

## **RULES OF MOTTWA INCORPORATED**

### **PREAMBLE.**

#### **1. Recognition of Aboriginal People**

*MOTTWA Inc trading as Trillion Trees acknowledges the Aboriginal and Torres Strait Islander peoples as the First Australians, whose lands, winds and waters we now share. We pay tribute to their ancient and enduring wisdom and cultures, and their contemporary journey that deepens and enriches us as individuals and as a community.*

*We recognise that Aboriginal people, as the traditional custodians of the lands in Australia, have a spiritual, social, cultural and economic relationship to nature and life.*

#### **2. Recognition of our organisation's beginnings in Kenya.**

*MOTTWA Inc trading as Trillion Trees recognises our beginning in Kenya in 1922 when a pledge to plant trees to revegetate degraded land was made by the Kikuyu people inspired by Richard St Barbe Baker. We acknowledge the name 'Watu Wa Miti', adopted as Men of the Trees, as the name given to mark that historic event. We recognize this to be the name given to the global tree planting movement that followed and which resulted in the formation of The Men of the Trees Western Australia in 1979. The current name MOTTWA Inc trading as Trillion Trees is directly, proudly, and actively linked to this history. We believe planting and caring for trees is more important today than ever before.*

I. The name of the Association shall be:

MOTTWA Incorporated

II. The Vision of MOTTWA:

*A world in which all people recognise the value of trees*

III. The Mission of MOTTWA:

*To bring people together to grow and plant trees and to achieve healthy, productive, sustainable communities and landscapes.*

IV. Objects and Purposes of the Association:

- (a) Directed by a vision of a world in which all people recognise the value of trees;
- (b) For every member of MOTT WA Inc. to contribute to the planting and aftercare of trees and understorey;
- (c) Provide a service to our membership by which they can become directly involved in seed collecting, seedling propagation, planting and planting aftercare;
- (d) Share relevant information with as wide a cross section of society as possible;
- (e) Facilitate activities that support environmental, social and economic resilience for all sectors of society;
- (f) Do all other things as are incidental or conducive to the attainment of the aims and objects of the Association;
- (g) Subscribe to, become a member of, and co-operate in working arrangements with, any other association or organisation whose aims are altogether or in part similar to those of the Association.

## PART 1 — PRELIMINARY

### 1. Terms used

In these rules, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 2015*;

**affiliate association** means those associations invited by the Board to affiliate with MOTTWA.

**Associate member** means a member with the rights referred to in rule 9(1); **Association** means the incorporated association to which these rules apply; **Board** means the management Board of the Association;

**Board meeting** means a meeting of the Board;

**Board member** means a member of the Board;

**books**, of the Association, includes the following:

- (a) a register;
- (b) a minute book, a folder either hard or soft copy containing a copy of reviewed signed minutes of the Association's meetings.
- (c) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (d) a document relating to the affairs of the Association;
- (e) any other record of information;

**by-laws** means by-laws made by the Association under rule 69;

**President** means the Board member holding office as the President of the Association;

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

**financial records** include:

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

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

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

**financial year**, of the Association, has the meaning given in rule 2;

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

**industrial instrument**, refers to an **instrument** that has legal application with respect to minimum entitlements to those employees covered within its scope.

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

**ordinary Board member** means a Board member who is not an office holder of the Association under rule 32(2);

**ordinary member** means a member with the rights referred to in rule 9(3);

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

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

**secretary** means the Board member holding office as the secretary of the Association;

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

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

**subcommittee** means a subcommittee appointed by the Board under rule 55(2);

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

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

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

**treasurer** means the Board member holding office as the treasurer of the Association.

## **2. Financial year**

(1) The first financial year of the Association is to be the period notified to the Commissioner under section 7(4)(e) or, if relevant, section 29(5)(e) of the Act.

(2) Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination, being September 30.

## PART 2 — ASSOCIATION TO BE NOT FOR PROFIT BODY

### 3. Not for profit body

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

### 4. Powers

The Association has the power to do all such lawful things as are necessary, incidental or conducive, and with due diligence, to the attainment of the aims and objects of the Association. Such powers include:

- (a) the leasing of property for any purpose deemed proper by the Board and consistent with the objects and purposes of the Association. Any lease negotiated shall be supported by a properly prepared lease agreement.
- (b) acquiring by purchase, lease, exchange or otherwise land, buildings and hereditaments of any tenure or description wherever situated and any estate or interest therein and all rights over or connected therein deemed proper by the Board and consistent with the objects and purposes of the Association.
- (c) selling, improving, managing, letting, disposing of or turning to account all or any part of the real or personal property of the Association, except the land at St Barbe Grove donated to the Association by the Fyfe family.
- (d) The land at St Barbe Grove donated to the Association by the Fyfe family may not be sold or otherwise disposed of without the prior approval of a Special Resolution passed at a General Meeting of the Association in terms of Clauses 63 and 64 of these rules .
- (e) the borrowing and raising of monies by means of mortgage or other loan for any purpose deemed proper by the Board and consistent with the objects and purposes of the Association, at a commercial interest rate prevailing at the time, and under terms which are not onerous to the Association and are within the Association's

reasonable limits of repayment with the exception that the St Barbe land may not be used as collateral.

