

# **BURNSIDE RETIREMENT SERVICES INCORPORATED**

## **RULES**

Adopted by resolution of the Council  
made on 12<sup>th</sup> March, 2024.

**Contents**

- 1. NAME..... 4
- 2. PRESCRIBED ASSOCIATION..... 4
- 3. DEFINITIONS..... 4
- 4. INTERPRETATION..... 5
- 5. THE ACT..... 5
- 6. PERSONS BOUND..... 5
- 7. OBJECTS..... 5
- 8. POWERS ..... 6
- 9. NOT FOR PROFIT..... 6
- 10. WINDING UP ..... 7
- 11. MEMBER ..... 7
- 12. BOARD..... 7
- 13. BOARD FUNCTIONS ..... 7
- 14. BOARD POWERS ..... 7
- 15. THE BOARD MAY DELEGATE..... 7
- 16. BOARD COMPOSITION ..... 8
- 17. ABOUT BOARD MEMBERS..... 8
- 18. BOARD REMUNERATION..... 8
- 19. OTHER PROVISIONS..... 9
- 20. ALTERNATES..... 10
- 21. MEETINGS OF THE BOARD..... 10
- 22. ANNUAL GENERAL MEETING ..... 13
- 23. PUBLIC OFFICER..... 13
- 24. EXECUTIVE OFFICER..... 14
- 25. TREASURER ..... 14
- 26. AUDITOR..... 14
- 27. SECRETARY ..... 15
- 28. DUTIES OF OFFICERS..... 15
- 29. INDEMNITY ..... 15
- 30. VALIDITY OF ACTS OF BOARD MEMBERS..... 16
- 31. ADVISORS..... 16

32.	STATUS .....	17
33.	STRATEGIC MANAGEMENT PLAN .....	17
34.	BUDGET .....	17
35.	POLICIES .....	17
36.	PERIODIC RETURN .....	17
37.	FINANCIAL YEAR .....	17
38.	ACCOUNTS .....	18
39.	ALTERATIONS OF THE RULES.....	18
40.	THE SEAL.....	18
41.	DISPUTE RESOLUTION .....	18
42.	CIRCUMSTANCES NOT PROVIDED FOR.....	19
43.	TRANSITIONAL PROVISIONS .....	19

# ASSOCIATIONS INCORPORATIONS ACT 1985

## RULES

### OF

## BURNSIDE RETIREMENT SERVICES INCORPORATED

### PART 1 - INTRODUCTION

#### 1. NAME

The name of the Association is the “Burnside Retirement Services Incorporated”.

#### 2. PRESCRIBED ASSOCIATION

The Association is a prescribed association as defined in section 3 of the Act.

#### 3. DEFINITIONS

##### 3.1. In these Rules:

**Accommodation** includes the residential accommodation provided by the Association at 3 Conyngham Street, Glenside SA and any other sites that the Association may provide.

**Act** means the *Associations Incorporation Act 1985*.

**Association** means Burnside Retirement Services Incorporated.

**Board** means the committee of management of the Association within the meaning of section 29(1) of the Act and now established under Part 4 of these Rules.

**Board Member** means at any time a member of the Board holding office as such.

**Council** means the City of Burnside, a council constituted under the *Local Government Act 1999* or any successor local government body for the same or substantially the same area.

**Government Entity** means a government entity for the purposes of section 24AS of the *Income Tax Assessment Act 1936* (Cth).

**Public Officer** means at any time a person appointed by the Board to be the Public Officer of the Association.

**Residents** means those persons of the age of 55 years and over who enter into a licence or similar agreement in respect of the Accommodation.

**Secretary** means at any time a person appointed by the Board to be Secretary of the Association or, if no such person is then in office, the person who is the Public Officer at that time.

**Treasurer** means at any time a person appointed by the Board to be Treasurer of the Association or, if no such person is then in office, the person who is the Public Officer at the time.

