

2018

Community Asset Committees  
Information Pack



Colac Otway  
SHIRE

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# INTRODUCTION

Welcome to the Colac Otway Shire's Community Asset Committee Information Pack.

At an Ordinary meeting of Council on 18 April 2018, Council endorsed:

1. The replacement of the current Section 86 Committee structure with Community Asset Committees, in line with the proposed changes to the Local Government Bill;
2. That Council assists, financially and practically, the Community Asset Committees to become incorporated associations;
3. That Council enters into Management Agreements with the Community Asset Committees; and
4. The commencement of the transition of Section 86 Committees to Community Asset Committees is from May 2018 to be completed by June 2020.

**A Community Asset Committee is a committee established by Council for the purpose of managing a community asset in the municipal district.**

**The expectation is that a Community Asset Committee will:**

- Become incorporated – refer to Addendum One
- Provide Council with an Annual Report which includes a list of any registered Conflict of Interests – refer to Addendum Three
- Sign an agreed Management Agreement – refer to Addendum Two
- Comply with Council policies such as the Child Safe Standards – refer to Council website
- Develop a Business Plan – Refer to Addendum Four.

**The expectation is that Council will:**

- Provide financial support and assistance for Community Asset Committees to become incorporated
- Provide Public Liability Insurances
- Assist in the development of a Business Plan
- Have Reporting Templates and information for Community Asset Committees on the Council website
- Negotiate Management Agreements with each Community Asset Committee
- Provide annual training for Committees.

## **Further information**

Information on this topic (eg. model policy and this guidance note) is available from Council's website.

<http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues>

*While every effort has been made to provide accurate information in this Information Pack, legislative and procedural changes occur from time-to-time. While this Information Pack broadly covers key areas pertaining to Committee's and their operations, it is advisable to refer to websites for the most current information wherever possible.*

# WHAT IS AN INCORPORATED ASSOCIATION?

There are more than 38,000 incorporated associations in Victoria. They are clubs or community groups, operating not-for-profit, whose members have decided to give their organisation a formal legal structure. You can recognise an incorporated association by the word 'Incorporated' or the abbreviation 'Inc.' after its name.

When a club or community group incorporates, it becomes a 'legal person' – that is, a legal entity that stays the same even if its members change. It can enter into contracts in its own name; for example, to borrow money or buy equipment. This protects the individual members of the association from legal liabilities.

Victorian incorporated associations are registered with Consumer Affairs Victoria under the *Associations Incorporation Reform Act 2012* (the Act).

## Requirements for incorporation

### *Size and type of organisation*

To become an incorporated association, your club, community group or organisation must:

- have at least five members
- not operate for the profit of its members (although an incorporated association can provide services or benefits to its members).

### *Choose a name*

You must choose a name that reflects the purpose of the association.

- Your proposed name must not be identical or similar to one listed on the [Search ASIC registers page on the Australian Securities & Investments Commission website](#). This list is checked as part of the application process and you are unable to proceed through the application until a proposed name can be registered.
- Your association must have the word 'Incorporated' as the last word of its name. You may also use 'Inc.' or 'Inc'.

### *Create rules and purpose*

Your association must have a written set of rules, also known as a constitution, which deals with the 23 matters set out in Schedule 1 to the *Associations Incorporation Reform Act 2012* (the Act).

The rules also include the association's purpose; this is what the association intends to achieve. For example, the purpose for a junior football association may be:

1. To provide an opportunity for the youth of our area to participate in Australian Rules Football and enhance their health and wellbeing through organised sport.
2. To provide for the health, welfare and wellbeing of players, supporters and spectators.

For more information on how to create rules for your association, view the [Incorporated association rules page](#).

### *Vote to incorporate the association*

In order to incorporate, the association must hold a meeting to vote on whether to do so. All members must be given at least 21 days' notice of the meeting.

At this meeting, a majority of votes cast by members must:

- authorise a person, who is at least 18 years old and lives in Australia, to incorporate the association
- approve proposed rules that comply with the Act, or approve adoption of the model rules.