- (f) the investing of funds in any security in which trust moneys may be invested.
- (g) entering into any arrangements with any government or authority, whether federal, state or local or otherwise that may seem conducive to any of the objects of the Association, and to apply for and obtain from any such government or authority any grants, rights, privileges or concessions which the Association may think it desirable to obtain and carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- (h) negotiating with any person or company to secure grants, donations, sponsorship moneys or services in kind, as contributions to the Association's operations or one or more of its projects, or in exchange for advertising or promotion of that person's or company's products and services for the duration of any event held by the Association or on its behalf.
- (i) appointing, employing or removing or suspending such secretaries, managers, clerks, servants, consultants or other persons on such terms as necessary or convenient, and in line with the appropriate Industrial Instruments.

## **PART 3 — MEMBERS**

### **Division 1 — Membership**

#### **5. Eligibility for membership**

- (1) Any person who supports the objects or purposes of the Association is eligible to apply to become a member.
- (2) An individual who has not reached the age of 18 years is not eligible to apply for a class of membership that confers full voting rights.

#### **6. Applying for membership**

- (1) A person who wants to become a member must complete the membership nomination form specified by the Board.
- (2) The applicant must specify in the membership nomination application the category of membership they want as outlined on the form

#### **7. Dealing with membership applications**

- (1) The Board or its delegated sub committee must consider each application for membership of the Association and decide whether to accept or reject the application.
- (2) Subject to subrule (3), the Board must consider applications in the order in which they are received by the Association.
- (3) The Board may delay its consideration of an application if the Board considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (4) The Board must not accept an application unless the applicant:
  - (a) is eligible under rule 5; and
  - (b) has applied under rule 6.
- (5) The Board may reject an application even if the applicant:
  - (a) is eligible under rule 5; and
  - (b) has applied under rule 6
- (6) The Board must notify the applicant of the Board's decision to accept or reject the application as soon as practicable after making the decision.
- (7) If the Board rejects the application, the Board is not required to give the applicant its reasons for doing so.

#### **8. Becoming a member**

An applicant for membership of the Association becomes a member when:

- (a) the Board accepts the application; and
- (b) the applicant pays any membership fees payable to the Association under rule 13.

## 9. Membership Categories

- (1) The Association shall consist of three categories of members.
  - (a) **Ordinary Members** - This refers to members who have paid an ordinary member subscription in the following categories:
    - (i) single member
    - (ii) family member
    - (iii) concession member
    - (iv) corporate member
    - (v) A life memberAll ordinary memberships have a single vote
  - (b) **Honorary Life Members** - This is an award provided to selected members for outstanding service to the Society. These members, whose appointment as such has been endorsed by a two-thirds majority of members at a General Meeting, have full voting rights for life.
  - (c) **Associate Members** comprised of:
    - (i) Members of Affiliates' associations - members of associations Affiliated with MOTTWA in terms of rule 15 and who have paid the requisite fee for this membership, if any. Members of Affiliates' Organisations do not have voting rights at MOTTWA Inc. This does not preclude them from independently becoming an Ordinary Member of MOTTWA Inc.
    - (ii) Complimentary members - those members and persons whose involvement in the Association warrants their appointment as Complimentary Members by the Executive Board for a term not exceeding one year.
    - (iii) Junior membership - those members who have not reached the age of 18 years.  
Associate members do not have voting rights.
- (2) The Association may approve other classes of Membership by resolution at an Annual General Meeting.
- (3) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.

## 10. When membership ceases

- (1) A person ceases to be a member when any of the following takes place:
  - (a) for a member who is an individual, the individual dies;
  - (b) for a member who is a body corporate, the body corporate is wound up;
  - (c) the person resigns from the Association under rule 11;
  - (d) the person is expelled from the Association under rule 20;
  - (e) the person ceases to be a member under rule 13(4).
- (2) The secretary must keep a record, for at least one year after a person ceases to be a member, of:
  - (a) the date on which the person ceased to be a member; and
  - (b) the reason why the person ceased to be a member.



## 11. Resignation

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

## 12. Rights not transferable

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

### Division 2 — Membership fees

## 13. Membership fees

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

### Division 3 — Register of members

## 14. Register of members

- (1) The secretary, or another person authorised by the Board, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the

date on which each member becomes a member.

- (3) The register of members must be kept at the registered office of MOTTWA Inc
- (4) A member who wishes to inspect the register of members must contact the secretary, who after checking that the said person is a member of the Association, will make the necessary arrangements.
- (5) If:
  - (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,the Board may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association and the Board may determine and require reasonable financial compensation for providing such access.
- (6) The personal details of members listed in the register will not be made available under such a request.

