

# CONSTITUTION

*for the*

**Midlands Biosecurity Group Inc.**

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## TERM DEFINITIONS

In these Rules, unless the contrary intention appears:

- i) **“Act”** means the *Associations Incorporation Act 2015 (Western Australia)* and any amended or later version of it;
- ii) **“Entrance Fee”** means a fee payable yearly by a Member to remain in the Membership, at the discretion of the Board of Management;
- iii) **“Annual General Meeting”** means the annual general meeting of the Association which all Full Members and Associate Members are invited to attend, as Convened under Rule 20.1, where the meeting shall be conducted within six (6) months after the Financial Year, or a longer period approved by the Commissioner, as referred to in section 50 of the Act;
- iv) **“Annual Membership Fee”** means an annual fee payable by a Member to maintain financial Membership, at the discretion of the Board of Management referred to in Rule 14.2;
- v) **“Association”** means the Midlands Biosecurity Group Inc., registration number \_\_\_\_\_;
- vi) **“Associate Member”** means a Legal Organisation approved as a Member of the Association as recognised by Rule 12.1(a)(ii) where the organisation has been found to be responsible for the care, control and/or management of land within the Designated Area, or are conducting significant activities on land in the Designated Area;
- vii) **“BAM Act”** means the *Biosecurity and Agriculture Management Act 2007 (Western Australia)* and any amended or later version of it;
- viii) **“Board Director”** means an elected or appointed person residing on the governing Board of Management of the Association as referred to in section 38 of the Act, and referred to in Division 1 of the Act as a ‘Member of the Management Committee’;
- ix) **“Board of Management”** means the governing entity of the Association responsible for managing the affairs of the Association, as referred to in section 38 of the Act as the ‘Management Committee’;
- x) **“Board of Management Meeting”** means a meeting of the Board of Management as referred to in Rule 8.1;
- xi) **“Books of the Association”** means the collective official records of the Association which include:
  - (a) the Register of Members;
  - (b) the Register of Board Directors;
  - (c) the Financial Records, Financial Statements or Financial Reports, however compiled, stored or recorded;
  - (d) any Meeting Minutes;
  - (e) any document carrying the Association name; and
  - (f) any other record of information pertaining to the Association;
- xii) **“By-law”** means an additional rule other than stated in the Constitution that is imposed on Members;

- xiii) **“Casual Vacancy”** means a position available for a Board Director on the Board of Management due to an event detailed in Rule 7.1;
- xiv) **“Chairperson”** means the Board Director appointed as the Chairperson with the responsibility for the functions referred to in Rule 5.2:
  - (a) duly appointed in the role in accordance with Rule 6.5 whom in relation to the proceedings at a Board of Management Meeting or Member Meeting, presides over the meeting; or
  - (b) otherwise, if that person referred to in paragraph (a) is unable to perform their functions, then the role is delegated to the Deputy Chairperson; or otherwise in their absence:
    - (i) another Board Director appointed for that meeting by majority of the Board Directors for a Board of Management Meeting; or
    - (ii) another Board Director or Member appointed for that meeting by the Membership for a Member Meeting.
- xv) **“Commissioner”** means the person for the time being designated as the Commissioner under section 153 of the Act;
- xvi) **“Committee”** means a recognised subordinate group reporting to the Board of Management to assist it in its conduct of the Association’s operations, and referred to in section 49(2)(iv) of the Act as a ‘Sub-committee’;
- xvii) **“Constitution”** means this document and any amendment or variation of it, as referred to in Part 3 of the Act as the ‘Rules of Incorporated Association’;
- xviii) **“Convene”** means to call together for a formal meeting;
- xix) **“Declared Pest”** means a prohibited organism, or an organism for which a declaration under the BAM Act is in force, or any amended or later version of the term as defined in section 6 of the BAM Act;
- xx) **“Declared Pest Account”** means the account referred to in section 137 of the BAM Act;
- xxi) **“Declared Pest Rate”** means the rates imposed on land referred to in section 130 of the BAM Act;
- xxii) **“Designated Area”** means the municipal districts of Dandaragan, Moora, Coorow, Carnamah, Three Springs, Mingenew and Irwin and any other shire, or pastoral lease in adjoining municipal districts that the Association may from time to time agree to service, or as additionally appointed by the Minister referred to in section 169(2) of the BAM Act where the Association has Recognised Biosecurity Group status;
- xxiii) **“Department”** means the Western Australian State agency with responsibility for administering the Declared Pest Rates under the BAM Act, being the Department of Primary Industries and Regional Development at the time of incorporation of this Association;
- xxiv) **“Deputy Chairperson”** means the Board Director duly appointed as the Deputy Chairperson with the responsibility for the functions referred to in Rule 5.3;
- xxv) **“Entrance Fee”** means a fee payable by a pending Member to join the Membership, at the discretion of the Board of Management referred to in Rule 14.1;
- xxvi) **“Executive Officer”** means the person engaged by the Association to take an executive leadership and/or administrative role, and who may reside as the ex-officio appointed

Secretary and Treasurer of the Board of Management with no voting rights, at the discretion of the Board of Management;

- xxvii) **“Financial Records”** includes:
- a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
  - b) documents of prime entry; and
  - c) working papers and other documents needed to explain:
    - the methods by which financial statements are prepared; and
    - adjustments to be made in preparing financial statements pertaining to the Association;
- xxviii) **“Financial Report”** means Association reports pertaining to the financial year as referred to in section 63 of the Act;
- xxix) **“Financial Statement”** means the financial statement of the Associations as referred to in section 62 of the Act;
- xxx) **“Financial Year”** means the period commencing on the date of incorporation of the Association, being the \_\_\_\_\_, and ending on 30 June 2020, and thereafter each period commencing 1 July and ending on the 30 June in the following year;
- xxxi) **“Full Member”** means a natural person approved as a Member of the Association as recognised by Rule 12.1(a)(i) who owns or occupies at least one hundred (100) hectares of land within the Designated Area, having, or likely to have, a Pest Management Notice, or the responsibility to manage pests;
- xxxii) **“General Meeting”** means a Membership meeting of the Association which all Full Members and Associate Members are invited to attend, other than the Annual General Meeting, Convened under Rule 21.1;
- xxxiii) **“Legal Organisation”** means an organisation recognised as a legal entity under Australian law;
- xxxiv) **“Member”** means a natural person, or a Legal Organisation represented by a Member Authorised Nominee, who are approved as either a Full Member or Associate Member respectively of the Association under Rule 12.1;
- xxxv) **“Member Authorised Nominee”** means a person duly authorised to represent an Associate Member who is a Legal Organisation referred to in Rule 12.1(a)(ii);
- xxxvi) **“Membership”** means the collective of all approved Members of the Association under Rule 12;
- xxxvii) **“Member Meeting”** means all types of Membership meetings of the Association which all Full Members and Associate Members are invited to attend, as referred to in Rules 20, 21 and 22, as referred in the Act as ‘General Meeting of Members’;
- xxxviii) **“Meeting Minutes”** means the official record of a Board of Management Meeting referred to in Rule 8.8, or Member Meeting referred to in Rule 19.3, that must set out any resolutions passed;
- xxxix) **“Minister”** means the appointed Minister responsible for administering the BAM Act;
- xl) **“Officeholder”** means a Board Director appointed to a specific function within, and by the authority of, the Board of Management under Rule 6.5(b), comprising the roles of:

- a) Chairperson;
  - b) Deputy-Chairperson; and
  - c) Secretary and Treasurer.
- xli) **“Ordinary Resolution”** means a decision by majority Vote at a Member Meeting or Board of Management Meeting referred to in Rule 19.1(c)(ii) that is not a Special Resolution. For the purposes of clarity, they include, but are not limited to, decisions to:
- (a) elect, re-elect Board Directors;
  - (b) fill a Board Director vacancy;
  - (c) approve or reject a Member application;
  - (d) remove a Board Director or Officeholder;
  - (e) appoint an external auditor;
  - (f) accept reports;
  - (g) confirm a strategic or commercial position; and
  - (h) increase or reduce the number of Board Directors to serve on the Board of Management.
- xlii) **“Other Fee”** means a fee payable by a Member to remain in the Membership at the discretion of the Board of Management referred to in Rule 14.2;
- xliii) **“Pest Management Notice”** means a notice issued under the BAM Act, such as a ‘pest exclusion notice’ under section 27, a ‘pest control notice’ under section 31, or a ‘pest keeping notice’ under section 35 of the BAM Act;
- xliv) **“Register of Board Directors”** means the register maintained under Rule 6.7 and in accordance with section 58 of the Act;
- xlv) **“Register of Members”** means the register maintained under Rule 13.1 and in accordance with section 53 of the Act;
- xlvi) **“Rules”** mean these rules of the Association as amended from time to time, as referred in Part 3 of the Act;
- xlvii) **“Secretary and Treasurer”** means the Board Director duly appointed in the dual role of Secretary and Treasurer with the responsibility for the functions referred to in Rule 5.4;
- xlviii) **“Special Resolution”** means a decision by majority Vote at a Members Meeting that is not an Ordinary Resolution and passed in accordance with Rule 19.1, as referred to in section 51 of the Act. For the purposes of clarity, they include, but are not limited to, decisions to:
- a) modify or repeal the Constitution;
  - b) change the Association name;
  - c) approve a merger or affiliation with another body;
  - d) request a statutory manager to be appointed; or
  - e) apply for the Association to be wound up voluntarily.
- xlx) **“Surplus Property”** has the meaning given to it in section 3 the Act and means the property remaining when the Association is wound up or cancelled after satisfying:
- (a) the debts and liabilities of the Association; and

- (b) the costs, charges and expenses of winding up the Association or cancelling the incorporation of the Association,  
but does not include the Books of the Association;
- l) **“Tiered Association Model”** means a model defined in the Act that categories an association by annual revenue with differing obligations for Government reporting, that comprised at the time of registration and any amended or later version of it:
  - a) **Tier 1 Association** - being an incorporated association to which section 64(1) of the Act applies, generally having an annual revenue of less than \$250,000 or as later amended by the Act;
  - b) **Tier 2 Association** being an incorporated association to which section 64(2) of the Act applies, generally having an annual revenue of \$250,000 or up to \$1,000,000, or as later amended by the Act; and
  - c) **Tier 3 Association** being an incorporated association to which section 64(3) of the Act applies, generally having an annual revenue \$1,000,000 or more, or as later amended by the Act.
- li) **“Vote” or “Voting”** means the act of stating a position towards an agreement and resolution, as referred to in section 52 of the Act as a ‘poll’, and relating to both:
  - a) Board Directors on Board of Management matters; or
  - b) Full Members on Association matters.
- lii) **"The Committee" or "Management Committee"** means the Committee of Management of the Association referred to in **rule 10.1** and is also referred to as the Executive Committee

## **DIVISION 1 ASSOCIATION NAME, OBJECTS AND POWER**

### **1. NAME OF THE ASSOCIATION**

The name of the Association is the Midlands Biosecurity Group Inc.

