

making waves FOUNDATION

Adopted June 2016

Associations Incorporation Act, 2009

(Adapted from Schedule 1 of Associations Incorporation Regulation 2010)



making waves
FOUNDATION

TABLE OF CONTENTS

PART 1: PRELIMINARY

1.1 Interpretation	4
2. Name of the Association	5
3. Objects of the Association	5
2. Members	5
3. Membership Qualifications	6
3.2 Associate Members	6
3.3 Temporary Members	6
4. Nomination for Membership and Life Membership	6
5. Cessation of Membership	7
6. Membership Entitlements not Transferable	7
7. Resignation of membership	7
8. Register of Members	7
9. Fees	8
10. Members' Liabilities	8
11. Resolution of Internal Disputes	8
12. Disciplining of Members	8
13. Right of Appeal of a Disciplined Member	9
14. Powers of the Board	10
15. Composition and Membership of the Board	10
16. Election of Members	10
17. Secretary	11
18. Treasurer	11
19. Casual vacancies	11
20. Removal of Board Member	12
21. Meetings and quorum	12
22. Delegation by Board to Sub-committee	13
23 Voting and Decisions	13
24. Annual General Meetings – Holding Of	14
25 Annual General Meetings – Calling of and Business at	14
26 Special General Meetings – Calling Of	14

27. Notice	15
28. Quorum for General Meetings	15
29. Presiding Member	16
30. Adjournment	16
31. Making of Decisions	16
32. Special Resolution	16
33. Voting	17
34. Resolutions	17
35. Appointment of Proxies	17
36 Postal Ballots	17
37. Insurance	18
38. Funds – Source	18
39. Funds – management	18
43. Authorised Signatories	19
44. Change of Name, Objects and Constitution	19
45. Custody of Books	19
46. Inspection of Books	19
47. Service of Notices	19
48. Complaint Handling Mechanism	20
49. Indemnity	20
50. making waves FOUNDATION Gig Fund	20
51. Winding Up (Generally)	21
52. Compliance with the Charitable Fundraising Act 1991	21
53. Conflicts of interest	21

PART 1: PRELIMINARY

1.1 Interpretation

In this Constitution, except in so far as the context or subject matter otherwise indicates or requires:

“disability” means a restriction or lack of ability to perform an activity in the manner of, and within the range considered normal for a person of that age and gender.

“disadvantage” means a restriction on or lack of ability to participate in an activity in the manner, of and within the range considered normal for a person of that age and gender.

the Act means the *Associations Incorporations Act 2009*.

the Regulation means the *Associations Incorporations Regulation 2010*.

Director-General means the Director-General of the Department of Services, Technology and Administration.

Commissioner means the Commissioner of the Office of Fair Trading.

Association means the group of people forming making waves FOUNDATION.

General Meeting means an Annual General Meeting or Special General Meeting, which transacts the business of the Association.

Special General Meeting means a General Meeting of the Association other than Annual General Meeting.

Board refers to the Board of Directors of making waves FOUNDATION Incorporated and means the **office bearers** of the Association constituted and has the functions as set out in clause 15.

Ordinary member means a member of the Association who is not an office-bearer of the Association as referred to in clause 15.

Public Officer means a person appointed by the Board to undertake the responsibilities required under the NSW Associations Incorporation Act 1984.

Register means the register of members established under Clause 8.

Secretary means:

- (a) the person holding office under this constitution as Secretary of the Association, or
- (b) if no such person holds that office - the Public Officer of the Association.

Special Resolution means: a resolution of members which is specified as a special resolution in the notice convening the General Meeting at which it is proposed and

- (a) is passed by a majority of not less than three quarters of the votes cast on the resolution: or
- (b) where it is made to appear to the Commissioner that it is not possible or practicable for the resolution to be passed in the manner specified in paragraph (a) is passed in a manner specified by the Commissioner.