#### **Division 4 – Affiliated Associations**

##### **15. Affiliated Associations**

The Board may, at its sole discretion, invite an incorporated association, that it considers shares the Objects and Purposes of the Association as set out in the preamble to these rules to become an Affiliated Association. This affiliation will take effect from the date the invitation is formally accepted by the invited association.

##### **16. Board delegate**

An Affiliated Association shall have the right to nominate one person to serve on the Board to be appointed in terms of Clause 36 of these rules. This right will continue for as long as the Affiliated Association remains affiliated.

##### **17. Members of Affiliated Associations**

Financial members of an Affiliated Association will have the rights of Associate Membership of the Association as set out in Rule 9. Members of Affiliated Associations may become Ordinary Members of the Association in terms of Rules 6 & 7.

##### **18. Termination of affiliation**

The affiliation of an Affiliated Association may be terminated by either party providing the other with one month's notice in writing of their intention to end the affiliation. From the date of termination, the Affiliated Association will no longer have the right to be represented on the Board, and its members will no longer have the rights of Associate Membership of the Association.

## PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### Division 1 — Term used

#### 19. Term used: member

In this Part —

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

### Division 2 — Disciplinary action

#### 20. Suspension or expulsion

- (1) The Board may decide to suspend a member's membership or to expel a member from the Association if:
  - (a) the member contravenes any of these rules; or
  - (b) the member acts detrimentally to the interests of the Association.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the Board meeting at which the proposal is to be considered by the Board.
- (3) The notice given to the member must state:
  - (a) when and where the Board meeting is to be held; and
  - (b) the grounds on which the proposed suspension or expulsion is based; and
  - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion;
- (4) At the Board meeting, the Board must:
  - (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion; and
  - (b) give due consideration to any submissions so made; and
  - (c) decide:
    - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
    - (ii) whether or not to expel the member from the Association.
- (5) A decision of the Board to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The Board must give the member written notice of the Board's decision, and the reasons for the decision, within 7 days after the Board meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under subrule (6), give written notice to the secretary requesting the appointment of a mediator under rule 28.
- (8) If notice is given under subrule (7), the member who gives the notice and the Board are the

parties to the mediation.

## **21. Consequences of suspension**

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

## **Division 3 — Resolving disputes**

### **22. Terms used**

In this Division:

***grievance procedure*** means the procedures set out in this Division;

***party to a dispute*** includes a person:

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

### **23. Application of Division**

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

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

### **24. Parties to attempt to resolve dispute**

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

### **25. How grievance procedure is started**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 24, any party to the dispute may start the grievance procedure by giving written notice to the secretary of:
  - (a) the parties to the dispute; and
  - (b) the matters that are the subject of the dispute.
- (2) Within 28 days after the secretary is given the notice, a Board meeting must be convened to consider and determine the dispute.
- (3) The secretary must give each party to the dispute written notice of the Board meeting at

which the dispute is to be considered and determined at least 7 days before the meeting is held.

- (4) The notice given to each party to the dispute must state:
  - (a) when and where the Board meeting is to be held; and
  - (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.
- (5) If:
  - (a) the dispute is between one or more members and the Association; and
  - (b) any party to the dispute gives written notice to the secretary stating that the party:
    - (i) does not agree to the dispute being determined by the Board; and
    - (ii) requests the appointment of a mediator under rule 28,

the Board must not determine the dispute.

## **26. Determination of dispute by Board**

- (1) At the Board meeting at which a dispute is to be considered and determined, the Board must:
  - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- (2) The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the Board's determination under subrule (1)(c), give written notice to the secretary requesting the appointment of a mediator under rule 28.
- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

## **Division 4 — Mediation**

### **27. Application of Division**

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator:
  - (a) by a member under rule 20(7); or
  - (b) by a party to a dispute under rule 25(5)(b)(ii) or 26(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 28.

### **28. Appointment of mediator**

- (1) The mediator must be a person chosen:
  - (a) if the appointment of a mediator was requested by a member under rule 20(7) — by agreement between the member and the Board; or
  - (b) if the appointment of a mediator was requested by a party to a dispute under rule 25(5)(b)(ii) or 26(3) — by agreement between the parties to the dispute.

- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the Board must appoint the mediator.
- (3) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by:
  - (a) a member under rule 20(7); or
  - (b) a party to a dispute under rule 25(5)(b)(ii); or
  - (c) a party to a dispute under rule 26(3) and the dispute is between one or more members and the Association.
- (4) The person appointed as mediator by the Board may be a member or former member of the Association but must not:
  - (a) have a personal interest in the matter that is the subject of the mediation; or
  - (b) be biased in favour of or against any party to the mediation.

## **29. Mediation process**

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must:
  - (a) give each party to the mediation every opportunity to be heard; and
  - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

## **30. If mediation results in a decision to suspend or expel being revoked**

If:

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 20(7); and
  - (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,
- that revocation does not affect the validity of any decision made at a Board meeting or general meeting during the period of suspension or expulsion.