Unless the association nominates another secretary, the person who lodges the application for incorporation becomes the first secretary of the incorporated association.

Unless the rules specify otherwise, the committee members of the unincorporated association form the first management committee of the incorporated association. If the person who lodges the application is not the secretary, that person will become a delegate of the association. For more information, view the [Delegates of incorporated associations page](#).

## Other things to consider

### ***Tax exemptions***

If your association is seeking exemption from income tax and other tax concessions, you might need to add specific clauses to the association's rules to meet Australian Taxation Office requirements. To check before you incorporate, visit the [Australian Taxation Office website](#).

### ***Australian Business Number (ABN)***

Your association does not have to have an ABN but it might need one for tax purposes. To check, visit the [Australian Business Register website](#).

### ***Vesting of property***

If a founding member is holding property on behalf of the association before its incorporation, then the property will belong to the association after incorporation.

If that property is land, the association will need to make an application in accordance with the *Transfer of Land Act 1958* for the title to be in the association's registered name.

### ***Liquor licensing***

If your organisation wants to sell alcohol to your members, or allow them to 'bring your own' (BYO) liquor onto your club premises, you will need a liquor licence. For more information, visit the [Select the right club licence page on the Victorian Commission for Gambling and Liquor Regulation website](#).

### ***Lodge an application***

You can only lodge an application on myCAV if you have been authorised to do so by your committee.

Before you start: checklist

To prepare your application, you will need to:

- read the [Requirements for registration](#) (above)
- check your organisation's eligibility
- have an electronic copy ready (Word, PDF, or RTF) of the **proposed rules of the association** (unless your association is adopting the model rules) the details ready for any trusts that affect the associations
- a **debit or credit Visa or MasterCard** ready to pay the application fee. You can also pay by **cheque** in person using Post Billpay at a Post Office. If you choose to pay using Post Billpay, we will send an invoice to your email address and you will have 14 days to make the payment.

Once you have these ready, the person authorised to apply for incorporation must complete and lodge the online application to incorporate an association (including paying the fee).

**Note: The online application process includes creating a myCAV account. This is our new standard way to apply to incorporate, update details, and submit annual statements for incorporated associations. There is no fee to create an account, and you will be guided through this as part of the online application.**

### ***After you lodge your application***

When an application to incorporate an association is accepted, a certificate of incorporation showing the name of the incorporated association, registration number and date of incorporation, and a receipt of payment, will be emailed to the secretary and the person lodging the application.

You can download and print additional copies of the certificate of incorporation and copies of your association's rules from your myCAV account at no additional cost.

Related information

- [Associations Incorporation Reform Act 2012](#)
- [Associations Incorporation Reform Regulations 2012](#)

## **INCORPORATED ASSOCIATION RULES**

### ***Reasons for having rules***

Every incorporated association must have rules. The rules:

- are a written document
- guide how your association operates
- are a contract between the association and its members
- set out your association's purposes
- list the rights and responsibilities of members and office holders.

Members should know the rules. They have the right to inspect the rules and obtain a copy on request.

### ***Statement of purposes***

Since November 2012, an association's statement of purposes is no longer a separate statement, but is automatically included as part of its rules.

Associations with their own rules are not required to make changes to adapt to the new laws, but if an association does change its rules, it must include its statement of purposes in the proposed new rules.

### ***Model rules versus own rules***

Your association may use the model rules, or create its own rules. Either way, unless an existing association decides not to change its own rules, the rules must address every item listed in Schedule 1 of the *Associations Incorporation Reform Act 2012* (the Act).

An association using its own rules can choose to do nothing. The relevant provisions of the model rules will be deemed to apply, to ensure the mandatory items listed in Schedule 1 of the Act are addressed. Alternatively, the association can expressly address those items by changing its rules.

## ***Model rules***

Using the model rules can save an association the time and expense of drafting its own rules.