1.2 In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) performance of the duty.

1.3 The provisions of the *Interpretation Act 1987* apply to and in respect of this Constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

2. Name of the Association

2.1 The name of the Association is making waves FOUNDATION.

3. Objects of the Association

3.1 The dominant purpose for which making waves FOUNDATION is the direct relief of suffering, distress, misfortune, disability and helplessness of the [physically and intellectually] disabled, especially children, by empowering them (as both individuals and disadvantaged groups within the community) through the provision of health, support, training and guidance.

3.2 Solely for the purpose of furthering the primary purpose of the Association, the Association shall empower, help, support, train and guide disadvantaged persons, especially children by getting them engaged in therapeutic and recreational sailing programs. Therefore the Association will:

- (i) promote the health, welfare and well-being of people with physical and/or intellectual disabilities
- (ii) provide opportunity for people with physical and mental disabilities to participate in the sport of sailing through the provision of equipment of training
- (iii) promote and improve public understanding of the needs and abilities of people suffering from physical and intellectual disabilities by the provision of opportunities for people with disabilities to participate in the sport of sailing
- (iv) promote, support and facilitate community education opportunities in relation to sport, recreation and fitness opportunities for people with a disability
- (v) carry out such other functions and purposes which are necessary or incidental to the other objects of the Association

PART 2: MEMBERSHIP

2. Members

The Association shall consist of the following categories of members.

- (a) Ordinary Member
- (b) Associate member
- (c) Temporary Member
- (d) Life Member
- (e) Honorary Member

3. Membership Qualifications

3.1 Ordinary Member

An Ordinary member is a natural person:

- (i) who has applied for membership of the Association as provided by rule 3; and
- (ii) who has been approved for membership of the Association by the committee of the Association Every Ordinary Member has the right to vote at Annual and Special General Meetings.

3.2 Associate Members

Associate Members of the Association for the day upon signing the Daily, Activity, Program or Event Participation Register.

An Associate Member shall have no right to vote nor hold any office in the Association but shall have all other benefits of membership of the Association.

3.3 Temporary Members

Any person of good character may be admitted to Temporary Membership of the Association for the duration of any particular activity, program or event.

A person is deemed a Temporary Member of the Association upon the person responsible for the conduct of the particular activity, program or event or their nominee, satisfying themselves of the suitability of the proposed Temporary Member for the particular activity, program or event and the recording of all required personal details in the Daily, Activity, Program or Event Participation Register.

4. Nomination for Membership and Life Membership

4.1 A nomination of a person for membership or life membership of the Association:

- (a) must be made by a member of the Association in writing in the form set out in Appendix 1 to this constitution; and
- (b) must be lodged with the secretary of the Association.

4.2 As soon as practicable after receiving a nomination for membership or life membership, the secretary must refer the nomination to the Board which is to determine whether to approve or to reject the nomination.

4.3 Where the Board determines to approve or reject a nomination for membership the secretary must, as soon as practicable after the Board makes that determination:

- (a) notify the nominee, in writing, that the Board approved or rejected the nomination (whichever is applicable); and
- (b) if the Board approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under these rules by a member as entrance fee and annual subscription.

4.4 The secretary must, on payment by the nominee of the amounts referred to in clause 4.3 (b) within the period referred to in that provision, enter the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the Association.

- 4.5 Where the Board determines to approve a nomination for life membership the secretary must, as soon as practicable after the Board makes that determination:
- (a) notify the nominee, in writing, that the Board approved the nomination and that no fees will be requested for the life time of that membership; and
 - (b) the secretary shall enter the nominee's name in the register of life members and upon the name being so entered the nominee becomes a life member of the Association.

5. Cessation of Membership

- 5.1 A person ceases to be a member of the Association if the person:
- (a) dies; or
 - (b) resigns membership; or
 - (c) is expelled from the Association; or
 - (d) fails to pay the annual membership fee under clause 8.2 within six (6) months after the fee is due

6. Membership Entitlements not Transferable

- 6.1 A right, privilege or obligation, which a person has because of being a member of the Association:
- (a) is not capable of being transferred or transmitted to another person
 - (b) terminates on cessation of the person's membership.