## **PART 5 – BOARD**

### **Division 1 — Powers of Board**

#### **31. Board**

- (1) The Board members are the persons who, as the management Board of the Association, have the power to manage the affairs of the Association.
- (2) Subject to the Act, these rules, the bylaws (if any) and any resolution passed at a general meeting, the Board has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (3) The Board must take all reasonable steps to ensure that the Association complies with the Act, these rules and the bylaws (if any).
- (4) The Board shall without prejudice to the last preceding subclause have power to appoint to and subsequently remove from the Board other members of the Association for the purpose of consultation and advice in related and other fields in which advice is needed. Such Members shall be appointed for a term not exceeding twelve (12) months.
- (5) In relation to the Men of The Trees Public Environmental Gift Fund, the Board shall have the responsibility of ensuring compliance with Clause 78 of this Constitution.

### **Division 2 — Composition of Board and duties of members**

#### **32. Board members**

- (1) The Board members consist of:
  - (a) the office holders of the Association;
  - (b) up to six ordinary Board members; and
  - (c) a nominated delegate of up to four affiliate associations.
- (2) The following are the office holders of the Association:
  - (a) the President;
  - (b) the Vice-President;
  - (c) the secretary;
  - (d) the treasurer.
- (3) A person may be a Board member if the person is:
  - (a) an individual who has reached 18 years of age; and
  - (b) an ordinary member;
  - (c) a nominated delegate of an affiliate association.
- (4) A person must not hold 2 or more of the offices mentioned in subrule (2) at the same time.

#### **33. President/Vice-President**

- (1) It is the duty of the President to consult with the secretary regarding the business to be conducted at each Board meeting and general meeting.

- (2) The President has the powers and duties relating to convening and presiding at Board meetings and presiding at general meetings provided for in these rules.
- (3) In the absence of the President the Vice-President shall assume the powers and duties of President.

### **34. Secretary**

The Secretary shall ensure the:

- (a) Maintenance of a current delegation of authority
- (b) The co-ordination of correspondence of the Association
- (c) Calling and holding of general meetings and Board meetings
- (d) In consultation with the Chairperson or Vice-Chairperson, preparation of notices of general meetings and Board meetings and the details of business to be conducted at each such meetings
- (e) Maintenance of the members register
- (f) Maintenance of the record of officeholders
- (g) Maintenance of the minutes
- (h) Safe custody of the Association's books (with the exception of the accounting records)
- (i) Safe custody and management of the Association's record-keeping systems in hardcopy form, electronic form or a combination of forms, taking into account:
  - (j) The nature of information to be stored and retrieved
  - (k) The security and access of files and information (particularly computer records)
  - (l) The validity and reliability of the information collected and the system on which it is recorded
  - (m) The resources and training required, and
  - (n) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations)
- (o) Recording of full and correct minutes of Board meetings and general meetings and their maintenance in the minutes
- (p) Compliance with all reporting obligations to the Department of Commerce as varied from time to time
- (q) Performance of any other duties required of the Secretary by this Constitution.

### **35. Treasurer**

The Treasurer shall ensure the:

- (a) Collection of all moneys payable to the Association are collected and the issuing of receipts in the name of the Association for those monies
- (b) Payment of all monies received by the Association into the account or accounts of the Association as the Board may direct from time to time
- (c) Timely payment of the expenses of the Association from the funds of the Association with the authority of the Board or a general meeting



- (d) Taking out by the Association of all necessary insurances
- (e) Maintenance by the Association of financial records that comply with the requirements of Clause 11.3.
- (f) Safe custody of financial records and any other relevant Association records in hardcopy form, electronic form or a combination of forms, taking into account:
  - (g) The nature of information to be stored and retrieved
  - (h) The security and access of files and information (particularly computer records)
  - (i) The validity and reliability of the information collected and the system on which it is recorded
  - (j) The resources and training required, and
  - (k) The length of time that the records should be kept (minimum of 7 years or otherwise as required by other Acts or Regulations)
- (l) Co-ordination of the preparation of the financial statements prior to their submission to the annual general meeting
- (m) Co-ordination of the preparation of the reviewed financial report prior to its submission to the annual general meeting
- (n) Co-ordination of the preparation of the Reviewer or Auditor's report prior to its submission to the annual general meeting
- (o) Assistance of the Reviewer or Auditor in performing their functions, and
- (p) Performance of any other duties required of the treasurer by this constitution

### **Division 3 — Election of Board members and tenure of office**

#### **36. How members become Board members**

A member becomes a Board member if the member:

- (a) is elected to the Board at a general meeting;
- (b) Is appointed by the Board as a short term member under rule 31 (4); or
- (c) is appointed to the Board by the Board to fill a casual vacancy under rule 43;
- (d) is nominated as a delegate by an affiliate association.

