established objectives of the Balcombe Estuary Reserves Group Inc. and not be influenced by the expressed preference or interest of a particular donor to the Balcombe Estuary Reserves Group Inc. Public Gift Fund.
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