##### 3.2. Subject to Rule 3.1, unless the contrary intention appears, words and expressions in these Rules have the same meaning as in the provision of the Act that deals with the same matter.

#### **4. INTERPRETATION**

In these Rules, unless the contrary intention appears:

- 4.1. the singular includes the plural and vice versa;
- 4.2. a reference to one gender includes both genders;
- 4.3. a reference to a person includes a body corporate; and
- 4.4. a reference to a statute, ordinance, code or other law includes regulations and other instruments issued under it and consolidations, amendments, re-enactments or replacements of any of them.

#### **5. THE ACT**

Despite any other provision in these Rules:

- 5.1. if the Act prohibits a thing being done, the thing may not be done;
- 5.2. if the Act requires a thing to be done, authority is given for that thing to be done;
- 5.3. if a provision of these Rules is or becomes inconsistent with the Act, that provision must be read down or, failing that, severed from these Rules to the extent of the inconsistency.

#### **6. PERSONS BOUND**

- 6.1. These Rules bind the Association, the Council (in its capacity as the sole member of the Association) and each of the Board Members.
- 6.2. A Board Member of the Association is taken to agree to be bound by these Rules upon their appointment to office.

### **PART 2 – THE ASSOCIATION**

#### **7. OBJECTS**

The Objects of the Association are:

- 7.1. to serve the community through providing, maintaining and managing the Accommodation for the Residents in accordance with these Rules and any directions of the Council;
- 7.2. to provide, maintain and manage residential Accommodation and such other sites as the Association may from time to time determine (hereinafter called “the Accommodation”) for those persons of the age of 55 years and over whom the Board consider qualify for entry into the facilities of the Association;
- 7.3. to engage in public benevolent activities by the provision of maintenance and management of the Accommodation on such special terms and conditions as the Board may from time to time determine to persons whom the Board considers to be in necessitous circumstances with preference to be given to such residents of the City of Burnside as the Board may from time to time determine; and
- 7.4. to do all such lawful things as may be incidental or conducive to the attainment of the above objects.

## **8. POWERS**

For the purposes of carrying out its Objects, the Association has all of the powers conferred by Section 25 of the Act.

## **9. NOT FOR PROFIT**

In compliance with Section 55 of the Act:

- 9.1. unless the Commission otherwise approves, the Association must not conduct its affairs in a manner calculated to secure a pecuniary profit for the Council (being its sole member) or for the Board Members or for associates of Board Members; and
- 9.2. unless the Commission otherwise approves, the Association must not make a payment from its income or capital, or dispose of any of its assets *in specie*, to the Council (being its sole member) or to its Board Members or associates of the Board Members excepting:
  - 9.2.1. any reasonable remuneration of a Board Member for work done by the Board Member for or on behalf of the Association either as these Rules may allow or by express resolution of the Board; and / or
  - 9.2.2. any payments or dispositions that are incidental to activities carried on by the Association in accordance or consistently with its Objects.

## **10. WINDING UP**

- 10.1. The Association may be wound up or deregistered in accordance with Section 41 of the Act.
- 10.2. If upon the Association being wound up or deregistered there remain surplus assets then, except as Section 43 of the Act may allow, such surplus assets must be transferred to or among:
  - 10.2.1 the Council; and/or
  - 10.2.2 such other Government Entities nominated by the Council and having objects which are similar to, or inclusive of, the objects of the Association.

## **PART 3 – MEMBER**

### **11. MEMBER**

The Council is the sole member of the Association.

## **PART 4 – THE BOARD**

### **12. BOARD**

At all times, the Association must have a Board.

### **13. BOARD FUNCTIONS**

The Board is responsible for the administration of the affairs of the Association including, without limitation, the management and control of the funds and property of the Association.

### **14. BOARD POWERS**

The Board may, on behalf of the Association, exercise all such powers and do all such things as are within the Objects of the Association.