#### **37. Nomination of Board members**

- (1) At least 28 days before an annual general meeting, the secretary must send written notice to all the members:
  - (a) calling for nominations for election to the Board; and
  - (b) stating the date by which nominations must be received by the secretary to comply with subrule (2).
- (2) A member who wishes to be considered for election to the Board at the annual general meeting must nominate for election by sending written notice of the nomination to the secretary at least 14 days before the annual general meeting.
- (3) The written notice must be signed by/include a statement by another member in support of the nomination.

- (4) A member may nominate for one specified position of office holder of the Association or to be an ordinary Board member.
- (5) A member whose nomination does not comply with this rule is not eligible for election to the Board unless the member is nominated under rule 38(2) or 39(2)(b).
- (6) An affiliate delegate must be duly elected by an affiliate association to represent that body as a Board member.
- (7) The Board may determine, and alter, the format of the nomination from time to time.
- (8) Persons may not nominate as Board members if as stated in The Associations Act under rules 39 1(a) and (b) they are bankrupts or have some other prior conviction at the time of this nomination.
- (9) Limitation of period for which section 39 applies to certain persons: Section 39 applies to a person referred to in subsection (1)(b) of that section, in relation to the person's conviction of an offence, only for the period of 5 years —
  - (a) from the time of the person's conviction; or
  - (b) if the conviction results in a term of imprisonment, from the time of the person's release from custody.

### **38. Election of office holders**

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

### **39. Election of ordinary Board members**

- (1) At the annual general meeting, the Association must elect not less than 1 and not more than 4 ordinary Board members to hold office for the next year.
- (2) If the number of members nominating for the position of ordinary Board member is not greater than the number to be elected, the chairperson of the meeting:
  - (a) must declare each of those members to be elected to the position; and
  - (b) may call for further nominations from the ordinary members at the meeting to fill any

positions remaining unfilled after the elections under paragraph (a).

- (3) If:
- (a) the number of members nominating for the position of ordinary Board member is greater than the number to be elected; or
  - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled

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

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

#### **40. Term of office**

- (1) The term of office of a Board member begins when the member:
- (a) Is appointed by the Board as a shortterm member under rule 31 (4); or
  - (b) is elected at an annual general meeting or under subrule 39(3)(b); or
  - (c) is appointed to fill a casual vacancy under rule 43.
  - (d) Is nominated as a delegate by an affiliate association in terms of rule 16.
- (2) Subject to rule 41, a Board member holds office until the positions on the Board are declared vacant at the next annual general meeting.
- (3) A Board member may be re-elected.

#### **41. Resignation and removal from office**

- (1) A Board member may resign from the Board by written notice given to the secretary or, if the resigning member is the secretary, given to the President.
- (2) The resignation takes effect:
- (a) when the notice is received by the secretary or President; or
  - (b) if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Association may by resolution:
- (a) remove a Board member from office; and
  - (b) elect a member who is eligible under rule 32(3) to fill the vacant position.
- (4) A Board member who is the subject of a proposed resolution under subrule (3)(a) may make written representations (of a reasonable length) to the secretary or President and may ask that the representations be provided to the members.
- (5) The secretary or President may give a copy of the representations to each member or, if they are not so given, the Board member may require them to be read out at the general meeting at which the resolution is to be considered.

#### **42. When membership of Board ceases**

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

- (a) dies or otherwise ceases to be a member; or
- (b) resigns from the Board or is removed from office under rule 41; or
- (c) becomes ineligible to accept an appointment or act as a Board member under section

- 39 of the Act;
- (d) becomes permanently unable to act as a Board member because of a mental or physical disability; or
- (e) fails to attend 4 consecutive Board meetings, of which the person has been given notice.

#### **43. Filling casual vacancies**

- (1) The Board may appoint a member who is eligible under rule 32 (3) to fill a position on the Board that:
  - (a) has become vacant under rules 41 or 42; or
  - (b) was not filled by election at the most recent annual general meeting or under rule 39(3)(b).
- (2) If the position of secretary becomes vacant, the Board must appoint a member who is eligible under rule 32(3) to fill the position within 14 days after the vacancy arises.
- (3) Subject to the requirement for a quorum under rule 51, the Board may continue to act despite any vacancy in its membership.
- (4) If there are fewer Board members than required for a quorum under rule 51, the Board may act only for the purpose of:
  - (a) appointing Board members under this rule; or
  - (b) convening a general meeting.

#### **44. Payments to Board members**

- (1) In this rule -
  - Board member includes a member of a sub-committee
  - Board meeting includes a meeting of a sub-committee
- (2) A Board member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred, in relation to which expenditure prior notification has been provided to and approval received from the Board:
  - a) in attending a Board meeting or
  - b) in attending a General meeting or
  - c) otherwise in connection with the Association's business.