### **2. OBJECTS OF THE ASSOCIATION**

#### **2.1 Objects and Purposes**

The objects and purposes of the Association are to:

- a) initiate, promote and foster the control of Declared Pests under section 165 of the BAM act in the Designated Area;
- b) encourage landholders and other persons to adopt sound biosecurity practices throughout the Designated Area;
- c) foster the sustainable development of the Designated Area;
- d) encourage the control of pests other than Declared Pests in the Designated Area;
- e) identify direct or indirect funding sources that can be made available for the development of the objects and purposes of the Association;
- f) provide Members with a forum to exchange information, advice and assistance where

appropriate; and

- g) undertake any activity that the Board of Management shall from time to time determine to be in furtherance of the objects of the Association

## **2.2 Not for Profit Body**

The property and income of the Association must be applied solely towards promoting the objects and 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

## **3. POWERS OF THE ASSOCIATION**

### **3.1 Powers of the Association**

- (a) The powers conferred on the Association are the same as those conferred by section 14 of the Act, and are subject to the Act and any additions, exclusions or modifications to those defined below;
- (b) The Association may do all things necessary or convenient for carrying out its objects and purposes in a lawful manner and in particular may:
  - (i) acquire, hold, deal with and dispose of any real or personal property;
  - (ii) open and operate bankaccounts;
  - (iii) invest its money;
    - a. in any security in which trust monies may lawfully be invested; or
    - b. in any other manner authorised by the Rules of the Association;
  - (iv) borrow money upon such terms and conditions as the Association thinks fit;
  - (v) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
  - (vi) appoint agents to transact any business of the Association on its behalf;
  - (vii) enter into any other contract it considers necessary or desirable; and
  - (viii) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or things a trustee that, if done otherwise than as a trustee, would contravene the Act, the *Trustees Act 1962 (Western Australia)*, or the Constitution of the Association.

## **DIVISION 2 BOARD OF MANAGEMENT**

### **4. POWERS AND COMPOSITION**

#### **4.1 Powers of the Board of Management**

- (a) The governing body of the Association is to be called the 'Board of Management' and has the power to manage the affairs of the Association.
- (b) Subject to the Act, these Rules and any By-laws or lawful resolutions passed by the Association in a Members Meeting, the Board of Management has power to perform all acts and do all things necessary or convenient to be for the proper management of the affairs of the Association.

- (c) The Board of Management must take all reasonable steps to ensure that the Association complies with the Act, these Rules and any By-laws.

#### **4.2 Board of Management Composition**

- (a) The Board of Management is to consist of the following positions:
  - (i) Chairperson;
  - (ii) Deputy-Chairperson;
  - (iii) Secretary and Treasurer; and
  - (iv) not less than three (3) and no more than seven (7) other Members, all of whom must be a Member of the Association or a Member Authorised Nominee.
- (b) The Officeholder roles include the positions of:
  - (i) Chairperson;
  - (ii) Deputy-Chairperson; and
  - (iii) Secretary and Treasurer.

#### **4.3 Eligibility for Board Director Positions**

- (a) No person shall be entitled to hold a position on the Board of Management if the person:
  - (i) is under the age of eighteen (18);
  - (ii) has been convicted of, or imprisoned in the previous five (5) years for an indictable offence in relation to the promotion, formation or management of a Legal Organisation; or
  - (iii) has been convicted of, or imprisoned in the previous five (5) years for an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three (3) months; or
  - (iv) is convicted of an offence under the Act; or
  - (v) is permanently incapacitated by mental or physical ill-health; or
  - (vi) is bankrupt or a person whose affairs are under insolvency or bankruptcy laws.

#### **4.4 Board Director Voting Rights**

- (a) All Board Directors shall have one (1) voting right for Board of Management matters, with the exception of where:
  - (i) the Secretary and Treasurer has been allocated as an ex-officio appointment to the Executive Officer, the occupant has no voting rights; or
  - (ii) a tie in Voting at a Board of Management Meeting occurs, the Chairperson of the Board of Management Meeting is entitled to exercise a casting vote.
- (b) Voting may be conducted:
  - (i) in written form, including as a secret ballot;
  - (ii) by use of any technology, including under Rule 8.5(c)(ii);
  - (iii) by acceptance by voice; or
  - (iv) by show of hands,

at the discretion of the presiding Chairperson and with appropriate consideration to any confidentiality required for dealing with the matter.

## **5 ROLE AND RESPONSIBILITIES OF BOARD DIRECTORS**

### **5.1 Responsibilities of Board of Directors**

- (a) A Board Director must exercise their powers and discharge their duties with a degree of care and due diligence that a reasonable person would exercise in the circumstances.
- (b) A Board Director must exercise their powers and discharge their duties independently and in good faith in the best interests of the Association and for a proper purpose.
- (c) A Board Director, or former Board Director, must not improperly use information obtained because he or she is a Board Director, or was a Board Director, to:
  - (i) gain an advantage for themselves or another person; or
  - (ii) cause detriment to the Association.
- (d) A Board Director, or former Board Director, must not improperly use their position to:
  - (i) gain an advantage for themselves or another person; or
  - (ii) cause detriment to the Association.
- (e) A Board Director having any material personal interest in a matter being considered at a Board of Management Meeting or Member Meeting must:
  - (i) as soon as they become aware of that interest, disclose the nature and extent of their interest to the Chairperson;
  - (ii) disclose the nature and extent of the interest at the next Member Meeting of the Association (where appropriate);
  - (iii) not be present while the matter is being considered at the Board of Management Meeting or Member Meeting; and
  - (iv) rescind from Voting on the matter.
- (f) Rule 5.1(e) does not apply in respect to a material personal interest that:
  - (i) exists only because the Board Director belongs to a class of persons for whose benefit the Association is established; or
  - (ii) the Board Director has in common with all, or a substantial proportion of, the Members of the Association.
- (g) The Secretary and Treasurer must record every disclosure made by a Board Director under Rule 5.1(e) in the Meeting Minutes of the meeting at which the disclosure is made.
- (h) No Board Director shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Association unless the person is authorised by the Board of Management to do so and such authority is recorded in the minutes of the Board of Management Meeting.

### **5.2 Chairperson**

The Chairperson:

- (a) must liaise with the Secretary and Treasurer regarding the business to be conducted at each Board of Management Meeting and each Member Meeting;

- (b) may Convene special meetings of the Board of Management under Rule 8.1(c);
- (c) may preside over Board of Management Meetings under Rule 8.3(a);
- (d) may preside over Member Meetings under Rule 18.2(a);
- (e) must ensure that the Meeting Minutes of a Board of Management Meeting are reviewed and signed as correct under Rule 8.8(c);
- (f) must ensure that the minutes of a Member Meeting are reviewed and signed as correct under Rule 19.3(c); and
- (g) subject to Rule 5.1(h), act as the main media contact for the Association.

### **5.3 Deputy-Chairperson**

The Deputy-Chairperson:

- (a) must liaise with, and support, the Chairperson regarding the business to be conducted at each Board of Management Meeting or Member Meeting; and
- (b) act in the function of Chairperson in their absence, or as otherwise directed by the Board of Management for specific events.

### **5.4 Secretary and Treasurer**

The Secretary and Treasurer roles are combined for efficiency. For the purpose of clarity, the functions are detailed separately.

- (a) The Secretary:
  - (i) co-ordinate and administer the correspondence of the Association;
  - (ii) convene Board of Management Meetings and Member Meetings, including preparing the notices of meetings of the business to be conducted at each meeting in consultation with the Chairperson;
  - (iii) keep and maintain the:
    - a. Constitution
    - b. By-laws of the Association;
    - c. Register of Board Directors;
    - d. Register of Members;and manage any required viewing, copy or extract thereof.
  - (i) ensure the safe custody of the Books of the Association;
  - (ii) keep full and correct Meeting Minutes of Board of Management Meetings and Member Meetings; and
  - (iii) perform any other duties as are imposed by these Rules or the Association, or as requested by the Board of Management.
- (b) the Treasurer:
  - (i) ensure all moneys payable to the Association are collected, allocated to the correct accounts, and that receipts are issued for those moneys in the name of the Association;
  - (ii) ensure the payment of all moneys received are directed into the correct account of the Association;

- (iii) ensure timely payments from the funds of the Association with the authority of the Board of Management, or as approved at a Member Meeting;
- (iv) ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
- (v) ensure the safe custody of the Financial Statement, Financial Records and annual Financial Report of the Association and any other relevant records of the Association;
- (vi) act in accordance with the Tiered Association Model for statutory reporting as detailed in Division 3 of the Act, and reporting to the Annual General Meeting:
  - a. Tier 1 Association – coordinating the preparation of the Association’s Financial Statement before their submission to the Association’s Annual General Meeting; or
  - b. Tier 2 or Tier 3 Association – coordinating the preparation of the Association’s Financial Report before its submission to the Association’s Annual General Meeting.
- (vii) assist any reviewer or auditor in performing their functions; and
- (viii) perform any other duties as are imposed by these Rules or the Association, or as requested by the Board of Management.

## **6. APPOINTING BOARD DIRECTORS**

### **6.1 Appointment as a Board Director**

- (a) The Secretary and Treasurer position on the Board of Management may be allocated to the Executive Officer of the Association as an ex-officio appointment at the discretion of the Board of Management, where the occupant will have no Voting rights.
- (b) Subject to 6.1(a), Board Directors are otherwise appointed to the Board of Management with full Voting rights by:
  - (i) appointment by election at an Annual General Meeting under Rule 6.3; or
  - (ii) appointment to fill a Casual Vacancy under Rule 6.4.

### **6.2 Nominating for a Board Director Role**

- (a) The Board of Management must confirm:
  - (i) the number of retiring Board Directors ending their term at the next Annual General Meeting;
  - (ii) the desired number of Board Directors to be sought at the Annual General Meeting in accordance with Rule 4.2(a);
  - (iii) the number of Board Director vacancies required to be filled; and
  - (iv) and any specific assessment criteria,to inform the nomination process.
- (b) Subject to Rule 6.2(a) and any vacancies being available, the Secretary and Treasurer must send a notice calling for nominations for election to the Board of Management and specifying the date for the close of nominations to all Members at least seven (7) days

before the date for the close of nominations.

- (c) Nominations for election to the Board of Management shall close at least twenty eight (28) days before the Annual General Meeting.
- (d) A Member who wishes to be considered for election to any vacancies on the Board of Management at the Annual General Meeting must nominate for election:
  - (i) in writing delivered to the Secretary and Treasurer on, or before, the date for the close of nominations in accordance with Rule 6.2(c);
  - (ii) in the form the Board of Management requires; and
  - (iii) having the nomination supported by another Member or Member Authorised Nominee.
- (e) If a nomination for election to the Board of Management is not made in accordance with Rule 6.2(d), the nomination is to be deemed invalid and the Member will not be eligible for election, otherwise the Member will be deemed a candidate.