## **15. THE BOARD MAY DELEGATE**

- 15.1. The Board may delegate any of its powers to a committee of the Board, a Board Member, an employee of the Association or any other person.
- 15.2. A delegation of powers by the Board:
  - 15.2.1. may authorise the delegate to sub-delegate all or any of the powers vested in the delegate;
  - 15.2.2. may be concurrent with, or to the exclusion, of the exercise by the Board of those powers.
- 15.3. The delegate must exercise the powers delegated in accordance with any directions of the Board.
- 15.4. The exercise of power by the delegate is as effective as if the Board had exercised it.
- 15.5. The Board may revoke, at any time, any powers it has delegated

## **16. BOARD COMPOSITION**

- 16.1. Subject to the other provisions of these Rules, the Board shall consist of not less than four (4) nor more than seven (7) Board Members.
- 16.2. The Council must appoint the Board Members from time to time (but in doing so may have regard to any recommendations made by the Board).

## **17. ABOUT BOARD MEMBERS**

- 17.1. Subject to these Rules, a Board Member shall hold office for a term of two (2) years.
- 17.2. Board Members will have qualifications and skills as determined by the Board.
- 17.3. Subject to Rule 17.4 a Board Member is eligible for reappointment to the Board.
- 17.4. A Board Member may only serve for a maximum of three (3) terms, being a total of six (6) years, and thereafter, will not be eligible for reappointment to the Board.
- 17.5. With effect from the close of each annual general meeting of the Association one (1) Board Member must retire. The retiring Board Member is he or she who has held office longest since their last appointment but as between Board Members who were last appointed on the same day, in the absence of agreement between them as to whom of them will retire, retirement will be determined by lot. A Board Member (**Replacement**) who was appointed to fill a casual vacancy shall, for the purpose of this Rule 17.5, be deemed to have been appointed on the day on which the person whom the Replacement is replacing, was last appointed as a Board Member.
- 17.6. Prior to the annual general meeting referred to in Rule 17.5 the Council must appoint a Board Member with effect from the close of that annual general meeting, to replace the retiring Board Member.

## **18. BOARD REMUNERATION**

- 18.1. Board Members are not entitled to remuneration except as these Rules may allow and the Board by majority vote resolves to award. The Association may nevertheless (but subject to Section 39B of the Act) pay a premium for a contract insuring a person who

is or has been an officer or employee of the Association against a liability incurred as an officer or employee.

- 18.2. Board Members shall be paid such annual allowance (payable in quarterly instalments in advance or in arrears as determined by the Board) or sitting fee (per meeting) as is from time to time determined by the Council at the immediately preceding annual general meeting.
- 18.3. The Association may pay a Board Member's travelling and other out-of-pocket expenses that the Board may approve by majority decision and that a Board Member properly incurs:
  - 18.3.1. in attending Board meetings; or
  - 18.3.2. in connection with the affairs of the Association.

## **19. OTHER PROVISIONS**

### **19.1. Appointments to fill casual vacancies**

Subject to Rule 16.1, at any time the Council may appoint a natural person as a Board Member whether to fill a casual vacancy or as an addition to the Board.

### **19.2. Vacation of office**

A Board Member:

- 19.2.1. retires as provided by these Rules but will, if otherwise qualified, be eligible for re-appointment;
- 19.2.2. may retire at any time by written notice to the Board;
- 19.2.4. retires upon completing a total of six (6) years' service as a Board Member;
- 19.2.5. retires if they cease to have their principal place of residence within South Australia;
- 19.2.6. may at any time be removed from office by the Council, whether on recommendation from the Board or not;
- 19.2.7. will vacate office:
  - a. by operation of Section 30 of the Act; or
  - b. if the Board Member dies; or
  - c. if the Board Member is determined to be mentally incapacitated as defined in the *Guardianship and Administration Act 1993*.