#### **45. Validity of acts**

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

#### **46. Indemnity**

- (1) No member of the Board or member of the Society shall be personally liable for any liability incurred on behalf of the Society, or for any default, loss or damage resulting from the performance of any person employed by or working in a volunteer capacity on behalf of the Society.
- (2) No person shall be entitled to be indemnified out of the funds of the Society for any liability, except for customary and legitimate expenses incurred in the course of their normal activities on behalf of the Society.

## **Division 4 — Board meetings**

### **47. Board meetings**

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

### **48. Notice of Board meetings**

- (1) Notice of each Board meeting must be given to each Board member at least 7 days before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (3) Unless subrule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if the Board members at the meeting unanimously agree to treat that business as urgent.

### **49. Procedure and order of business**

- (1) The President or, in the President's absence, the Vice-President must preside as chairperson of each Board meeting.
- (2) If the President and Vice-President are absent or are unwilling to act as chairperson of a meeting, the Board members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- (4) The order of business at a Board meeting may be determined by the Board members at the meeting.
- (5) Any Board member who has any direct or indirect pecuniary interest in a contract or proposed contract made by or in contemplation by the Board shall, as soon as they become aware of their interest, disclose the nature and extent of their interest to the Board.
- (6) A member or other person who is not a Board member may attend a Board meeting if invited to do so by the Board.
- (7) A person invited under subrule (6) to attend a Board meeting:
  - (a) has no right to any agenda, minutes or other document circulated at the meeting; and
  - (b) must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
  - (c) cannot vote on any matter that is to be decided at the meeting.

## **50. Using technology to hold board meetings**

- (a) The board members may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the board members.
- (b) The board members' agreement may be a standing (ongoing) one.
- (c) A board member may only withdraw their consent to using technology within a reasonable period before the meeting.

## **51. Passing board members' resolutions**

A board members' resolution must be passed by a majority of the votes cast by board members present and entitled to vote on the resolution.

## **52. Circular resolutions of board members**

- (a) The board members may pass a circular resolution without a board members' meeting being held
- (b) .A circular resolution is passed if a majority of the board members entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause (c) or clause (d).
- (c) Each board member may sign:
  - a single document setting out the resolution and containing a statement that they agree to the resolution, or
  - separate copies of that document, as long as the wording of the resolution is the same in each copy.
- (d) The Association may send a circular resolution electronically to the board members and the board members may agree to the resolution by sending an electronic reply to that effect, including the text of the resolution in their reply.
- (e) A circular resolution is passed when a majority of board members signs or otherwise agrees to the resolution in the manner set out in clause (c) or clause (d).

## **53. Quorum for Board meetings**

- (1) Subject to rule 43(4), no business is to be conducted at a Board meeting unless a quorum of 5 Board members is present in person or by the use of technology in terms of rule 50.
- (2) If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting:
  - (a) in the case of a special meeting — the meeting lapses; or
  - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (3) If:
  - (a) a quorum is not present within 30 minutes after the commencement time of a Board meeting held under subrule (2)(b); and
  - (b) at least 2 Board members are present at the meeting, those members present are taken to constitute a quorum.

## **54. Voting at Board meetings**

- (1) Each Board member present at a Board meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the Board members present at the Board meeting vote in favour of the motion.

- (3) If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (4) A vote may take place by the Board members present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

#### **55. Minutes of Board meetings**

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

### **Division 5 — Subcommittees and subsidiary offices**

#### **56. Subcommittees and subsidiary offices**

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

## 57. Delegation to subcommittees and holders of subsidiary offices

(1) In this rule:

***Non-delegable duty*** means a duty imposed on the Board by the Act or another written law.

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



## PART 6 — GENERAL MEETINGS OF ASSOCIATION

### 58. Annual general meeting

- (1) The Board must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the secretary must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- (3) The ordinary business of the annual general meeting is as follows:
  - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed;
  - (b) to receive and consider:
    - (i) the Board's annual report on the Association's activities during the preceding financial year; and
    - (ii) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
    - (iii) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
    - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
  - (c) to elect the office holders of the Association and other Board members;
  - (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
  - (e) to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by members.
- (4) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

### 59. Special general meetings

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

- (a) must be held within 3 months after the date the original requirement was made; and
  - (b) may only consider the business stated in the notice by which the requirement was made.
- (7) The Association must reimburse any reasonable expenses incurred by the members convening a special general meeting under subrule (5).

#### **60. Notice of general meetings**

- 1) The secretary or, in the case of a special general meeting convened under rule 52(5), the members convening the meeting, must give to each member at least 28 days' notice of any general meeting.
- 2) The notice must:
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the Board under rule 37(2); and
  - (d) if a special resolution is proposed:
    - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
    - (ii) state that the resolution is intended to be proposed as a special resolution; and
    - (iii) comply with rule 59(7).

A resolution is a special resolution if it is passed:

- (a) at a general meeting of an incorporated association; and
- (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.