### **6.3 Electing Board Directors**

- (a) A list of eligible candidates, their names listed in alphabetical order, with the names of the Members who nominated each candidate, must accompany the notice of the Annual General Meeting.
- (b) At the Annual General Meeting:
  - (i) If the number of valid nominations received under Rule 6.3(a) is equal to the number of vacancies to be filled for the relevant position on the Board of Management as defined by Rule 6.2(a)(iii), the candidate(s) nominated shall be deemed to be elected at the Annual General Meeting;
  - (ii) If the number of valid nominations received under Rule 6.3(a) exceeds the number of vacancies to be filled for the relevant position(s) on the Board of Management as defined by Rule 6.2(a)(iii), elections for the positions must be conducted by majority Vote by Full Members eligible and present in person, or by proxy, who each have one (1) Vote entitlement; and
  - (iii) Where a tie of Votes occurs, the Chairperson presiding over the Annual General Meeting is entitled to exercise a casting vote.
- (c) A position not filled in accordance with Rule 6.3(b), will be held as a Casual Vacancy position, to be later dealt with under Rule 6.4(a).
- (d) A Member who has nominated for a position may vote for himself or herself.

### **6.4 Appointing Board Directors to Casual Vacancy**

- (a) If a position on the Board of Management is declared a Casual Vacancy under Rule 6.3(c), or there is a Casual Vacancy within the meaning of Rule 7.1(a), the continuing Board Directors may:
  - (i) appoint a Member to fill any Casual Vacancy positions, who can only be appointed by their own acceptance of the role; and
  - (ii) subject to meeting the minimum Board Directors numbers under Rule 4.2(a), act despite the Casual Vacancy position on the Board of Management and chose not to fill any Casual Vacancy.

## **6.5 Appointing Board of Management Officeholders**

- (a) Any current Board Director may nominate, or be nominated, for an Officeholder position defined in Rule 4.2(b), and can only be appointed by their own acceptance of the role.
- (b) Current Officeholders are eligible to nominate, or be nominated, for reappointment.
- (c) Subject to Rule 6.5(a), the appointment for Officeholders are to be managed by the Board of Management by majority Vote of the Board Directors at the first Board of Management Meeting as soon as practicable after the Annual General Meeting.
- (d) Officeholders are positions held up to the Board of Management Meeting defined by Rule 6.5(c), unless the occupant is no longer a Board Director or where Rule 7.1(a) applies, where until such time as a new Officeholder is appointed, the:
  - (i) the Deputy Chairperson be given preference to act as the Chairperson, where the previously appointed Chairperson occupant is no longer a Board Director;
  - (ii) the Deputy Chairperson role will remain vacant where the previously appointed Deputy Chairperson occupant is no longer a Board Director;
  - (iii) the Deputy Chairperson is given preference to act as the Secretary and Treasurer, where the previously appointed Secretary and Treasurer occupant is no longer a Board Director, or otherwise the Chairperson is given preference to act where a Deputy Chairperson role is vacant; or
  - (iv) as otherwise allocated by majority Vote between the Board Directors.
- (e) The Secretary and Treasurer must notify the Members within fourteen (14) days of Officeholder appointments.

## **6.6 Term of Office of Board Directors**

- (a) The Board Director(s) appointed on incorporation of the Association will hold office until the conclusion of the first Annual General Meeting and will be eligible for re-election.
- (b) Subject to Rule 6.6(a), the appointment of a Board Director will be for a term of three (3) years where elected at an Annual General Meeting, or until the next Annual General Meeting in the event of an appointment of a Casual Vacancy under Rule 6.4(a)(i).
- (c) A Board Director's term will commence on the date of their:
  - (i) election at an Annual General Meeting; or
  - (ii) appointment to fill a Casual Vacancy that arises under Rule 6.4(a).
- (d) All retiring Board Directors are eligible, on nomination under Rule 6.2(f), for re-election.

## **6.7 Register of Board Directors**

- (a) The Secretary and Treasurer, or a person authorised by the Board of Management from time to time, must maintain a Register of Board Directors, and identifying those in Office holder roles.
- (b) The Register of Board Directors must include:
  - (i) the full name of each Board Director;
  - (ii) a contact postal or residential address of each Board Director;
  - (iii) email address of each Board Director (where available);
  - (iv) the detail of any Officeholder role held by the Board Director;

- (v) the date on which the person became a Board Director;
  - (vi) the date on which the person became an Officeholder (if any);
  - (vii) the date on which a Board Director ceases to be a Board Director under Rule 7.1(a); and
  - (viii) subject to 6.7(b)(vii), the reason why the Board Director ceased to be a Board Director.
- (c) The Register of Board Directors must be kept and maintained at the Secretary and Treasurer's place of residence, or at such other place as the Board of Management decides.

## **6.8 Inspecting the Register of Board Directors**

- (a) Any Member is able to inspect the Register of Board Directors free of charge in accordance with section 58 of the Act, at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary and Treasurer to request to inspect the Register of Board Directors.
- (c) The Member has no right to remove the Register of Board Directors.
- (d) Where a Member wishes to receive a copy of, or an extract from, the Register of Board Directors under section 58 of the Act; or makes a written request under section 58(3) of the Act to be provided with a copy of the Register of Members:
  - (i) The Member is required to submit a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association;
  - (ii) The Chairperson or the Board of Management must approve the release of the copy or extract, and to the level of disclosure required to satisfy the requirement of the purpose;
  - (iii) The Association may charge a reasonable fee to the Member for providing such copy or extract, the amount which is determined by the Board of Management from time to time; and
  - (iv) If the Board of Management denies a Member's request for a copy of the Register of Members, a Member may appeal the decision under Rule 29.1(a).
- (e) Where the Commissioner requests a copy of the Register of Board Directors, it must be provided within fourteen (14) days of receiving the request in accordance with section 59 of the Act.

## **7. CEASING TO BE A BOARD DIRECTOR**

### **7.1 Casual Vacancy Positions on the Board of Management**

- (a) A Casual Vacancy occurs in the office of a Board Director and that office becomes vacant if the Board Director:
  - (i) position is not filled by election at the Annual General Meeting subject to meeting the requirements of Rule 6.3(c) or Rule 6.4(a);
  - (ii) dies;

- (iii) ceases to be a Member or a Member Authorised Nominee;
- (iv) becomes disqualified from holding a position under Rule 4.3(a) as a result of bankruptcy, insolvency or conviction of a relevant criminal offence;
- (v) becomes permanently incapacitated by mental or physical ill-health;
- (vi) resigns from office under Rule 7.2;
- (vii) is removed from office under Rule 27; or
- (viii) is absent from more than:
  - a. three (3) consecutive Board of Management Meetings without good reason; or
  - b. three (3) Board of Management Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Board of Management Meetings and without good reason, where the Member received notice of the meetings, and the Board of Management has resolved to declare the office vacant.

## **7.2 Resigning as a Board Director**

- (a) A Board Director may resign from the Board of Management by giving written notice of their resignation to the Secretary and Treasurer, or if the Board Director is the Secretary and Treasurer, to the Chairperson.
- (b) The Board Director resigns:
  - (i) at the time the notice is received by the Secretary and Treasurer or Chairperson under Rule 7.2(a); or
  - (ii) if a later time is stated in the notice, at the later time.

## **8. BOARD OF MANAGEMENT MEETINGS**

### **8.1 Meetings of the Board of Management**

- (a) The Board of Management must meet at least three (3) times in each year.
- (b) The Board of Management is to determine the place and time of all Board of Management Meetings.
- (c) Special meetings of the Board of Management for urgent business may be Convened by:
  - (i) the Chairperson; or
  - (ii) at least two (2) other Board Directors.

### **8.2 Notice of Board of Management Meetings**

- (a) The Secretary and Treasurer must give each Board Director at least seven (7) days' notice of a Board of Management Meeting, and no less than forty eight (48) hours' notice for more urgent meeting matters, unless all Board Directors agree to meet to address an urgent circumstance.
- (b) Notice of a Board of Management Meeting must specify the date, time, place and general nature of the business to be transacted at the Board of Management Meeting.
- (c) Urgent business that has not been described in the notice may be conducted at Board of Management Meetings if the Board Directors present at the Board of Management

Meeting unanimously agree to treat the business as urgent.

- (d) Subject to Rule 8.2(c), only the business specified on the notice of the Board of Management Meeting is to be conducted at that meeting.

### **8.3 Presiding Chairperson of Board of Management Meetings**

- (a) The Chairperson or, in the Chairperson's absence, the Deputy Chairperson, is to preside as the chairperson of each Board of Management Meeting.
- (b) If the Chairperson and the Deputy Chairperson are absent or unwilling to act, the remaining Board Directors must choose one (1) person amongst the present Board Directors to preside as the chairperson at the Board of Management Meeting.

### **8.4 Quorum for Board of Management Meetings and Adjournments**

- (a) A quorum for the Board of Management requires at least fifty five percent (55%) of its Board Directors, in person, or by written proxy where voting rights are required to be given to the Board Director proxy, subject to any special instructions for Voting.
- (b) No business is to be conducted at a Board of Management Meeting unless a quorum is present, otherwise if a quorum is not present within thirty (30) minutes after the notified commencement time of a Board of Management Meeting:
  - (i) in the case of a special meeting — the meeting lapses; or
  - (ii) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (c) If a quorum is not present within thirty (30) minutes after the commencement time of an adjourned Board of Management Meeting held under Rule 8.4(b)(ii), where at least two (2) Board Directors are present at the meeting, those members present are taken to constitute a quorum. Such persons will appoint a chairperson to preside if Rule 8.3 cannot be satisfied.

### **8.5 Procedure of the Board of Management Meeting**

- (a) Subject to Rule 27.1(d), all Directors have the right to attend and cast a vote at Board of Management Meetings.
- (b) Subject to a Board of Management Meeting being conducted in accordance with the notice under 8.2(a) or an adjourned time set under Rule 8.4, and where a quorum is present under Rule 8.4(c), a Board of Management Meeting is recognised as being duly conducted.
- (c) A Board of Management Meeting may take place where:
  - (i) the Board Directors are physically present in person or by proxy; or
  - (ii) the Board Directors are able to communicate by using any technology that reasonably allows the Board Director to participate fully in discussions as they happen in the Board of Management Meeting and in making decisions, provided that the participation of the Board Director is made known to other Board Directors.
- (d) A Board Director who participates in a meeting as set out in Rule 8.5(c)(ii):
  - (i) is deemed to be present at the Board of Management Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum, until the Board Director notifies the other Board Directors that he or she is no longer

taking part in the Board of Management Meeting.

- (e) Subject to these Rules, the Chairperson present at the Board of Management Meeting is to determine the procedure and order of business to be followed at a Board of Management Meeting, guided by any agenda made available.
- (f) Any Member, or other guest, may attend Board of Management Meetings if pre-approved by the Chairperson or Board of Management, however the invitee shall not have any right to comment without invitation, or any right to Vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented at such meetings, with the exception of any document for which that person has been invited to speak on.