7. Resignation of membership

- 7.1 A member of the Association who has paid all amounts payable by the member to the Association in respect of the member's membership may, resign from membership of the Association by first giving to the secretary written notice of at least 1 month (or such other period as the Board may determine) of the member's intention to resign, and on the expiration of the period of notice, the member ceases to be a member.
- 7.2 If a member of the Association ceases to be a member under clause 7.1 and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

8. Register of Members

- 8.1 The secretary of the Association must establish and maintain a register of members of the Association specifying the name and address of each person who is a member of the Association together with the date on which the person became a member.
- 8.2 The register of members must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any member of the Association at any reasonable hour.
- 8.3 A member of the Association may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the Board; that other amount.

- 84 If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- 85 A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
- (a) the purposes of sending the person a newsletter, a notice in respect of a meeting; or
 - (b) other event relating to the Association; or
 - (c) other material relating to the Association; or
 - (d) any other purpose necessary to comply with a requirement of the Act or the Regulation.

9. Fees

- 9.1. The subscription fees for each category of membership shall be such sums as the Committee shall determine.
- 9.2. Subscription fees shall be payable at such time as the Committee determines.
- 9.3. Any member, whose subscription is outstanding for more than three month payment shall cease to be a member of the Association.
- 9.4. The Committee may, on the application by or on behalf of a member waive or reduce the subscription payable.

10. Members' Liabilities

- 10.1 The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the member in respect of membership of the Association as required by clause 6.

11. Resolution of Internal Disputes

- 11.1 Disputes between members (in their capacity as members) of the Association, and disputes between members and the Association, are to be referred to a Community Justice Centre for mediation in accordance with the Community Justice Centres Act 1983.
- 11.2 At least 7 days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.
- 11.3 If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.
- 11.4 The Commercial Arbitration Act 1984 applies to any such dispute referred to arbitration.

12. Disciplining of Members

- 12.1 A complaint may be made to the Board by any person that a member of the Association:
- (a) has persistently refused or neglected to comply with a provision or provisions of this constitution or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association.

- 12.2 The Board may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- 12.3 If the Board decides to deal with the complaint, the Board:
- (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- 12.4 The Board may, by resolution, expel the member from the Association or suspend the member from membership of the Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- 12.5 If the Board expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the Board for having taken that action and of the member's right of appeal under clause 13.
- 12.6 The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution under clause 13.5 whichever is the later.
- 13. Right of Appeal of a Disciplined Member**
- 13.1 A member may appeal to the Association in General Meeting against a resolution of the Board under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- 13.2 The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- 13.3 On receipt of a notice from a member under sub clause 13.1 the secretary must notify the Board, which is to convene a General Meeting of the Association to be held within 28 days after the date on which the secretary received the notice.
- 13.4 At a General Meeting of the Association convened under sub clause 13.3
- (a) no business other than the question of the appeal is to be transacted, and
 - (b) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
 - (d) the appeal is to be determined by a simple majority of votes cast by members present of the Association.

- 13.5 If at the General Meeting the Association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

PART 3: THE BOARD

14. Powers of the Board

- 14.1 The Board is to be known as the Board of Directors of making waves FOUNDATION and; subject to the Act, the Regulation and this constitution and to any resolution passed by the Association in General Meeting:
- (a) is to control and manage the affairs of the Association; and
 - (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this constitution to be exercised by a General Meeting of members of the Association; and
 - (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association.