#### **61. Proxies**

- (1) Subject to subrule (2), an ordinary member may appoint an individual who is an ordinary member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) An ordinary member may be appointed the proxy for not more than 5 other members.
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (6) If the Board has approved a form for the appointment of a proxy, the member may use that form or any other form:
  - (a) that clearly identifies the person appointed as the member's proxy; and
  - (b) that has been signed by the member.
- (7) Notice of a general meeting given to an ordinary member under rule 57 must:
  - (a) state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and

- (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the secretary before the commencement of the general meeting for which the proxy is appointed.
- (9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

#### **62. Use of technology to be present at general meetings**

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

#### **63. Presiding member and quorum for general meetings**

- (1) The President or, in the President's absence, the Vice-President must preside as chairperson of each general meeting.
- (2) If the President and Vice-President are absent or are unwilling to act as chairperson of a general meeting, the Board members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum of 10 members is present in person or by proxy.
- (4) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
  - (a) in the case of a special general meeting — the meeting lapses; or
  - (b) in the case of the annual general meeting — the meeting is adjourned to:
    - (i) the same time and day in the following week; and
    - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (5) If:
  - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (4)(b); and
  - (b) at least 5 ordinary members are present at the meeting, those members present are taken to constitute a quorum.

#### **64. Adjournment of general meeting**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned:

- (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 58.

#### **65. Voting at general meeting**

- (1) On any question arising at a general meeting:
  - (a) subject to subrule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under subrule (2); and
  - (b) ordinary members may vote personally or by proxy.
- (2) An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.
- (3) A copy of the document by which the appointment is made must be given to the secretary before any general meeting to which the appointment applies.
- (4) The appointment has effect until:
  - (a) the end of any general meeting to which the appointment applies; or
  - (b) the appointment is revoked by the body corporate and written notice of the revocation is given to the secretary.
- (5) Except in the case of a special resolution, a motion is carried if a majority of the members present and eligible to vote at a general meeting vote in favour of the motion.
- (6) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (7) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.
- (8) For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under subrule (2), the ordinary member:
  - (a) must have been an ordinary member at the time notice of the meeting was given under rule 57; and
  - (b) must have paid any fee or other money payable to the Association by the member.

#### **66. When special resolutions are required**

- (1) A special resolution is required if it is proposed at a general meeting:
  - (a) to affiliate the Association with another body;
  - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager; or
  - (c) To sell or otherwise dispose of St Barbe Grove.
- (2) Subrule (1) does not limit the matters in relation to which a special resolution may be

proposed.

#### **67. Determining whether resolution carried**

- (1) In this rule:  
**poll** means the process of voting in relation to a matter that is conducted in writing.
- (2) Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been:
  - (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost.
- (3) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy:
  - (a) the poll must be taken at the meeting in the manner determined by the chairperson;
  - (b) the chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.
- (7) a resolution is a special resolution if it is passed:
  - (a) at a general meeting of an incorporated association; and
  - (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.
- (8) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

#### **68. Minutes of general meeting**

- (1) The secretary, or a person authorised by the Board from time to time, must take and keep minutes of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must record:
  - (a) the names of the ordinary members attending the meeting; and
  - (b) any proxy forms given to the chairperson of the meeting under rule 59(8); and
  - (c) the financial statements or financial report presented at the meeting, as referred to in rule 56(3)(b)(ii) or (iii); and
  - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 56(3)(b)(iv).

- (4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The President must ensure that the minutes of a general meeting are reviewed and signed as correct by:
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that:
  - (a) the meeting to which the minutes relate was duly convened and held; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded;  
and
  - (c) any election or appointment purportedly made at the meeting was validly made.

## PART 7 — FINANCIAL MATTERS

### 69. Source of funds

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

### 70. Control of funds

- (1) The Association must open an account or accounts in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) Subject to any restrictions imposed at a general meeting, the Board may approve expenditure on behalf of the Association.
- (3) The Board may authorise the treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by two people authorised by the Board.
- (5) All electronic transfers of funds from the Association account(s) must be approved by two people authorised by the Board.
- (6) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.
- (7) A separate bank account may be maintained with a maximum balance as determined by the Board, with the purpose of allowing a debit or credit card facility. All electronic transfers of funds from this account must be approved by one person authorised by the Board, with a maximum amount per transaction determined by the Board from time to time.

### 71. Financial statements and financial reports

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

## PART 8 — GENERAL MATTERS

### 72. By-laws

- (1) The Association may, by resolution at a general meeting, make, amend or revoke by-laws.
- (2) By-laws may:
  - (a) provide for the rights and obligations that apply to any classes of associate membership approved under rule 8(2); and
  - (b) impose restrictions on the Board's powers, including the power to dispose of the association's assets; and
  - (c) impose requirements relating to the financial reporting and financial accountability of the association and the auditing of the association's accounts; and
  - (d) provide for any other matter the association considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (4) Without limiting subrule (3), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (5) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

### 73. Executing documents and common seal

- (1) The Association may execute a document without using a common seal if the document is signed by:
  - (a) 2 Board members; or
  - (b) one Board member and a person authorised by the Board.
- (2) If the Association has a common seal:
  - (a) the name of the Association must appear in legible characters on the common seal; and
  - (b) a document may only be sealed with the common seal by the authority of the Board and in the presence of:
    - (i) 2 Board members; or
    - (ii) one Board member and a person authorised by the Board, and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) The secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept at MOTT WA's headquarters and released into the custody of the secretary or another Board member authorised by the Board when required.