### **19.3. Canvassing for candidates as Board Members**

If a Board Member retires or is due to retire from office as a Board Member, before appointing another person to the Board to fill that position, the Council:

- 19.3.1. must by way of advertising the vacancy within the major newspaper circulating in Adelaide, invite applications from interested persons with skills, qualifications and experience that would in the opinion of the Council complement and enhance the operations of the Board;



- 19.3.2. will determine a selection procedure for the purpose of making a recommendation to Council for appointment;
- 19.3.3. prior to making any appointment will consult with the Board in respect of the recommendation for appointment.

The Council will make any appointment in its absolute discretion.

#### **19.4. Candidates for Board Members**

- 19.4.1. Subject to Rule 17.4 a retiring Board Member may seek re- appointment by following the same application procedure that applies for new applicants.
- 19.4.2. No person is eligible to be appointed as a Board Member unless the Council is provided with a written application to be appointed as a Board Member, signed by the candidate.
- 19.4.3. The Board must be given notice of all persons appointed to the Board by the Council.

### **20. ALTERNATES**

A Board Member may not appoint an alternate or a proxy to vote on their behalf at Board meetings.

### **21. MEETINGS OF THE BOARD**

#### **21.1. Board meetings**

- 21.1.1. The Board must meet for the dispatch of business at least once in every 3 calendar months. Any one (1) Board Member may call a Board meeting. Subject to the Act and these Rules, the Board Members may meet together, adjourn and regulate their meetings as they think fit.
- 21.1.2. Subject to Rule 21.9.1(a), written or electronic notice of a meeting of the Board must be given to each Member of the Council at least 5 days (or such other period as may be unanimously agreed upon by the Board Members) before the time appointed for the holding of the meeting except in cases of emergency, when no particular length of notice is required.

#### **21.2. Chair and Deputy Chair of meetings**

- 21.2.1. At the first meeting of the Board held after:
  - a. each annual general meeting of the Association, the Board must elect from the Board Members, a Chair and Deputy Chair;
  - b. any casual vacancy arising in the office of the Chair or Deputy Chair, the Board must fill the vacancy from the Board Members and may in like manner at the same or a subsequent meeting fill any further vacancy in the office of Deputy Chair arising from filling the vacancy in the office of Chair.
- 21.2.2. Any person elected as the Chair or Deputy Chair under Rule 21.2.1 holds office until their successor is elected unless sooner removed or ceasing to be a Board Member for whatever reason.
- 21.2.3. At any time, the Council may remove a person so appointed.

21.2.4. A person who is elected as Chair or Deputy Chair is eligible for re-election to that position.

21.2.5. The Chair or, in the absence of the Chair, the Deputy Chair shall preside at each Board meeting. If the Chair and Deputy Chair are absent or unwilling to act, the Board Members present shall elect one (1) of their number to preside at the Board meeting.

21.2.6. The person who chairs a Board meeting holds one deliberative vote in their capacity as a Board Member and one casting or second vote in their capacity as the chairperson.

**21.3. Quorum for meetings**

21.3.1. a. A quorum for a Board meeting is three (3) Board Members.

b. A quorum must be present at all times during the Board meeting.

c. If less than three (3) Board Members are in office, those Board Members may validly constitute Board meetings for the purpose of exercising all of the powers and duties of the Board pending the appointment of additional Board Members.

21.3.2. No business is to be transacted by the Board unless a quorum is present and if within 15 minutes of the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same place and at the same hour of the same day in the following week. If at the adjourned meeting a quorum is not present within 15 minutes of the time appointed for the meeting, the meeting is dissolved.

**21.4. Disclosure of interests**

A Board Member must at a Board meeting disclose any pecuniary interest of theirs that Section 31 of the Act requires.

**21.5. Voting at meetings**

21.5.1. A Board Member must not take part in any decision of the Board (including by voting) where disqualified from doing so by Section 32 of the Act.

21.5.2. Each Board Member who is present at a Board meeting has one vote and must (subject to any provision of the Act or these Rules) vote on every matter arising for decision.