There are three items than can be specified to suit an association's particular circumstances:

- the association's name
- its purposes and
- its financial year.

If an association changes any other items in the model rules, then the association has made its own rules.

- [Model rules for an incorporated association - English \(Word, 198KB\)](#)

## ***Own rules***

Your association may develop its own rules to suit its particular circumstances. For more information, view the [Own rules - incorporated associations page](#).

## ***Changing the rules***

To change its rules, your association can:

- notify us that it has passed a special resolution to approve adopting the model rules, or
- apply for approval to change its rules (after passing a special resolution) and we approve the request.

Your association must take the following steps to change its rules:

1. It proposes the change and notifies members at least 21 days before the upcoming general meeting. The existing rules should specify how this notice must be given (for example, by letter or verbally).

2. At the meeting, your association approves the changes through a special resolution. A special resolution will pass if:

- at least 75 per cent of the members who vote at the meeting (whether they vote in person or, if the rules allow, by proxy) vote in favour of the resolution to change the rules, and
- any further relevant requirements from the rules have been met.

For more information on special resolutions, view the [Meetings - incorporated associations page](#).

3. The secretary or approved delegate must lodge the new rules in myCAV within 28 days of the special resolution being passed. You must also provide:

- a copy of the notice of the special resolution stating the changes
- a copy of the rules with all paragraphs numbered, which clearly shows the changes, and
- payment of the fee. Payment can be made online using myCAV with either a debit or credit Visa or Mastercard, or in person with a cheque using Post Billpay at a Post Office. If you choose to pay using Post Billpay, we will send an invoice to your email address and you will have 14 days to make the payment.

For more information on using myCAV, view the [myCAV for incorporated associations section](#).

If you wish to change your association's financial year end date and it is contained within your association's rules:

- this is considered a change of rules, and
- you have to pass a special resolution.

For more information on how to change your financial year end date, view the [Update incorporated association details page](#).

The information below is a summary of the steps your incorporated association must take in order to submit its annual statement to Consumer Affairs Victoria properly.

### ***Before the annual general meeting – prepare financial statements***

The annual general meeting is a meeting of all the members of an incorporated association and must be held each year. It is a part of the financial reporting cycle and financial statements must be prepared in readiness for it.

**Step 1:** Prepare financial statements based on your association's financial records from the past financial year; you may have to prepare additional statements based on your association's tier level.

**Step 2:** The committee considers the financial statements; two committee members certify that the statements provide a 'true and fair' view of the association's financial performance and position.

For more information, view the [Financial statements and auditing requirements - incorporated associations page](#).

### ***At the annual general meeting – present financial statements to members***

**Step 3:** The committee presents the financial statements (with the certificate signed by two committee members) to members at the annual general meeting (which must be held within five months of the end of your association's financial year). If applicable, a review or audit report must also be presented. The annual general meeting minutes must include a copy of each of these documents.

**Step 4:** Immediately following the annual general meeting, a committee member must certify that they attended the annual general meeting and that the financial statements were presented to members.

For more information, view the [Financial statements and auditing requirements - incorporated associations page](#).

### ***After the annual general meeting – lodge the annual statement***

**Step 5:** Annual statements must be lodged online using your myCAV account within one month of your annual general meeting. Lodgement can be made by either the secretary or an authorised delegate of the association.

For more information, view the [Lodging an annual statement - incorporated associations page](#).

Financial statements and auditing requirements – incorporated associations

Annual statements must be lodged online using your myCAV account within one month of your annual general meeting. Lodgement can be made by either the secretary or an authorised delegate of the association. For more information, view the [Lodging an annual statement - incorporated associations page](#).

## **Three tiers of associations**

Under the *Associations Incorporation Reform Act 2012* (the Act), an association falls within one of three tiers according to its total revenue:

- Tier 1 - less than \$250,000
- Tier 2 - \$250,000 to \$1 million
- Tier 3 - more than \$1 million.

Total revenue refers to the association's total income from all its activities during its financial year, before deducting any expenses including the cost of goods that it sold.