15. Composition and Membership of the Board

- 15.1 Subject in the case of the first members of the Board to section 21 of the Act, the Board is to consist of the office-bearers of the Association and three ordinary Board members, each of whom is to be elected at the Annual General Meeting of the Association under clause 16.
- 15.2 The office-bearers of the Association are to be:
- (a) the President; and
 - (b) the Vice President; and
 - (c) the treasurer, and
 - (d) the secretary.
- 15.3 Each member of the Board is, subject to this constitution, to hold office until the conclusion of the Annual General Meeting following the date of the member's election, but is eligible for re-election.
- 15.4 In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a member of the Association to fill the vacancy and the member so appointed is to hold office, subject to these rules, until the conclusion of the Annual General Meeting next following the date of the appointment.

16. Election of Members

- 16.1 Nominations of candidates for election as office bearers and ordinary Board members of the Association:
- (a) must be made in writing, signed by two members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (b) must be delivered to the secretary of the Association at least 7 days before the date fixed for the holding of the Annual General Meeting at which the election is to take place.

- 16.2 If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated are taken to be elected, and further nominations are to be received at the Annual General Meeting.
- 16.3 If insufficient further nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- 16.4 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- 16.5 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- 16.6 The ballot for the election of office-bearers of the Board is to be conducted at the Annual General Meeting in such usual and proper manner as the Board may direct.
- 16.7 A person nominated as a candidate for election as an office bearer or as an ordinary Board member of the Association must be a member of the Association.

17. Secretary

- 17.1 The secretary of the Association must, as soon as practicable after being appointed as secretary, lodge notice with the Association of his or her address.
- 17.2 It is the duty of the secretary to keep minutes of:
- (a) all appointments of office-bearers and members of the Board
 - (b) the names of members of the Board present at a Board meeting or a General Meeting; and
 - (c) all proceedings at Board Meetings and General Meetings.
- 17.3 Minutes of proceedings at a meeting must be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting.

18. Treasurer

- 18.1 It is the duty of the treasurer of the Association to ensure:
- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made, and
 - (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

19. Casual vacancies

- 19.1 For the purposes of this constitution, a casual vacancy in the office of a member of the Board occurs if the member:
- (a) dies; or
 - (b) ceases to be a member of the Association; or
 - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or
 - (d) resigns office by notice in writing given to the secretary; or

- (e) is removed from office under clause 19; or
- (f) becomes a mentally incapacitated person; or
- (g) is absent without the consent of the Board from all Meetings of the Board held during a period of 6 months; or
- (h) is convicted of an offence involving children under the Child Protection Act or fails to meet the requirements of the screening process for Prohibited Persons under the Act; or
- (i) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months; or
- (j) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.

20. Removal of Board Member

- 20.1 The Association in General Meeting may by resolution remove any member of the Board from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- 20.2 If a member of the Board to whom a proposed resolution referred to in clause 20.1 relates makes representations in writing to the secretary or President (not exceeding a reasonable length) and requests that the representation be notified to the members of the Association, the secretary or the President may send a copy of the representations to each member of the Association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.\

21. Meetings and quorum

- 21.1 The Board must meet at least three times in each period of 12 months at such place and time as the Board may determine.
- 21.2 Additional Meetings of the Board may be convened by the President or by any member of the Board.
- 21.3 Oral or written notice of a meeting of the Board must be given by the secretary to each member of the Board at least 48 hours (or such other period as may be unanimously agreed on by the members of the Board) before the time appointed for the holding of the meeting.
- 21.4 Notice of a meeting given under clause 21.3 must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board members present at the meeting unanimously agree to treat as urgent business.
- 21.5 Any four members of the Board constitute a quorum for the transaction of the business of a meeting of the Board.
- 21.6 No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 21.7 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

21.8 At a meeting of the Board:

- (a) the President or, in the President's absence, the Vice President is to preside, or
- (b) if the President and the Vice President are absent or unwilling to act, such one of the remaining members of the Board as may be chosen by the members present at the meeting is to preside.