21.5.3. Questions arising at a Board meeting are decided by a majority of votes cast by Board Members entitled to vote on the resolution.

**21.6. Minutes of meeting**

Section 51 of the Act governs the keeping and confirmation of minutes of Board meetings.

**21.7. Irregularities do not invalidate a meeting**

The *Corporations Act 2001*, Section 1322, applies to Board meetings so far as it is capable of applying and with necessary changes as if now set out in these Rules and as if the Association was a company registered under that Act.

## 21.8. **Circulating resolutions**

- 21.8.1. The Board Members may pass a resolution without a meeting being held if a majority of the Board Members entitled to vote on the resolution (and being not less than the number required for a quorum at a Board meeting) sign a document containing a statement that they are in favour of the resolution set out in the document.
- 21.8.2. The resolution is passed when the last Board Member required to achieve a majority signs.
- 21.8.3. Separate copies of a document may be used for signing by Board Members if the wording of the resolution and statement is identical in each copy.
- 21.8.4. A document referred to in this provision must be sent to every Board Member, whether or not entitled to vote on the resolution.

## 21.9. **Telephone meetings**

- 21.9.1. The Board may conduct a meeting by the contemporaneous linking together by telephone or other electronic device (“telephone meetings”) of Board Members constituting not less than the quorum, and all the provisions of these Rules that apply to meetings of the Board shall apply to such telephone meetings so long as the following conditions are met:
  - a. all Board Members for the time being entitled to receive notice of a meeting of the Board shall be entitled to notice of the telephone meeting and to be linked by telephone or other electronic device for the purposes of such meeting. Notices of any such meeting may be given by telephone;
  - b. each of the Board Members taking part in the telephone meeting must be able to hear each of the other Board Members taking part at the commencement and throughout the meeting; and
  - c. at the commencement of the meeting each of the Board Members must acknowledge his or her presence for the purpose of the meeting of the Board to all the other Board Members taking part.
- 21.9.2. A Board Member may not leave the telephone meeting whether by disconnecting his or her telephone or otherwise unless he or she has previously obtained the express consent of the Chair. A Board member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the telephone meeting unless he or she has previously obtained the express consent of the Chair to leave the meeting as stipulated above.
- 21.9.3. A minute of the proceedings at such telephone meetings shall be sufficient evidence of such proceedings and of the observance of all necessary formalities, if certified to be a correct minute by the Chair.

## **PART 5 – GENERAL MEETINGS OF THE ASSOCIATION**

### **22. ANNUAL GENERAL MEETING**

- 22.1. The Association must, at least once in each calendar year and within the period of 5 months after the expiration of each financial year of the Association, convene an annual general meeting.
- 22.2. The annual general meeting must, subject to the Act and Rule 22.1, be convened on such date and at such place and time as the Board thinks fit.
- 22.3. In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is:
  - 22.3.1. to confirm the minutes of the last preceding annual general meeting;
  - 22.3.2. to receive from the Board reports upon the activities of the Association during the last preceding financial year;
  - 22.3.3. to confirm the appointment of the Board Member referred to in Rule 17.6;
  - 22.3.4. to receive, consider and approve the documents referred to in Section 35(6) of the Act; and
  - 22.3.5. to determine the remuneration to be paid to all or any of the Board Members under Rule 18.2.
- 22.4. The Council must appoint a natural person as its representative to attend, take part in discussions and vote at annual general meetings of the Association.
  - 22.4.1. The Council is entitled to remove and replace its representative at any time and from time to time.
  - 22.4.2. A notice of appointment or removal and replacement of a representative must be given to the Secretary or, if there is no Secretary, to the Treasurer not less than 24 hours before the annual general meeting in respect of which it is to apply.
  - 22.4.3. The notice of appointment and notice of removal and replacement must be in the form approved by the Board from time to time.
- 22.5. A Board Member must at an annual general meeting disclose any pecuniary interest of theirs that Section 31 of the Act requires.