### 74. Giving notices to members

- (1) In this rule:  
**recorded** means recorded in the register of members.
- (2) A notice or other document that is to be given to a member under these rules is taken not to



have been given to the member unless it is in writing and:

- (a) delivered by hand to the recorded address of the member; or
- (b) sent by prepaid post to the recorded postal address of the member; or
- (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

#### **75. Custody of books and securities**

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

#### **76. Record of office holders**

The record of Board members and other persons authorised to act on behalf of the Association that is required to be maintained under section 59(2) of the Act must be kept in the secretary's custody or under the secretary's control.

#### **77. Inspection of records and documents**

A member who wants to inspect any other record or document of the association:

- (1) The member must contact the secretary to make the necessary arrangements for the inspection.
- (2) The inspection must be free of charge.
- (3) If the member wants to inspect a document that records the minutes of a Board meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board meetings generally, or the minutes of a specific Board meeting, being available for inspection by members.
- (4) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.
- (5) The Board may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.
- (6) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose:
  - (a) that is directly connected with the affairs of the Association; or
  - (b) that is related to complying with a requirement of the Act.

#### **78. Publication by Board members of statements about Association business prohibited**

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

- (a) the Board member has been authorised to do so at a Board meeting; and
- (b) the authority given to the Board member has been recorded in the minutes of the

Board meeting at which it was given.

#### **79. Distribution of surplus property on cancellation of incorporation or winding up**

(1) In this rule:

**surplus property**, in relation to the Association, means property remaining after satisfaction of:

- (a) the debts and liabilities of the Association; and
- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include books relating to the management of the Association.

(2) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

(3) St Barbe Grove Nursery Land —The 3.6 hectares of land in Hazlemere was donated by the Fyfe family to the Association for use as tree nursery. The land is not to be sold, but in the case of dissolution of the Association, it should be transferred as a tree nursery to an Association with similar environmental objectives.

#### **80. Alteration of rules**

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.

#### **81. Trillion Trees Gift Fund**

- (1) The Association will establish and maintain a public fund to be called the Trillion Trees Gift Fund for the specific purpose of supporting the environmental objects/purposes of MOTTWA Incorporated.
- (2) The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account(s).
- (3) A separate bank account(s) is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Association.
- (4) The Fund must not receive any other money or property into its account(s) and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997.
- (5) Members of the public are invited to make gifts of money or property to the Fund for the environmental purposes of the Association.
- (6) Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Fund.
- (7) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.
- (8) The fund will be operated on a not-for-profit basis.
- (9) The income and property of the Fund shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members or Board members of the Association or the Trustees of the fund.
- (10) Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Association and not be influenced by the preference of the donor.
- (11) The bank account(s) with its/their associated accounting and other records shall be the subject of its/ their own audit and audit report which shall be made available to each of the Trustees as well

as the Board. Such audit report shall be submitted to the Annual General Meeting of the Association.

- (12) A committee of management (the Trustees) of up to five (5) persons will administer the fund. The Trustees will be appointed by the Board of the Association.
- (13) The Trustees of the Public Fund will from time to time enable transfer of funds from the Public Fund to the bank account of the Association for purposes agreed by the Board of the Association.
- (14) A majority of the Trustees are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations. The term of appointment will be for three (3) years.
- (15) Any two of these duly appointed Trustees are empowered to jointly authorise withdrawals from the Fund and to ensure the proper accounting for receipts within a reasonable time.
- (16) Decisions made by the Trustees require the support of a majority of those appointed.
- (17) In the event of there arising any difference of opinion among the Trustees as to any action or projected action of theirs coming within the ambit of authorisation conferred on them by the legislation relating to the Trillion Trees Gift Fund, then the dissenting party shall have the duty of seeking a ruling in the matter from an independent arbitrator agreed to by the Trustees and of simultaneously informing the Board of the Association.
- (18) The Association agrees to comply with any rules that the responsible government ministers may make to ensure that gifts made to the fund are only used for its principal purpose.
- (19) Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year.
- (20) An audited financial statement for the Association and its public fund will be supplied to the Trustees and with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.
- (21) The Association must inform the Department responsible for the environment as soon as possible if:
  - (a) it changes its name or the name of the public fund; or
  - (b) there is any change to the membership of the Public Fund Committee of Management; or
  - (c) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations.
- (22) In case of the winding up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.