22. Delegation by Board to Sub-committee

22.1 The Board may, by instrument in writing, delegate to one or more sub-Committees (consisting of such member or members of the Association as the Board thinks fit) the exercise of such of the functions of the Board as are specified in the instrument, other than:

- (a) this power of delegation, and
- (b) a function which is a duty imposed on the Board by the Act or by any other law.

22.2 A function the exercise of which has been delegated to a sub-Committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-Committee in accordance with the terms of the delegation.

22.3 A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

22.4 Despite any delegation under this clause, the Board may continue to exercise any function delegated.

22.5 Any act or thing done or suffered by a sub-Board acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Board

22.6 The Board may, by instrument in writing, revoke wholly or in part any delegation under this rule.

22.7 A sub-Board may meet and adjourn, as it thinks proper.

23 Voting and Decisions

23.1 Questions arising at a meeting of the Board or of any sub-Committee appointed by the Board are to be determined by a majority of the votes of members of the Board or sub-Committee present at the meeting.

23.2 Each member present at a meeting of the Board or of any sub-Committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

23.4 Subject to clause 23.5, the Board may act despite any vacancy on the Board.

23.5 Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-Board appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-Committee.

PART 4: GENERAL MEETINGS

24. Annual General Meetings – Holding Of

- 24.1 With the exception of the first Annual General Meeting of the Association, the Association must, at least once in each calendar year and within the period of 6 months after the expiration of each financial year of the Association, convene an Annual General Meeting of its members.
- 24.2 The Association must hold its first Annual General Meeting within the period of 18 months after its incorporation under the Act
- 24.3 The Association must hold its Annual General Meetings:
- (a) within 6 months after the close of the Association's financial years; or
 - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation

25 Annual General Meetings – Calling of and Business at

- 25.1 The Annual General Meeting of the Association is, subject to the Act and to clause 26, to be convened on such date and at such place and time as the Board thinks fit.
- 25.2 In addition to any other business, which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
- (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting,
 - (b) to receive from the Board reports on the activities of the Association during the last preceding financial year,
 - (c) to elect office-bearers of the Association and ordinary Board members
 - (d) to receive and consider the statement which is required to be submitted to members under the Act.
- 25.3 An Annual General Meeting must be specified as such in the notice convening it.

26 Special General Meetings – Calling Of

- 26.1 The Board may, whenever it thinks fit, convene a Special General Meeting of the Association.
- 26.2 The Board must, on the requisition in writing of at least 5 percent of the total number of members, convene a Special General Meeting of the Association.
- 26.3 A requisition of members for a Special General Meeting:
- (a) must state the purpose or purposes of the meeting; and
 - (b) must be signed by the members making the requisition; and
 - (c) must be lodged with the secretary; and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

- 26.4 If the Board fails to convene a Special General Meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary; any one or more of the members who made the requisition may convene a Special General Meeting to be held not later than 3 months after that date.
- 26.5 A Special General Meeting convened by a member or members as referred to in clause 26.4 must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Board and any member who consequently incurs expenses is entitled to be reimbursed by the Association for any expense so incurred.

27. Notice

- 27.1 Except if the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the secretary must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 27.2 If the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each member specifying, in addition to the matter required under clause 27.1 the intention to propose the resolution as a special resolution.
- 27.3 No business other than that specified in the notice convening a General Meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business, which may be transacted under clause 27.2
- 27.4 A member desiring to bring any business before a General Meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a General Meeting given after receipt of the notice from the member.

28. Quorum for General Meetings

- 28.1 No item of business is to be transacted at a General Meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- 28.2 Five members present in person (being members entitled under this constitution to vote at a General Meeting) constitute a quorum for the transaction of the business of a General Meeting.
- 28.3 If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of members, is to be dissolved, and
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.

28.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least five) is to constitute a quorum.

29. Presiding Member

29.1 The President or, in the President's absence, the Vice President, is to preside as Chairperson at each General Meeting of the Association.