## **PART 6 – OTHER OFFICERS**

### **23. PUBLIC OFFICER**

- 23.1. At all times, the Association must have a Public Officer (who may but need not be a Board Member) as Section 56 of the Act and any other law may require.
- 23.2. The Board appoints the Public Officer and may at any time remove from office the Public Officer without right to be heard and appoint a replacement Public Officer.
- 23.3. A Public Officer has those functions and powers required by the Act or any other law.

## **24. EXECUTIVE OFFICER**

- 24.1. At any time, the Board may appoint an Executive Officer (who must not be a Board Member) with such powers and duties and for such remuneration (if any) as may be agreed between the Association and the Executive Officer.
- 24.2. Subject to any contract in place, at any time the Board may vary the powers and duties and remuneration of the Executive Officer and may remove the Executive Officer from office without the right to be heard.
- 24.3. The Executive Officer has the functions and powers vested in them by the Board and, unless the Board resolves otherwise, has the day-to-day executive management of the affairs of the Association subject to such directions as the Board may give to the Executive Officer.

## **25. TREASURER**

- 25.1. The Board must appoint a Treasurer (who may but need not be a Board Member) with such powers and duties and for such remuneration (if any) as may be agreed between the Association and the Treasurer.
- 25.2. Subject to any contract in place, at any time the Board may vary the powers and duties and remuneration of the Treasurer and may remove a Treasurer from office without the right to be heard.
- 25.3. A Treasurer has the functions and powers vested in them by the Board and, unless the Board resolves otherwise, has these functions subject to such directions as the Board may give to the Treasurer:
  - 25.3.1. to prepare draft Business Plans and budgets for consideration of the Board;
  - 25.3.2. to monitor the financial performance of the Association against an adopted Business Plan, and promptly report to the Board any material discrepancies known or anticipated;
  - 25.3.3. to supervise the handling of money by or for the Association and the keeping of financial records;
  - 25.3.4. to prepare draft financial statements;
  - 25.3.5. to sign cheques and other negotiable instruments on behalf of the Association together with one other signatory appointed by the Board.

## **26. AUDITOR**

- 26.1. So long as the Act or any other law requires, the Board must appoint an auditor upon terms and conditions determined by the Board.
- 26.2. As a matter of record Sections 23, 35 and 37 of the Act provide for the powers and responsibilities of an auditor of a prescribed association.
- 26.3. Whether or not an auditor is in office, at the expense of the Council, the Association must allow the auditor of the Council the same rights of access to records and persons as an auditor of the Association would enjoy under Section 37 of the Act.

## **27. SECRETARY**

- 27.1. At any time, the Board may appoint a Secretary (who may but need not be a Board Member) with such powers and duties and for such remuneration (if any) as may be agreed between the Association and the Secretary.
- 27.2. Subject to any contract in place, at any time the Board may vary the powers and duties and remuneration of the Secretary and may remove a Secretary from office without the right to be heard.
- 27.3. A Secretary has the functions and powers vested in them by the Board and, unless the Board resolves otherwise, has these functions subject to such directions as the Board may give to the Secretary:
  - 27.3.1. to issue notices calling Board meetings;
  - 27.3.2. to attend all Board meetings and keep correct minutes of the proceedings;
  - 27.3.3. to keep all documents and records belonging to the Association;
  - 27.3.4. to prepare such statements, reports, returns or other written information as the Act or any law requires the Association to lodge with government;
  - 27.3.5. to issue for moneys received and keep a correct account of all receipts and expenditure;
  - 27.3.6. to have custody and safekeeping of the common seal; and
  - 27.3.7. all other functions usual and appropriate to the office.

## **PART 7 – OFFICERS GENERALLY**

### **28. DUTIES OF OFFICERS**

A Board Member who contravenes Section 39A of the Act also breaches these Rules.