#### **8.6 Voting at Board of Management Meetings**

- (a) Each Board Director present at a Board of Management Meeting has one (1) deliberate Vote.
- (b) A question arising at a Board of Management Meeting is to be decided by a majority Vote of Board Directors in person, or by proxy
- (c) If there is tie of votes, the Chairperson of the Board of Management Meeting is entitled to exercise a casting vote.

#### **8.7 Acts not Affected by Defects**

Any act performed by the Board of Management, a Committee of the Board of Management, or a person acting as a Board Director is deemed to be valid even if the act was performed when there was a defect in the appointment of a Board Director, sub-Committee of the Board of Management or person holding a subsidiary office provided that the act in question is subsequently ratified at a validly constituted Board of Management Meeting and was not of an illegal nature.

#### **8.8 Board of Management Meetings Minutes**

- (a) The Secretary and Treasurer, or a person authorised by the Board of Management from time to time, must keep Meeting Minutes of the resolutions and proceedings of all Board of Management Meetings together with a record of the names of persons present at each meeting.
- (b) The Meeting Minutes are to be taken and then to be entered within twenty eight (28) days after the holding of each meeting, and must be confirmed at the next Board of Management Meeting.
- (c) The Chairperson must ensure that the Meeting Minutes of a Board of Management Meeting are reviewed and signed as correct by:
  - (i) the chairperson of the Board of Management Meeting to which those minutes relate; or
  - (ii) the chairperson of the next succeeding Board of Management Meeting.
- (d) When Meeting Minutes have been entered and signed as correct under Rule 8.8(c), they are, until the contrary is proved, evidence that:
  - (i) the Board of Management Meeting to which they relate was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the Board of Management Meeting did in fact take place at the meeting; and

- (iii) all appointments, resolutions or actions purporting to have been made at the Board of Management Meeting have been validly made.

## **9. REMUNERATION OF BOARD OF MANAGEMENT MEMBERS**

### **9.1 Claimable Expenses**

- (a) The Association may pay a Board Director's travel and other incidental expenses as properly incurred in:
  - (i) attending Board of Management Meetings or sub-Committee of the Board of Management meetings;
  - (ii) attending any Member Meetings of the Association; and
  - (iii) connection with the Association's business.

### **9.2 Remuneration**

- (a) Board Directors must not receive any remuneration for their services as Board Directors other than as described at Rule 9.1(a), however a Board Director shall not be prohibited from receiving remuneration if they are:
  - (i) employees of the Association under a written contract of employment;
  - (ii) have a contract to provide for goods or services (provided that the Board Director has complied with their duty to disclose a material personal interest prior to the Association entering into such contract); or
  - (iii) the payment is for remuneration determined by the Association by resolution in a Member Meeting.

## **DIVISION 3 COMMITTEES AND DELEGATION**

### **10. COMMITTEES OF THE BOARD OF MANAGEMENT**

#### **10.1 Appointment of a Committee**

- (a) The Board of Management may appoint one (1) or more Committees of the Board of Management as considered appropriate by the Board of Management from time to time to assist with the conduct of the Association's operations.
- (b) Committees of the Board of Management may comprise, in such numbers as the Board of Management determines, Members and/or non-members, all of whom must be approved by the Chairperson or Board of Management.
- (c) The Board of Management will appoint a chairperson to a Committee for the purpose of Convening the Committee meetings.
- (d) Subject to these Rules, the Committee's members present at the Committee of the Board of Management meeting are to determine the procedure and order of business to be followed, or as otherwise guided by a 'terms of reference' approved by the Board of Management.

#### **10.2 Delegation by Board of Management to Committees**

- (a) The Board of Management may delegate, in writing, to a Committee of the Board of

Management, any authority, power or functions and may cancel any authority, powers or functions, as the Board of Management sees fit from time to time.

- (b) Despite any delegation under Rule 10.2(a), the Board of Management may continue to exercise all its functions, including any function that has been delegated to a Committee and remains responsible for the exercise of those functions at all times.

## **11. SUBSIDIARY OFFICES**

### **11.1 Delegation to Subsidiary Offices**

- (a) The Board of Management may create and fill such subsidiary office as may be necessary for the proper and efficient management of the Association's affairs.
- (b) The Board of Management may delegate, in writing, to any person holding a subsidiary office any authority, power or functions and may cancel any authority, powers or functions, as the Board of Management sees fit from time to time.
- (c) Despite any delegation under Rule 11.1(b), the Board of Management may continue to exercise all its functions, including any function that has been delegated to a subsidiary office and remains responsible for the exercise of those functions at all times.

## **DIVISION 4 MEMBERSHIP**

### **12. MEMBERSHIP ELIGIBILITY AND CLASSES**

#### **12.1 Eligibility for Membership**

- (a) Subject to Rule 15.1(b), Membership of the Association is open to:
  - (i) a "Full Member" being any natural person who owns or occupies at least one hundred (100) hectares of land within the Designated Area having, or likely to have, a Pest Management Notice, or responsibility to manage pests; and
  - (ii) an "Associate Member" being any Legal Organisation that is responsible for the care, control or management of land within the Designated Area, or that are conducting significant activities on land within the Designated Area, represented by a Member Authorised Nominee.
- (b) The minimum number of Members is six (6), as required by the Act.
- (c) There is no maximum number of Members.

#### **12.2 Class of Members**

- (a) Subject to 15.1(b), the Membership of the Association consists of the following categories:
  - (i) Full Member; and
  - (ii) Associate Member.
- (b) A Full Member, where allocated and accepting a Member Authorised Nominee role, shall cease to be a Full Member on that appointment.

### **13. MEMBERSHIP REGISTER**

### **13.1 Register of Members**

- (a) In accordance with section 53 of the Act, the Secretary and Treasurer, or a person authorised by the Board of Management from time to time, must keep and maintain a Register of Members and make sure that the Register is up to date.
- (b) The Register of Members must contain:
  - (i) the full name of each Member;
  - (ii) a contact postal or residential address of each Member;
  - (iii) email address of each Member (where available);
  - (iv) the type of Membership held by the Member (i.e., Member or Associate Member);
  - (v) the date on which the person became a Member;
  - (vi) the date on which a Member ceases to be a Member under Rule 17.1; and
  - (vii) subject to 13.1(b)(vi), the reason why the Member ceased to be a Member.
- (c) Any change in Membership of the Association must be recorded in the Register within twenty eight (28) days after the change occurs.
- (d) The Register of Members must be kept and maintained at the Secretary and Treasurer's place of residence, or at such other place as the Board of Management decides.

### **13.2 Inspecting the Register of Members**

- (a) Any Member is able to inspect the Register of Members free of charge in accordance with section 54 of the Act, at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary and Treasurer to request to inspect the Register of Members.
- (c) The Member has no right to remove the Register of Members.
- (d) Where a member wishes to receive a copy of, or an extract from, the Register of Members under section 54 of the Act; or makes a written request under section 56(1) of the Act to be provided with a copy of the Register of Members:
  - (i) The Member is required to submit a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association;
  - (ii) The Chairperson or the Board of Management must approve the release of the copy or extract, and to the level of disclosure required to satisfy the requirement of the purpose;
  - (iii) The Association may charge a reasonable fee to the Member for providing such copy or extract, the amount which is determined by the Board of Management from time to time; and
  - (iv) If the Board of Management denies a Member's request for a copy of the Register of Members, a Member may appeal the decision under Rule 29.1(a).
- (e) Where the Commissioner requests a copy of the Register of Members, it must be provided within fourteen (14) days of receiving the request in accordance with section 55 of the Act.

### **13.3 Use of the Information in the Register of Members**

The Association or any Member must not use or disclose the information on the Register of Members for purposes that does not relate to the affairs of, and in support of the Association, and in meeting the requirements of section 55 of the Act. For the purpose of clarity, this includes:

- (a) to gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) to contact, send material to the Association or a Member for the purpose of advertising, or for political, religious, charitable or commercial purposes; or
- (c) for any other purpose that is not:
  - (i) directly connected with the affairs of the Association; or
  - (ii) related to administering the Act.

## **14. MEMBERSHIP AND OTHER FEES**

### **14.1 Entrance Fee**

- (a) The Board of Management may from time to time determine the amount of the Entrance Fee, if any, to be paid by each Member or each class of Member on becoming a Member.
- (b) The Entrance Fee will cover the Member for one (1) year of Membership, before any Annual Membership Fee would apply.

### **14.2 Annual Membership Fee or Other Fee**

- (a) The Board of Management may from time to time determine the amount of the Annual Membership Fee, if any, or Other Fee to be paid by each Member or each class of Members.
- (b) Each Member must pay the Member's Annual Membership Fee or Other Fee as determined under Rule 14.2(a) to the Secretary and Treasurer, or a person authorised by the Board of Management to receive payments, as and when decided by the Board of Management.
- (c) A Member is not entitled to Vote if their Membership has not been paid or any Other Fee due has not been paid in full.
- (d) Subject to Rule 14.2(c), if a Member pays any Annual Membership Fee or Other Fee within three (3) months after the due date, the Member will have retained all the rights and privileges of a Member for the purposes of these Rules during that time, with the exception of past Voting rights defined by Rule 14.2(c).
- (e) If a Member fails to pay any Annual Membership Fee or Other Fee after three (3) months from the due date, the person ceases to be a Member.
- (f) If a person ceases to be a Member under Rule 14.2(e), and subsequently pays to the Association all the Member's outstanding fees, the Board of Management may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding fees are paid, including the right to Vote.

## **15. MEMBERSHIP APPLICATION AND APPROVAL**

### **15.1 Applying for Membership**

- (a) An applicant for Membership must apply by sending a written application, in the form the Board of Management requires, to the Secretary and Treasurer.
- (b) The application for Membership must be:
  - (i) in writing in the form the Board of Management requires;
  - (ii) supported by an Association Member; and
  - (iii) setting out the class of Membership being applied for.
- (c) If an application for Membership is not made in accordance with Rule 15.1(b), the application is to be deemed invalid and the applicant will not be eligible for Membership.
- (d) Subject to the application meeting Rule 15.1(b), the applicant becomes a Member if:
  - (i) the applicant is eligible for Membership under Rule 12.1;
  - (ii) the applicant applies in writing to the Association, in the form prescribed by the Board of Management. Where an applicant is applying for Associate Member status, it must also declare the name of the Member Authorised Nominee;
  - (iii) the Board of Management approves the application for Membership;
  - (iv) the entrance fee set by Rule 14.1, if any, is fully paid; and
  - (v) the applicant appears on the Register of Members and has been formally notified.
- (e) Subject to Rule 15.1(d), the applicant immediately becomes a Member and is entitled to exercise all the rights and privileges of Membership, including the right to Vote (if applicable to their level of Membership), and must comply with all of the obligations of Membership under these Rules.