29.2 If the President and the Vice President are absent or unwilling to act, the members present must elect one of their number to preside as Chairperson at the meeting.

30. Adjournment

30.1 The Chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

30.2 If a General Meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

30.3 Except as provided in clauses 30.1 and 30.2, notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

31. Making of Decisions

31.1 A question arising at a General Meeting of the Association is to be determined by either:

- (a) a show of hands; or
- (b) if on the motion of a Chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot.

31.2 If the question is to be determined by a show of hands, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

31.3 If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the Chairperson.

32. Special Resolution

32.1 A resolution of the Association is a special resolution and may only be passed in accordance with Section 29 of the Act.

33. Voting

- 33.1 On any question arising at a General Meeting of the Association a member has one vote only.
- 33.2 Members of the Association may vote by proxy but no member present at the meeting other than the Chairperson of the meeting may hold more than 5 proxies.
- 33.3 In the case of an equality of votes on a question at a General Meeting, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 33.4 A member or proxy is not entitled to vote at any General Meeting of the Association unless all money due and payable by the member or proxy to the Association has been paid, other than the amount of the annual subscription payable in respect of the then current year.
- 33.5 A member is not entitled to vote at any General Meeting of the Association if the member is under 18 years of age.

34. Resolutions

- 34.1 Prior to any meeting of the Board of directors a quorum of four (4) directors may vote in respect of any resolution by way of email to the Chairperson of the Board on the condition that all members of the Board are given five (5) days' notice of the proposed resolution.

35. Appointment of Proxies

- 35.1 Each member is to be entitled to appoint another member as proxy by notice given to the secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- 35.2 The notice appointing the proxy is to be in the form set out in Appendix 2 to these rules.

36. Postal Ballots

- 36.1 The Association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 13).
- 36.2 The Board will determine whether a postal ballot shall determine a motion.
- 36.3 A postal ballot is to be conducted in accordance with Schedule 3 in the Regulation.

PART 5: MISCELLANEOUS

37. Insurance

The Association may effect and maintain insurance.

38. Funds – Source

- 38.1 The funds of the Association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the Association in General Meeting, such other sources as the Board determines.
- 38.2 All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- 38.3 The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

39. Funds – management

- 39.1 Subject to any resolution passed by the Association in General Meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Board determines.

40. Not for profit

- 40.1 The assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the members of the Association, except as bona fide compensation for service rendered or expenses incurred on behalf of the Association.

41. Financial Year

- 41.1 The financial year of the Association is:
- (i) The period of time commencing on the date of incorporation of the Association and ending on the following 30th June.
 - (ii) Each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1st day of July and ending on the following 30th day of June.

42. Auditor and Audit

- 42.1 At the first General Meeting following incorporation of the Association a properly qualified auditor or firm of auditors must be appointed. That auditor or firm holds office until resignation or removal by ordinary resolution, in which event a new auditor or firm of auditors must as soon as practicable be in like manner appointed.

- 42.2 No auditor or member of the firm of auditors (as the case may be) be closely related by blood or marriage to a member of the Board.
- 42.3 The auditor is entitled to notice of and to attend all General Meetings of the Association.
- 42.4 The auditor must examine all accounts, vouchers, receipts, books and records of the Association and must report on the correctness of the statement referred to in sub-section 26 (6) of the Act, which report must be endorsed upon or annexed to such statement.

43. Authorised Signatories

- 43.1 By resolution of the Board the Association will nominate three (3) signatories to operate the Association's bank account, from time to time.
- 43.2 All cheques; drafts; bills of exchange; promissory notes and other negotiable instruments must be signed by any two members of the Board or employees of the Association; being members or employees authorised to do so by the Board.
- 43.3 The Association is not required to hold a common seal and may execute a document providing the document is signed by two (2) directors of the Board of the Association.

44. Change of Name, Objects and Constitution

- 44.1 An application to the Director-General for registration of a change in the Association's name, objects or constitution in accordance with section 10 of the Act is to be made by the secretary or a Board member.