### **29. INDEMNITY**

- 29.1. To the extent permitted by Section 39B(1) of the Act and where the Beneficiary is not indemnified by another person (including an insurer under an insurance policy any part of the premium of which is contributed by the Association), the Association indemnifies every Beneficiary against any liability incurred by that Beneficiary:
  - 29.1.1. as an officer or employee of the Association; and
  - 29.1.2. to a person other than the Association;unless the liability arises out of conduct on the part of the Beneficiary which:
  - 29.1.3. involves a lack of good faith; or
  - 29.1.4. is contrary to the express instructions of the Association.
- 29.2. To the extent permitted by Section 39B of the Act and where the Beneficiary is not indemnified by another person (including an insurer under an insurance policy and part of the premium of which is contributed by the Association), the Association indemnifies every Beneficiary against any liability for costs and expenses incurred by the Beneficiary as an officer or employee of the Association in defending any

proceedings, whether civil or criminal, in which judgment is given favour of the Beneficiary or in which the Beneficiary is acquitted.

- 29.3. Unless the Board Members otherwise determine, this Rule ceases to apply in favour of a Beneficiary who does not to the reasonable satisfaction of the Board Members cooperate with the Association in investigating, defending or resolving the matter to which this Rule would otherwise apply.
- 29.4. The Association may execute a documentary indemnity (not inconsistent with applicable law or this Rule) in any form in favour of a Beneficiary.
- 29.5. The Association must give a Beneficiary access to any books of the Association for the purposes of any legal proceedings to which this Rule applies.
- 29.6. For these purposes, 'Beneficiary' means a person who is or has been:
- 29.6.1. an officer of the Association; and / or
  - 29.6.2. an employee of the Association, but
  - 29.6.3. does not include a Board Member.
- 29.7. A Board Member shall be indemnified by the Association against any liability incurred by the Board Member in the performance of his/her official duties, providing the Board Member was acting honestly and / or, in defending any proceedings, either civil or criminal, in which judgment is given in favour of the Board Member or in which the Board Member is acquitted.

### **30. VALIDITY OF ACTS OF BOARD MEMBERS**

Each act, resolution or thing performed, passed or done by, or with the participation of, a person acting as a Board Member in respect of whom it is later discovered there was some defect in appointment to, or continuation in, office of that person or that the person was disqualified or not entitled to perform, vote on or do the act, resolution or thing, is as valid and effective as if that Board Member had been validly appointed, had validly continued in office, had not been disqualified and was entitled so to perform, vote or do.

## **PART 8 – ASSOCIATES**

### **31. ADVISORS**

- 31.1. Those functions may include:
- 31.1.1. providing information to assist the Board to assess the Association's performance against its Objects and Business Plan;
  - 31.1.2. providing advice and reports to the Board on the exercise and performance of its powers and functions including acting in an advisory capacity in relation to appointment of new Board members;
  - 31.1.3. coordinating and initiating proposals for consideration of the Board including but not limited to continuing improvement of the operations of the Association;
  - 31.1.4. commenting on the performance of the Board on an annual basis; and
  - 31.1.5. providing guidance to achieve financial outcomes in accordance with the Business Plan and budgets.

- 31.2. At any time, the Board may vary the functions of an advisor and may remove an advisor from office without right to be heard.
- 31.3. An advisor is not a Board Member and has no right to attend or be heard at Board meetings except at the invitation of the Board. An advisor in attendance at a Board meeting has no right to vote.
- 31.4. Not more than four (4) advisors may be in office at any one time.

## **32. STATUS**

An advisor to the Board has no right to participate in the management of the affairs of the Association and is not an officer of the Association.

## **PART 9 – OPERATIONS**

### **33. STRATEGIC MANAGEMENT PLAN**

The Board must develop and adopt a strategic management plan for the management of the activities of the Association of a 5 year period. In formulating its strategic management plan the Board must have regard to the Objects and the role and responsibilities of the Association under these Rules. The strategic management plan must be reviewed annually following the adoption of the budget.