### **15.2 Deciding Membership Applications**

- (a) Applications for Membership will be considered and decided in the order they are received by the Association.
- (b) The Board of Management must consider each application made under Rule 15.1(b) at a Board of Management Meeting and must at that Board of Management Meeting or the next Board of Management Meeting accept or reject that application.
- (c) When considering a Membership application, the Board of Management may seek clarification on any matter or further information in support of the application, and may delay its decision to allow for such material to be provided and proceed to consider and decide other applications.
- (d) An applicant for Membership must receive at least fifty five percent (55%) or more of the Votes by of the Board of Management present in person, or by proxy, to be approved for Membership.
- (e) The Board of Management may, at its absolute discretion, refuse to approve a Membership application even if the applicant complies with all the requirements under Rule 15.1(b).
- (f) As soon as is practicable after the Board of Management has made a decision under Rule 15.2(d), the Board of Management must notify the applicant in writing within fourteen (14) days of the outcome of their Membership application, but is not obliged to provide reasons for any decision to reject the applicant.

- (g) An applicant whose application for Membership of the Association is rejected under Rule 15.2(e) must, if the applicant wishes to appeal against that decision, give written notice to the Secretary and Treasurer and Treasurer of the intention to do so within a period of fourteen (14) days from the date they were notified of the rejection.
- (h) When notice is given under Rule 15.2(g), the Association in a Member Meeting no later than the next Annual General Meeting, must either confirm or set aside the decision of the Board of Management to reject the application, by majority Vote of at least fifty five percent (55%) of the eligible Full Members present, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the Member Meeting.

## **16. LIABILITY AND ENTITLEMENTS OF MEMBERS**

### **16.1 Voting Rights of Members and Member Authorised Nominees**

- (a) Subject to Rule 14.2(c) or where being suspended under Rule 28.1(d)(iii)(b), each Full Member of the Association has one (1) deliberate vote at a Meeting of the Association.
- (b) Subject to Rule 16.1(a), a Full Member has all rights provided to Members under these Rules, and other rights and benefits as determined by the Board of Management or by resolution of Members at a Member Meeting.
- (c) An Associate Member has no right to vote, and has all other rights provided to a Member under these Rules and other rights and benefits as determined by the Board of Management or by resolution of Members at a General Meeting.
- (d) A Board Director is entitled to Vote at a Member Meeting only if they are a Full Member of the Association. There is no Voting right by virtue of their Board Director position at a Member Meeting.

### **16.2 Liability of Members and Member Authorised Nominees**

- (a) A Member or a Member Authorised Nominee is only liable for their outstanding membership fees payable under Rules 14.1 and 14.2, if any applies.
- (b) Subject to Rule 16.2(a), a Member is not liable, by reason of the person's Membership, for the liabilities of the Association or the cost of winding up the Association.

### **16.3 Payment to Members**

- (a) Subject to Rule 16.3(b), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
- (b) A payment may be made to a Member out of the funds of the Association if authorised if it is:
  - (i) the payment in good faith of remuneration to any officer, employee or 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
  - (ii) 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
  - (iii) the payment of reasonable and proper rent by the Association to a Member for premises leased by the Member to the Association; or
  - (iv) the reimbursement of responsible expenses properly incurred by the Member on behalf of the Association as preapproved by the Board of Management.

### **16.4 Membership Entitlements Not Transferable**

A right, privilege or obligation that a Member of the Association has:

- (a) is not capable of being transferred to any other person, with the exception of an Associate Member Legal Organisation reallocating the Member Authorised Nominee rights to another natural person; and
- (b) ends when the Membership ceases in accordance with Rule 17.

## **17. CEASING TO BE A MEMBER**

### **17.1 Ending Membership**

- (a) A Full Member's membership ends, if the natural person:
  - (i) dies;
  - (ii) ceases to be a Full Member under Rule 12.2(b) when converting to an Associate Member status as the Member Authorised Nominee;
  - (iii) ceases to be a Member under Rule 14.2(e) by non-payment of fees;
  - (iv) resigns as a Member under Rule 17.2; or
  - (v) is expelled from the Association under Rule 28.1(d)(iii)(a).
- (b) An Associate Member's membership ends, if the Legal Organisation:
  - (i) subject to Rule 17.3(c), fails to duly appoint a Member Authorised Nominee within twenty eight (28) days of the request to appoint a new Member Authorised Nominee by the Association, where the original person is no longer available under Rule 17.1(c) or Rule 17.3(b);
  - (ii) enters a voluntary wound up process;
  - (iii) becomes bankrupt or dissolves;
  - (iv) ceases to be a Member under Rule 17.1(b);
  - (v) resigns as a Member under Rule 17.2(b); or
  - (vi) is expelled from the Association under Rule 28.1(e).
- (c) The right of the occupant responsible as the Member Authorised Nominee to act for the Associate Member ends, if the natural person:
  - (i) dies;
  - (ii) the Associate Member ceases to be a Member under Rule 14.2(d) by non-payment of fees;
  - (iii) the Associate Member resigns as a Member under Rule 17.2
  - (iv) the Member Authorised Nominee occupant themselves resigns under Rule 17.3, or is replaced under Rule 17.4; or
  - (v) the Associate Member, or the Member Authorised Nominee occupant themselves, are expelled from the Association under Rule 28.1(d)(iii)(a).

### **17.2 Resigning as a Member**

- (a) A Member who has paid all amounts payable by the Member to the Association in respect of their Membership, if any, may resign from the Membership by giving written notice of their resignation to the Secretary and Treasurer.
- (b) The Member resigns:
  - (i) at the time the Secretary and Treasurer receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time.
- (c) Any Member who resigns from the Association remains liable to pay to the Association any outstanding fees which may be recovered as a debt due to the Association by the Member.

### **17.3 Resigning as a Member Authorised Nominee**

- (a) A Member Authorised Nominee occupant may resign from their role by giving written notice of their resignation to the Secretary and Treasurer.
- (b) The Member Authorised Nominee resigns:
  - (i) at the time the Secretary and Treasurer receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time, and the Associate Member remains a Member.
- (c) The Associate Member who has a Member Authorised Nominee resign must notify the Secretary and Treasurer by written notice of the replacement Member Authorised Nominee within twenty eight (28) days.
- (d) The Register of Members detail for the Member Authorised Nominee occupant must be updated within twenty eight (28) days after the change occurs in accordance with 13.1(c).

### **17.4 Replacing a Member Authorised Nominee**

- (a) An Associate Member has the right to replace their Member Authorised Nominee occupant at any time by giving written notice to the Secretary and Treasurer.
- (b) The Member Authorised Nominee occupant is replaced:
  - (i) at the time the Secretary and Treasurer receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time.
- (c) The Register of Members detail for the Member Authorised Nominee occupant must be updated within twenty eight (28) days after the change occurs in accordance with 13.1(c).

## **DIVISION 5 MEMBER MEETINGS OF THE ASSOCIATION**

### **18. TYPES, QUORUM, VOTING AND RESOLUTIONS OF THE ASSOCIATION**

#### **18.1 Types of Member Meetings**

There are three (3) types of Member Meetings of the Association:

- (a) Annual General Meeting;
- (b) General Meeting; and
- (c) Special Meeting.

#### **18.2 Presiding Chairperson**

- (a) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is to preside as chairperson of each meeting.
- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the Members by majority Vote may choose one of the other Board Directors or Members to preside as chairperson at the General Meeting, provided they accept to preside over the meeting.

#### **18.3 Notice of a Member Meetings and Proposed Motions**

- (a) The Secretary and Treasurer must give at least:

- (i) fourteen (14) days' notice of a Member Meeting to each Member; or
  - (ii) twenty one (21) days' notice of a Member Meeting to each Member if a Special Resolution is proposed to be moved at the Member Meeting.
- (b) The notice convening a Member Meeting must specify:
- (i) the type of Member Meeting;
  - (ii) the place, date and time of the meeting;
  - (iii) the particulars and order of the business to be conducted at the meeting; and
  - (iv) If a Special Resolution is proposed to be moved at the Member Meeting, the proposed Special Resolution statement.
- (c) The notice convening a Member Meeting or any notice of motion must be issued in the manner prescribed by Rule 24.3.

#### **18.4 Quorum for Member Meetings**

- (a) The quorum for a Member Meeting requires at least fifty five percent (55%) of, or 12, Full Members, whichever is the lessor, eligible to vote in person or by proxy.
- (b) No business can be conducted at a Member Meeting unless a quorum of Members entitled to Vote under these Rules is present at the time when the meeting is considering that item, unless:
- (i) If, within half an hour of the time appointed for the commencement of a Member Meeting, a quorum is not present:
    - a. in the case of a Special General Meeting, the meeting lapses; or
    - b. in the case of an Annual General Meeting or General Meeting, the meeting is to stand adjourned to:
      - the same time and day in the following week; and
      - the same place unless another place is specified by the Chairperson at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
  - (ii) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the Members present are to constitute a quorum.

#### **18.5 Adjournment of Member Meetings**

- (a) The person presiding over a Member Meeting, at which a quorum is present, may adjourn the meetings from time to time and place to place with the consent of a majority Vote of eligible Members present, or by proxy, at the Member Meeting.
- (b) No business may be conducted at an adjourned meeting other than the unfinished business from the Member Meeting that was adjourned.
- (c) When a General Meeting is adjourned for fourteen (14) days or more, the Secretary and Treasurer must give notice of the adjourned meeting in accordance with Rules 18.3(a) as if that Member Meeting was a new Member Meeting.

#### **18.6 Membership Presence and Proxy Allowance**

- (a) Member Meetings may take place:

- (i) where the Members are physically present together; or
  - (ii) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the Member Meeting and in making any decisions, provided that the participation of the Member in the Member Meeting must be made known to all other Members.
- (b) A Member who participates in a Member Meeting as set out in Rule 18.6(a)(ii):
- (i) is deemed to be present at the Member Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum, until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.
- (c) Each Member is entitled to appoint in writing, a natural person who is also a Member of the Association to be the Member's proxy, and to attend and vote on the Member's behalf at any Member Meeting of the Association, provided:
- (i) written notice of the proxy is given to the Secretary and Treasurer before the commencement of the meeting in respect of which the proxy is appointed; and
  - (ii) no one (1) Member holds more than five (5) proxies.