45. Custody of Books

- 45.1 Except as otherwise provided by this constitution, the secretary must keep in his or her custody or under his or her control all records, books and other documents relating to the Association.

46. Inspection of Books

- 46.1 The following documents must be open to inspection, free of charge, by a member of the Association at any reasonable hour:
- (a) records, books and other financial documents of the Association,
 - (b) this constitution,
 - (c) minutes of all Board Meetings and General Meetings of the Association.
- 46.2 A member of the Association may obtain a copy of any of the documents referred to in sub clause 44.1 on payment of a fee of \$1 for each page copied.

47. Service of Notices

- 47.1 For the purpose of this constitution, a notice may be served on or given to a person:
- (a) by delivering it to the person personally, or
 - (b) by sending it by pre-paid post to the address of the person, or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

- 472 For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee; and
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent, or if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

48. Complaint Handling Mechanism

- 48.1 Complaints made by members of the public and grievances from employees, will be referred to a Community Justice Centre for mediation in accordance with the Community Justice Centres Act, 1983.

49. Indemnity

- 49.1 Every member of the Board, any sub-Board or other officer or employee of the Association is entitled to be indemnified out of the assets of the Association against any liability arising out of the execution of the duties of his or her office which is incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application under the Act in which relief is granted to him or her by a court in respect of any negligence, default, breach of duty or breach of trust

50. making waves FOUNDATION Gig Fund

- 50.1 The Association shall keep and maintain the making waves FOUNDATION gig fund ("Gig Fund") to which all gigs of money or property that are received shall be added and that does not receive any other money or property.
- 50.2 The Gig Fund shall be kept clearly separate from any other money or property of the Association and shall be accounted for accordingly in a separate bank account.
- 50.3 The Gig Fund shall be maintained and used for the principal purpose of the Association and no portion shall be distributed directly or indirectly to the Members of the Association as bona fide compensation for services rendered or expenses incurred on behalf of the Association.
- 50.4 All receipts issued by the Association for gigs received by the Gig Fund shall state the full name and Australian Business Number of the Association and the fact that the receipt is for a gig.
- 50.5 Reasonable costs of managing the Gig Fund may legitimately be charged to it.

506 If, upon the winding up or dissolution of Gig Fund or, if the endorsement (if any) of the Association as a deductible gig recipient is revoked, there remains after satisfaction of all its debts and liabilities any purposes which is not carried on for the profit or gain of its individual members and that is also endorsed as a deductible gig recipient by the Australian Taxation Office.

51. Winding Up (Generally)

51.1 Notwithstanding anything contained in clause 50, in the event of the winding up or dissolution of the Association, the assets which remain after satisfaction of all debts and liabilities shall be given to another organisation which:

- (a) has similar objects;
- (b) prohibits distribution of its assets and income to its members to an extent provided for in this constitution;
- (c) is exempt from the payment of income tax:and
- (d) is endorsed by the Commissioner of Taxation as a Deductible Gig Recipient.

51.2 This clause, and clause 50, must not be amended without the consent of the Commissioner of Taxation.

52. Compliance with the Charitable Fundraising Act 1991

52.1 The Association must comply with such of the provisions of the Charitable Fundraising Act 1991 and the regulations there under as are applicable to it.

53. Conflicts of interest

53.1 The Association will establish a register of pecuniary interests, which must be completed by all office-bearers, Board members and employees upon their appointment.

53.2 In the event that any person alleges that an office-bearer, Board member or employee has or may have an interest, in relation to any issue, the allegation shall be referred to the St James Ethics Centre for guidance.

53.3 Where an allegation of conflict of interest has been made in relation to any issue, the person against whom the allegation has been made will refrain from voting on that issue until the Association has determined, with the assistance of the St James Ethics Centre, whether or not the person should be allowed to vote on the issue.