### **34. BUDGET**

- 34.1. The Association must have, for each financial year, a budget. This document will be developed by the Board before 31 May in each year immediately preceding the financial year to which it relates and must detail the financial requirements of the Association for the relevant financial year including a summary of its proposed expenditure and sources of revenue.
- 34.2. The Board must conduct the affairs of the Association in conformity with the budget last adopted or as last amended.
- 34.3. The budget must be presented to the Council immediately after adoption by the Board.

### **35. POLICIES**

- 35.1. Subject to the Act and any other law, the Board may adopt policies for the management of the Association of including, but not limited to, the conduct and reporting of meetings, code of conduct for Board Members and / or the financial management of the Association.
- 35.2. An officer of the Association must comply with a code of conduct by its express terms made applicable to persons holding that office.

### **36. PERIODIC RETURN**

The Association must lodge periodic returns in conformity with Section 36 of the Act.

### **37. FINANCIAL YEAR**

The first financial year of the Association will be the period commencing on the date of incorporation and ending on the next following 30 June, and thereafter all subsequent financial years will commence on 1 July and end on 30 June in each year.



### **38. ACCOUNTS**

- 38.1. The Association must keep accounting records in conformity with Section 39C of the Act.
- 38.2. At all times (and whether or not the Association is a prescribed association to which Section 35 of the Act applies), the Association must:
  - 38.2.1. keep its accounting records in such a manner as will enable the preparation from time to time of accounts that present fairly the results of the operations of the Association; and
  - 38.2.2. cause accounts in respect of each financial year to be prepared and laid before an annual general meeting subject to Rule 22.

## **PART 10- OTHER MATTERS**

### **39. ALTERATIONS OF THE RULES**

These Rules may be altered by resolution of the Council. The alteration to the Rules is to be registered pursuant to Section 24 of the Act.

### **40. THE SEAL**

- 40.1. The Association must have a common seal upon which its name appears in legible characters.
- 40.2. The seal of the Association must be kept in the custody of the Secretary or otherwise in the custody of a person approved by the Board.
- 40.3. If the Board resolves, the seal must be used to give effect to a resolution of the Board and such use shall be recorded in the minute book of Board meetings.
- 40.4. The signatures of two (2) persons approved by the Board for that purpose shall attest the fixing of the seal to a document. Unless the Board determines otherwise, one (1) of those persons must be the Chair of the Board.
- 40.5. A contract of the Association may be made, varied or rescinded under the common seal or in any other way Section 26 of the Act or any other law may permit.

### **41. DISPUTE RESOLUTION**

- 41.1. This Rule applies to disputes under these Rules between either:
  - 41.1.1. the Association and any officer of the Association in that capacity; or
  - 41.1.2. officers of the Association in that capacity.
- 41.2. The parties to the dispute must promptly meet in person at the registered office of the Association and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 41.3. If the parties are unable to resolve the dispute at the meeting, those parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.

- 41.4. If the parties cannot agree on the appointment of the independent third person, that person is to be appointed by the South Australian chapter of the Institute of Arbitrators and Mediators.

**42. CIRCUMSTANCES NOT PROVIDED FOR**

In any circumstances in which these Rules are silent, incapable of taking effect or being implemented according to its strict provisions, the Board may determine what action may be taken to ensure the effective administration and objects of the Association. Any determination made by the Board in that regard shall be final.

**43. TRANSITIONAL PROVISIONS**

These Rules will be read and construed in such manner that:

- 43.1. any register maintained by the Association immediately before the adoption of these Rules will be deemed to be a register maintained pursuant to these Rules;
- 43.2. any seal adopted by the Association before the adoption of these Rules will be deemed to be the seal which the Association has under a relevant authority conferred by these Rules; and
- 43.3. unless a contrary intention appears in these Rules, all persons, things and circumstances appointed or created by or under the Rules of the Association in force before the adoption of these Rules will continue to have the same status, operation and effect after the adoption of these Rules.