## **19. RESOLUTIONS AND RECORDS**

### **19.1 Resolution Voting Requirements at Member Meetings**

- (a) Voting can only be conducted only where a quorum has been met.
- (b) A Special Resolution must:
- (i) be moved at a Members Meeting where notice of the Special Resolution has been given under Rule 18.3(a)(ii), or in accordance with Rule 22.2, and that Notice of a Special Resolution must:
    - a. be in writing;
    - b. include the place, date and time of the meeting;
    - c. include the intention to propose a Special Resolution;
    - d. set out the wording of the proposed Special Resolution;
    - e. be given in accordance with section 51 of the Act.
  - (ii) if notice is not given in accordance with Rule 18.3(a)(ii), the Special Resolution will have no effect.
- (c) At a Member Meeting:
- (i) subject to Rule 18.4(a) or otherwise Rule 18.4(b)(ii) being met, an Ordinary Resolution put to the Vote will be decided by a majority of Votes of the Full Members of the Association who are present in person, or by proxy, and entitled under these Rules to Vote; or
  - (ii) subject to Rule 18.4(a) or otherwise Rule 18.4(b)(ii) being met, a Special Resolution put to the vote will be decided if it is passed not less than seventy five percent (75%) of the Full Members of the Association who are present in person, or by proxy, and entitled under these Rules to Vote.

- (d) A person casts a Vote at a meeting either by:
  - (i) Voting at the meeting either in person or through the use of technology as under Rule 18.6(a)(ii); or
  - (ii) Voting by proxy.
- (e) At a Member Meeting, a majority Vote on any question may be demanded by either:
  - (i) the chairperson of the meeting; or
  - (ii) at least three (3) Members present in person, or by proxy.
- (f) If a majority Vote is demanded at a Member Meeting, the Vote must be taken in a manner as the chairperson of the meeting directs and a declaration by the chairperson of the result of the Vote is evidence of the matter so declared and set out in the Meeting Minutes under Rule 19.3(c).
- (g) If a majority Vote is demanded at a Member Meeting, the majority Vote must be taken:
  - (i) immediately in the case of a Vote which relates to electing a person to preside over the meeting;
  - (ii) immediately in the case of a Vote which relates to adjourning the meeting; or
  - (iii) in any other case, in the manner and time before the close of the meeting as the chairperson directs.
- (h) a declaration by the chairperson presiding over the Member Meeting that the resolution has been passed as an Ordinary Resolution or Special Resolution shall be evidence of the matter so declared and set out in the Meeting Minutes under Rule 19.3(c).

## **19.2 Methods of Voting for Resolutions**

Voting may be conducted:

- (a) in written form, including as a secret ballot;
- (b) by use of any technology, including under Rule 18.6(a)(ii);
- (c) by acceptance by voice; or
- (d) by show of hands,

at the discretion of the presiding chairperson and with appropriate consideration to any confidentiality required for the matter.

## **19.3 Meetings Minutes**

- (a) The Secretary and Treasurer or a person authorised by the Board of Management from time to time must keep Meeting Minutes of the resolutions and proceedings of all Member Meetings together with a record of the names of persons present at each meeting.
- (b) The Meeting Minutes are to be taken and then to be entered within twenty eight (28) days after the holding of each Member Meeting, and must be confirmed at the next meeting, except where that meeting is a Special General Meeting.
- (c) The Chairperson must ensure that the Meeting Minutes of a Member Meeting are reviewed and signed as correct by:
  - (i) the chairperson of the Member Meeting to which those minutes relate; or
  - (ii) the chairperson of the next succeeding Member Meeting.

- (d) When Meeting Minutes have been entered and signed as correct under this Rule, they are, until the contrary is proved, evidence that:
  - (i) the Member Meeting to which they relate was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the Member Meeting did in fact take place at the meeting; and
  - (iii) all appointments, elections or resolutions purporting to have been made at the Member Meeting have been validly made.

## **20 ANNUAL GENERAL MEETINGS**

### **20.1 Convening an Annual General Meeting**

- (a) The Association may hold its first Annual General Meeting at any time within the period of eighteen (18) months after incorporation under the Act.
- (b) Subject to Rule 20.1(a) and section 50 of the Act, the Association must Convene an Annual General Meeting each calendar year:
  - (i) within six (6) months after the end of the Association's Financial Year; or
  - (ii) within a longer period as the Commissioner may allow.
- (c) If the Association requires the approval from the Commissioner to hold its Annual General Meeting within a longer period under Rule 20.1(b)(ii), the Secretary and Treasurer must apply to the Commissioner no later than four (4) months after the end of the Association's Financial Year.
- (d) Subject to Rule 18.3 and Rule 20.1(a) and (b), the Annual General Meeting is to be Convened on a date, time and place as the Board of Management decides.

### **20.2 Business to be Conducted at Annual General Meeting**

- (a) At each Annual General Meeting, the Association:
  - (i) must confirm the Meeting Minutes of the last preceding Annual General Meeting and of any other Member Meeting held since that meeting if the Meeting Minutes of that Member Meeting have not yet been confirmed;
  - (ii) must receive the annual Financial Report and any audit of the Association for the preceding financial year, and any other Financial Statement or Financial Report guided by the Tier Association Model and required of Part 5 of the Act, namely:
    - a. if the Association is a Tier 1 Association, the Financial Statements of the Association for the preceding financial year presented;
    - b. 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; or
    - c. 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.
  - (iii) if applicable, must appoint or remove an auditor to prepare the audit report in the subsequent year;
  - (iv) if applicable, to confirm or vary any Entrance Fee, Annual Fee or Other Fee to be paid by Members;

- (v) in applicable, and subject to Rule 6.3(a), must elect or re-elect term expired Board Director roles and any additions sought defined by Rule 6.2(a), and if any such positions remain vacant they must be managed as Casual Vacancies under Rule 7.1(a);
- (vi) deal with any other business of which notice has been given in accordance with Rule 18.3; and
- (vii) deal with any other business that the Members in attendance at the Annual General Meeting, by majority, may decide to deal with.

## **21. GENERAL MEETINGS**

### **21.1 Convening a General Meetings**

- (a) The Association must Convene General Meetings each calendar year for the purpose of informing the Membership, enabling discussions, and making resolutions.
- (b) Subject to Rule 18.3, the General Meetings are convened on a date, time and place as the Board of Management decides in reasonably keeping the Members informed, or as otherwise conducted by the Members in accordance with Rule 22.2.

### **21.2 Business to be Conducted at a General Meeting**

- (a) With the exception of a Member Meeting conducted under Rule 22.2, at each Member Meeting, the Association:
  - (i) must confirm the Meeting Minutes of the last preceding Member Meeting if the minutes of that Member Meeting have not yet been confirmed; and
  - (ii) deal with any business of which notice has been given in accordance with the Rules.

## **22. SPECIAL GENERAL MEETINGS**

### **22.1 Convening a Special General Meeting**

- (a) The Association may Convene a Special General Meetings to deal with special business or meet outside any regular timetable.
- (b) A Special General Meeting can be convened at the request of:
  - (i) at least twenty percent (20%) of the Board of Management may at any time, upon its own determination convene a Special General Meeting of the Association; or
  - (ii) at least twenty percent (20%) of the Members under Rule 22.2, convene a Special General Meeting of the Association.
- (c) Subject to Rule 18.3, the Special General Meetings are Convened on a date, time and place as the Board of Management determines, or in accordance with Rule 22.3.

### **22.2 Member Request for Special General Meeting**

- (a) Subject to Rule 22.1(b)(ii), Members may request a Special General Meeting by written request to the Board of Management through the Secretary and Treasurer, stating the purpose of the meeting, and if a Special Resolution is proposed, the Special Resolution must be expressly specified in the form it is proposed to be passed, and be signed by the Members making the request.

- (b) Subject to 22.2(a), the Board of Management must Convene the Special General Meeting within twenty eight (28) days from the date the Member notice is received, or as otherwise agreed by those Members.

### **22.3 Failure to Convene a Member Requested Special General Meeting**

- (a) Subject to Rule 22.3(b), if the Board of Management does not act on Rule 22.2(b), the Members who made such request may Convene a Special General Meeting within three (3) months from the date the Member notice is received under Rule 22.2(a) to deal solely with the business stated in that notice.
- (b) A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Board of Management and the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

### **22.4 Business to be Conducted at a General Meeting**

At each Special General Meeting, the Association must deal with any business set out under Rule 18.3, or in the Member notice received under Rule 22.2(a).

## **DIVISION 6 RULES, BY-LAWS AND CORPORATE RECORDS**

### **23. RULES AND BY-LAWS**

#### **23.1 Rules of the Association**

- (a) These Rules bind every Member and the Association, and each Member and Member Authorised Nominee agrees to comply with these Rules.
- (b) The Association must provide, free of charge, a copy of the Rules in force or access to such electronically, at the time the relevant Member commences, to each person who becomes a Member or Member Authorised Nominee under Rule 15.1(d).
- (c) These Rules must be kept and maintained at the Secretary and Treasurer's place of residence, or at such other place as the Board of Management decides.

#### **23.2 Amendment of Rules, Name and Objects**

- (a) The Association may alter, rescind or add to these Rules by Special Resolution and not otherwise.
- (b) If a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within twenty eight (28) days after the Special Resolution is passed in accordance with section 200 of the Act.
- (c) Subject to Rule 23.2(a), an amendment to the Rules does not take effect until the Commissioner has approved the alteration.
- (d) Where the Commissioner approves the alteration, the Secretary and Treasurer must give notice the Members in accordance with section 200(6) of the Act.

#### **23.3 Creation of By-Laws**

- (a) Subject to Rule 23.3(b) and Rule 23.3(c), the Members of the Association may make, amend and repeal By-laws as recommended by the Board of Management for the management of the Association by Special Resolution at a Member Meeting.

- (b) By-laws must not be inconsistent with these Rules, the Act and any related regulations.
- (c) By-laws can 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.

#### **23.4 Power of By-Laws**

- (a) By-laws made under Rule 23.3 do not form part of these Rules.
- (b) By-laws may make provision for:
  - (i) subclasses of Membership and the rights and obligations that apply to each subclass of Membership;
  - (ii) requirements for financial reporting, financial accountability or auditing of the accounts;
  - (iii) restrictions on the powers of the Board of Management, including the power to dispose of assets; and
  - (iv) any other matter that the Association considers necessary or convenient to be dealt with in the By-laws.
- (c) At the request of a Member in writing to the Secretary and Treasurer, the Association must make a copy of the By-laws available for inspection by the Member free of charge at such time and place as is mutually convenient to the Association and the Member.

### **24. AUTHORITY TO BIND ASSOCIATION**

#### **24.1 Executing Documents**

The Association may execute a document without using a common seal if the document is signed by:

- (a) any two (2) Board of Directors; or
- (b) one (1) Board Director and a person authorised by the Board of Management.

#### **24.2 Use of the Common Seal**

- (a) If the Association has a common seal on which its registered name appears in legible characters:
  - (i) the Common Seal must be kept and maintained at the Secretary and Treasurer's place of residence, or at such other place as the Board of Management decides;
  - (ii) the Secretary and Treasurer, or any other person as the Board of Management from time to time decides, must provide for its safe custody; and
  - (iii) it must only be used under resolution of the Board of Management.
- (b) The Association executes a document with its common seal, if the fixing of the seal is witnessed by:
  - (i) any two (2) Board Directors; or
  - (ii) one (1) Board Director and a person authorised by the Board of Management.and each of them is to sign the document to attest that the document was sealed in their presence.
- (c) The Secretary and Treasurer must make a written record of every use of the common seal.

### **24.3 Legal Notices**

- (a) A notice or other communication connected with these Rules has no legal effect unless it is in writing and given as follows:
  - (i) delivered by hand to the nominated address of the addressee;
  - (ii) sent by post to the nominated postal address of the addressee; or
  - (iii) sent by e-mail or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
- (b) Any notice given to a Member under these Rules, must be sent to:
  - (i) the Member's address as set out in the Register of Members referred to in Rule 13.1; and/or
  - (ii) the Board Director's address as set out in the Register of Board Directors referred to in Rule 6.7.

## **25. FUNDS AND ACCOUNTS**

### **25.1 Control of Funds**

- (a) The funds of the Association must be kept in an account in the name of the Association in a financial institution determined by the Board of Management.
- (b) All funds of the Association must be deposited into the Association's account within five (5) working days after their receipt, unless otherwise approved by the Board of Management.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - (i) any two (2) Board Directors; or
  - (ii) one (1) Board Director and a person authorised by the Board of Management.
- (d) The Board of Management may authorise the Secretary and Treasurer to expend funds on behalf of the Association up to a specified amount without requiring approval from the Board of Management for each item on which the funds are expended.
- (e) All expenditure that extends amounts under Rule 25.1(d) must be approved or ratified at a Board of Management Meeting.

### **25.2 Source of Association Funds**

The funds of the Association may be derived from Entrance Fees, Annual Membership Fees, Other Fees payable by Members, donations, fund raising activities, grants, interest, the Declared Pest Account or any other payments under the BAM Act, and any other sources approved by the Board of Management.

### **25.3 Financial Records, Financial Statements, Reports and Audit**

- (a) The Association must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair Financial Reports and Financial Statements to be prepared and submitted in accordance with Part 5 of the Act.

- (b) Where having recognised biosecurity group (RBG) status, the association reports as required to the Department managing the Declared Pest Rate.
- (c) The Association must retain its Financial Records for at least seven (7) years after the transactions covered by the records are completed, as required by section 67 of the Act.

## **26. BOOKS AND RECORDS**

### **26.1 Custody of the Books of the Association**

- (a) Except as otherwise decided by the Board of Management from time to time, the Secretary and Treasurer must keep at their place of residence, or at such other place as the Board of Management decides, and in their custody or under their control all of the Books of the Association.
- (b) The Books of the Association must be retained for at least seven (7) years.

### **26.2 Inspecting the Books of the Association**

- (a) The Association must allow an authorised reviewer or auditor of the Association, being a person referred to in Division 6 of the Act, to access at all reasonable times to the Books of the Association free of charge at such time and place as is mutually convenient to the Association and the reviewer or auditor.
- (b) A reviewer or auditor must contact the Secretary and Treasurer to request to inspect the Books of the Association.
- (c) A reviewer or auditor of the Association may require an Officeholder, or person approved by the Board of Management, to give the reviewer or auditor reasonable information, explanations or other assistance for the purposes of the review or audit, and to comply with such requests.

### **26.3 Prohibition on Use of Information in the Books of the Association**

A reviewer or auditor must not use or disclose information in the Books of the Association except for a purpose that:

- (a) is directly connected with the affairs of the Association; or
- (b) is related to administering the Act.

### **26.4 Returning the Books of the Association**

Outgoing Board Directors are responsible for transferring all relevant assets and Books of the Association to the new Board Directors within fourteen (14) days of ceasing to be a Board Director, and must destroy all other materials, copies or electronic data relating to their Board of Management role, unless otherwise allowed by law.

Outgoing employed officers are responsible for transferring all relevant assets and Books of the Association to the Secretary and Treasurer within fourteen (14) days of ceasing to be an officer of the Association.

Outgoing Members are responsible for transferring all relevant assets and Books of the Association to the Secretary and Treasurer within fourteen (14) days of ceasing to be a Member.

## **DIVISION 7 DISCIPLINARY ACTION AND RESOLVING DISPUTES**

### **27. DISCIPLINARY ACTION AGAINST A BOARD DIRECTOR**

#### **27.1 Right to Suspend a Board Director or Officeholder**

- (a) A Board Director may be suspended as a Board Director by not fulfilling their duties under Rule 5.1, by the authority of a majority Vote of the Board Directors, and cannot exercise any rights or privileges of a Board Director, including Voting rights, during the period they are suspended from the Board of Management.
- (b) If a Board Director is suspended under Rule 27.1(a), they must be also suspended as a:
  - (i) Member under Rule 28.1(a); and
  - (ii) Officeholder under Rule 27.2.
- (c) A Board Director may be suspended as an Officeholder only (but remain as a Board Director) by not fulfilling their duties under the appropriate performance to the allocated functions under Rule 5.2, 5.3 or 5.4, by the authority of a majority Vote of the Board Directors, and cannot exercise any rights or privileges of an Officeholder, including Voting rights, during the period they are suspended from the Board of Management.

#### **27.2 When an Officeholder is Suspended**

- (a) Subject to the Board Director not being given a full and fair opportunity to state their case orally or by written statement submitted by the Board Director at the Board of Management meeting for which the suspension referred to in 27.1(c) was decided, such person will be given the opportunity to state their case as to why they should not be removed from their Officeholder position on the Board of Management by making a written representation (of a reasonable length) or by verbal statement to the Board Directors within a reasonable time not exceeding fourteen (14) days.
- (b) Subject to 27.2(a), at the Board of Management Meeting where the suspended person was given the opportunity or took the opportunity to present their case, the other Board Directors by majority Vote may decide that the suspended person:
  - (i) be reinstated into the Officeholder role with all rights or privileges for that role returned;
  - (ii) subject to Rule 27.1(b), be retained as a Board Director, but removed permanently of their Officeholder role; or
  - (iii) dealt with under Rule 27.3 where the Board Director will be deemed suspended under Rule 27.1(a).
- (c) A decision made by Rule 27.2(b) must be recorded in the Board of Management Meeting Minutes and kept as a record.
- (d) The Secretary and Treasurer must record the following information in the Register of Board Directors:
  - (i) the name of the Officeholder that has been suspended; and
  - (ii) the date on which the suspension took effect, the period of suspension, and any updates.
- (e) The person suspended must be informed in writing within fourteen (14) days of the decision in Rule 27.2(b), and updated on the fact that the suspension period has passed

within fourteen (14) days of the date.

### **27.3 When a Board Director is Suspended**

- (a) A Board Director that has been suspended under Rule 27.1(a) cannot exercise any rights or privileges of a Board Director, Officeholder or Member, including Voting rights, during the period they are suspended.
- (b) The reason for the suspension shall be recorded in the Board of Management Meeting Minutes and kept as a record of the suspension.
- (c) Where the suspended Board Director held an Officeholder position, another Board Director must be allocated by majority Vote of the Board Directors to act in that role until Rule 27.4(d) applies.
- (d) The Secretary and Treasurer must record the following information in the Register of Board Directors and Register of Members:
  - (i) the name of the Board Director and Member that has been suspended; and
  - (ii) the date on which the suspension took effect, and the period of suspension, and any updates.
- (e) The person suspended must be informed in writing within fourteen (14) days of the decision in Rule 27.1(a), and updated on the fact that the suspension period has passed within fourteen (14) days of the date.

### **27.4 Right to Remove a Board Director**

- (a) Subject to Rule 7.1, a Board Director may only be removed from their position on the Board of Management by resolution at a Member Meeting of the Association if a Vote is taken by the Members present in person, or by proxy, who are eligible to vote, and by majority Vote in favour of their removal.
- (b) The suspended Board Director referred to in Rule 27.1(a), who faces removal from the Board of Management and/or Membership (as a Full Member or Member Authorised Nominee) must be given a full and fair opportunity at a Member Meeting to decide the proposed resolution, to state their case as to why they should not be removed from their position on the Board of Management and/or Membership, and can do this by making a written representation (of a reasonable length) to the Chairperson and may ask that the representation be provided to the Voting Members.
- (c) The Secretary and Treasurer must, not less than fourteen (14) days before the Member Meeting referred to in Rule 27.4(b), give written notice to the Membership:
  - (i) of the suspension and the grounds on which it is based;
  - (ii) of the date, place and time of the Member Meeting;
  - (iii) that the Member, or the Member's representative, may address the Membership at the meeting and will be given a full and fair opportunity to state the Board Director's case orally, or in writing, or both.
- (d) A decision made by Rule 27.4(a) must be recorded in the Board of Management Meeting Minutes and kept as a record, and:
  - (i) if the Membership resolves by resolution to remove the Board Director from the Board of Management, such person will no longer hold that position, and all rights or privileges must be revoked permanently; and/or

- (ii) if the Membership resolves by resolution to also suspend or expel the person from Membership or as a Member Authorised Nominee, Rule 28 applies; or
  - (iii) if the Board of Management's decision to suspend is set aside under these Rules by the Members, the Board Director will cease to be suspended and their rights or privileges of a Board Director, including Voting rights, must be restored.
- (e) If the Board Director is removed by resolution at a Member Meeting, the position becomes a Casual Vacancy position.
- (f) On the decision under Rule 27.4(d), the Register of Board Directors must be updated.

### **27.5 No Right to Appeal Against a Removal**

There is no right to appeal a removal that is enacted by a resolution of the Members, unless new and substantial evidence warranting reconsideration arises, at the discretion of the Chairperson.

## **28. DISCIPLINARY ACTION AGAINST A MEMBER OR MEMBER AUTHORISED NOMINEE**

### **28.1 Right to Suspend or Expel a Member or Member Authorised Nominee**

- (a) The Board of Management may, by resolution, suspend or expel a Member or Member Authorised Nominee from Membership if:
- (i) the Member or Member Authorised Nominee refuses or neglects to comply with these Rules; and/or
  - (ii) the Member or Member Authorised Nominee's conduct or behaviour is detrimental to the reputation and/or interests of the Association, including their participation in any role as a Board Director, or Officeholder.
- (b) The Board of Management must hold a Board of Management Meeting to decide whether to suspend or expel a Member, or suspend or expel a Member Authorised Nominee.
- (c) The Secretary and Treasurer must, not less than twenty eight (28) days before the Board of Management Meeting referred to in Rule 28.1(b), give written notice to the Member or Member Authorised Nominee:
- (i) of the proposed suspension or expulsion and the grounds on which it is based;
  - (ii) of the date, place and time of the Board of Management Meeting;
  - (iii) that the Member or Member Authorised Nominee, or their representative, may attend the Board of Management Meeting; and
  - (iv) that the Member or Member Authorised Nominee, or their representative, may address the Board of Management at the meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
- (d) At the Board of Management Meeting referred to in Rule 28.1(b) the Board of Management must:
- (i) give the Member or Member Authorised Nominee, or their representative, a full and fair opportunity to state the Member's case orally;
  - (ii) give due consideration to any written statement submitted by the Member or Member Authorised Nominee; and
  - (iii) determine whether or not the Member or Member Authorised Nominee should be:

- a. expelled from the Association; or
  - b. suspended from Membership, and if so, the period that the Member should be suspended from the Membership.
- (e) The expulsion of a Member Authorised Nominee may not automatically include the expulsion of the Associate Member Lead Organisation, and the resolution referred to in 28.1(d)(iii) must be clear on that matter.

### **28.2 When a Member or Member Authorised Nominee is Suspended**

- (a) Once the Board of Management has decided to suspend a Member or Member Authorised Nominee under Rule 28.1(d), the Member or Member Authorised Nominee is immediately suspended from the Membership, and cannot exercise any rights or privileges of Membership, including Voting rights, during the period they are suspended from Membership.
- (b) The Board of Management's decision under Rule 28.1(d), including the reason for the suspension, must be recorded in the Meeting Minutes.
- (c) The Secretary and Treasurer must record the following information in the Register of Members:
  - (i) the name of the Member or Member Authorised Nominee that has been suspended from Membership;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Board of Management under Rule 28.1(d)(iii)b.
- (d) The Secretary and Treasurer must inform the Member and Member Authorised Nominee in writing of the decision of the Board of Management, within seven (7) days of the Board of Management Meeting referred to in Rule 28.1(b).
- (e) Upon the expiry of the period of a Member or Member Authorised Nominee's suspension referred to in Rule 28.1(d)(iii)b, the Secretary and Treasurer must record in the Register that the Member is no longer suspended.
- (f) The person suspended must be informed in writing within fourteen (14) days of the decision in Rule 28.1(d), and updated on the fact that the suspension period has passed within fourteen (14) days of the date referred to in Rule 28.1(d)(iii)b.

### **28.3 When a Member or Member Authorised Nominee is Expelled**

- (a) Once the Board of Management has decided to expel a Member or Member Authorised Nominee under Rule 28.1(d), the Member is immediately expelled from the Membership, and cannot exercise any rights or privileges of Membership, including Voting rights. They are no longer a Member or a Member Authorised Nominee.
- (b) The Board of Management's decision under Rule 28.1(d), including the reason for the expulsion, must be recorded in the Meeting Minutes.
- (c) The Secretary and Treasurer must record the following information in the Register of Members:
  - (i) the name of the Member or Member Authorised Nominee that has been expelled from Membership; and

- (ii) the date on which the expulsion took effect.
- (d) The Member or Member Authorised Nominee expelled must be informed in writing within fourteen (14) days of the decision in Rule 28.1(d).

#### **28.4 Right of Appeal Against Suspension or Expulsion**

- (a) If a Member or Member Authorised Nominee is suspended or expelled under Rule 28.1(d), the person may appeal the Board of Management's decision by giving written notice to the Secretary and Treasurer within fourteen (14) days of receiving notice of the Board of Management's decision under Rule 28.2(f) or Rule 28.3(d).
- (b) The suspended or expelled Member or Member Authorised Nominee must be given a full and fair opportunity at a Member Meeting, or their representative, by making a written representation (of a reasonable length) to the Chairperson and may ask that the representation be provided to the Voting Members.
- (c) The Secretary and Treasurer must, not less than fourteen (14) days before the Member Meeting referred to in Rule 28.4(b), give written notice to the Membership:
  - (i) of the name of the Member or Member Authorised Nominee;
  - (ii) of the suspension or expulsion and the grounds on which it is based;
  - (iii) of the date, place and time of the Member Meeting; and
  - (iv) the statement in writing referred to in Rule 28.4(b).
- (d) A resolution made by the majority of eligible Members with the right to Vote must be recorded in the Member Meeting Minutes and kept as a record, and:
  - (i) if the Membership resolves to support the Board of Management decision, the decision is final and there is no further right to appeal;
  - (ii) if the Membership resolves to set aside the Board of Management decision to suspend the Member or Member Authorised Nominee, the suspension is lifted and their rights or privileges of Membership, including Voting rights, must be restored; or
  - (iii) if the Membership resolves to set aside the Board of Management decision to expel the Member or Member Authorised Nominee, the expulsion is revoked and their rights or privileges of Membership, including Voting rights, must be restored.
- (e) On the decision under Rule 27.4(d), the:
  - (i) resolution must be recorded in the Meeting Minutes;
  - (ii) the Register of Members must be updated; and
  - (iii) the Member or Member Authorised Nominee suspended or expelled must be informed in writing within fourteen (14) days of the decision in Rule 27.4(d).

#### **28.5 No Right to Appeal Against a Membership Resolution**

There is no right to appeal a suspension or expulsion that is enacted by a resolution of the Members, unless new and substantial evidence warranting reconsideration arises, at the discretion of the Chairperson.

### **29. RESOLVING DISPUTES**

## 29.1 Disputes Arising

- (a) This rule applies to:
  - (i) disputes between Members, and/or Member Authorised Nominees; and
  - (ii) disputes between the Association and one or more Members or Member Authorised Nominees that arise under the Rules or relate to the Rules of the Association, other than Member or Member Authorised Nominee suspension or expulsion.
- (b) In this rule 'Member' includes any current or former Member or Member Authorised Nominee whose membership ceased not more than six (6) months before the dispute occurred.
- (c) The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute in accordance with Rule 29.1(c), any party to the dispute may initiate a grievance procedure under this Rule by giving written notice to the Secretary and Treasurer of the parties to, and details of, the dispute.
- (e) The Secretary and Treasurer must convene a Board of Management Meeting within twenty eight (28) days after the Secretary and Treasurer receives notice of the dispute for the Board of Management to consider and determine the dispute.
- (f) The Secretary and Treasurer must inform the parties of the date of the Board of Management Meeting referred to in Rule 29.1(e) and within seven (7) days of the Board of Management Meeting, stating:
  - (i) when and where the Board of Management Meeting will be held;
  - (ii) 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) submissions to the Board of Management about the dispute.
- (g) If the dispute is between one or more members and the Association, and any party to the dispute gives written notice to the Secretary and Treasurer stating that the party does not agree to the dispute being determined by the Board of Management, and requests the appointment of a mediator under Rule 29.2, the Board of Management must not determine the dispute.
- (h) Subject to Rule 29.1(g) being enacted before the meeting date, at the Board of Management Meeting referred to in Rule 29.1(e) to determine the dispute, all parties to the dispute, or their representatives, must be given a full and fair opportunity to state their respective cases orally, in writing or both, and the Board of Management must resolve to make a resolution on the matter, or adjourn the meeting for a reasonable time to seek further information, while Rule 29.1(f) applies for the second meeting, and making a final decision.
- (i) The Secretary and Treasurer must inform the parties to the dispute of the Board of Management's decision within seven (7) days after the relevant Board of Management Meeting.
- (j) If any party to the dispute is dissatisfied with the decision of the Board of Management, they may within fourteen (14) days after receiving the notice under Rule 29.1(i), they may elect to initiate further dispute resolution procedures as set out in the Rule 29.2, where each party to the dispute is a party to the mediation, by request through written notice to the Secretary and Treasurer.

## 29.2 Mediation

- (a) This Rule applies:
- (i) where a dispute arises between Members or more than one Member and the Association and any party to the dispute elects not to have the matter determined by the Board of Management under Rule 29.1(g); or
  - (ii) where a person is dissatisfied with a decision made by the Board of Management under rule 29.1(j).
- (b) Where the dispute relates to a proposal or resolution for the suspension or expulsion of a Member, Board Director, or Officeholder, this Rule does not apply.
- (c) The party, or parties, requesting the mediation must pay the costs of the mediation.
- (d) The mediator must be:
- (i) a person chosen by agreement between the parties that can include past or present Member whom has no personal interest in the matter or bias against any party; or
  - (ii) in the absence of agreement:
    - a. if the dispute is between a Member and another Member – an independent person appointed by the Board of Management; or
    - b. if the dispute is between a Member or more than one Member and the Association, the Board of Management or a Board Director, then an independent person who is a mediator appointed to, or employed with, other not for profit organisation(s), such as through a community legal centre,
- and that mediator must declare any personal interest or potential conflict of interest before being engaged.
- (e) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation, and agree that information exchanged for the purpose of mediation is confidential and cannot be used for any other purpose than for the mediation process.
- (f) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least five (5) days before the mediation session.
- (g) The mediator, in conducting the mediation:
- (i) must act independently, fairly and with good intentions toward all parties;
  - (ii) give the parties to the mediation process every opportunity to be heard;
  - (iii) allow all parties to consider any written statement submitted by any party; and
  - (iv) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (h) The mediator must not determine the dispute and the mediation must be confidential, and the parties must attempt to resolve the dispute by coming to a reasonable agreement.
- (i) Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

## 29.3 Inability to Resolve Disputes

If a dispute cannot be resolved under the procedures set out in Rule 29.2, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

## **DIVISION 8 WINDING UP**

### **30. WINDING UP THE ASSOCIATION**

#### **30.1 Cancellation**

- (a) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the Association will:
  - (i) apply to the Commissioner for cancellation of its incorporation; or
  - (ii) appoint a liquidator to wind up its affairs.
- (b) The Association must be wound up under rule 30.1(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.

#### **30.2 Distribution of Surplus Property**

- (a) Upon cancellation of the Association, the Surplus Property must only be distributed to one or more of the following in accordance with section 24 of the Act:
  - (i) an incorporated association under the Act;
  - (ii) a body corporate that at the time of the distribution is the holder of a licence under the *Charitable Collections Act 1946 (Western Australia)*;
  - (iii) a company limited by guarantee that is registered as mentioned in section 150 of the *Corporations Act 2001 (Commonwealth)*;
  - (iv) a company holding a licence that continues in force under section 151 of the *Corporations Act 2001 (Commonwealth)*;
  - (v) a body corporate that:
    - a. is a Member or former member of the Association; and
    - b. at the time of the Surplus Property is distributed, has rules that prevent the property being distributed to its members;
  - (vi) a trustee for a body corporate referred to in Rule 30.2(a)(v); or
  - (vii) a co-operative registered under the *Co-operatives Act 2009* that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.

## **DIVISION 9 TRANSITIONAL ARRANGEMENTS**

### **31. BOARD DIRECTOR TERMS**

- (a) To enable adequate knowledge carryover and stagnating retirement cycles, the Board of Management retains the right to recommend Board Director candidates for lessor terms than the normal three (3) years' term of office under Rule 6.6(b) at the Association's first Annual General Meeting.
- (b) Terms other than that prescribed by Rule 6.6(b) of a reduced duration may be agreed with the candidates as part of their preferences for service during the nomination process.
- (c) Subject to Rule 31(b), the Board of Management may recommend specific Board Director candidates, if elected, to serve a lessor term on the notice under Rule 6.3(a), and such terms of office for that individual will apply on election.