## Record keeping

### Your association must keep financial records that:

- record and explain its transactions, financial position and performance, and
- allow the preparation of 'true and fair' financial statements.

### Financial records include:

- invoices
- receipts
- cheques
- documents that record the above (including bank statements)
- working papers and other documents that explain how financial statements are prepared.

Your association should maintain and update these records throughout the year as it receives and uses funds.

An incorporated association must keep financial records for seven years.

### ***Preparing financial statements (all tiers)***

As soon as practical after the end of your incorporated association's financial year, the committee must ensure that financial statements are prepared.

An association must present its completed financial statements to members at the annual general meeting (AGM), which must be held within five months after the end of the financial year. You must lodge these with us within one month after the AGM, along with the appropriate signed declarations.

The financial statements of an incorporated association must give a true and fair view of its financial performance and position during and at the end of the year.

### Financial statements must contain:

- income and expenditure (Income Statement) for your association's financial year
- assets and liabilities (Balance Sheet) at the end of its financial year
- other documents required by accounting standards, such as a cash flow statement
- notes to the account, which must include:
  - information required by the accounting standards
  - information necessary to give a true and fair view
  - information required by the provisions of the Act and its regulations.

### In the notes to the account, you must disclose:

- any mortgages, charges and securities of any description affecting any property of the association at the end of its financial year
- any trust, held on behalf of the association by a person or body other than the association, in which funds or assets of the association are placed
- for each trust your association was a trustee of during any part of its financial year, any:
  - income and expenditure (Income Statement) of the trust during that period
  - assets and liabilities (Balance Sheet) of the trust during that period
  - mortgages, charges and securities affecting any property of the trust at the end of that period.

For more information on AGMs, view the [Meetings - incorporated associations page](#).

### ***Sample of financial statements***

**Please note:** this is not a standard template to be completed and returned. This sample is to be used as a guide only and will need to be adapted according to individual association's requirements and circumstances.

[Sample incorporated association financial reports \(Word, 216KB\)](#)

### ***Reviewing financial statements by the committee of the association***

1. Treasurer should present the financial statements at a committee meeting.
2. Record the presentation of the financial statements in the minutes of the meeting.
3. If satisfied with the statements, the committee can pass a resolution confirming that they give a 'true and fair' view of the association's financial affairs. The financial statements and [Schedule 1, Regulation 15, Form 1 \(Word, 25KB\)](#) - signed by two committee members - must be presented to the members of the association at the annual general meeting. Note: this form does not need to be lodged with Consumer Affairs Victoria.
4. Record the resolution in the minutes of the meeting. A [Submission of financial statements to annual general meeting \(Word, 24KB\)](#) signed by one committee member after the annual general meeting should be kept on record. Note: this form does not need to be lodged with Consumer Affairs Victoria.

**Tier 1** associations do not have any additional reporting requirements. They do not need to have their financial statements externally reviewed or audited unless:

- their rules state otherwise (audit or review)
- a majority of members vote to do so at a general meeting (review only), or
- the Registrar of Incorporated Associations directs them to do so.

For more information on meetings, view the [Meetings - incorporated associations page](#).

### ***Auditing and reviewing requirements - tiers 2 and 3***

Financial statements lodged with us from associations in tiers 2 and 3 may be inspected by the general public. They must be prepared in accordance with the Australian Accounting Standards issued by the Australian Accounting Standards Board. The statements may be either:

- general purpose financial statements, which are appropriate for larger entities whose financial health may be of interest to a range of external stakeholders (including funding bodies), or
- special purpose financial statements, which provide a less comprehensive set of disclosures than general purpose financial statements, and are appropriate for smaller entities with few or no external stakeholders.

The committee of the association determines which type of statement should be prepared. It should do so in line with the 'reporting entity' concept defined in the Australian Accounting Standards.

### **Tier 2**

The financial statements must be reviewed by an independent accountant, in accordance with Auditing Standards on Review Engagements.

An independent accountant must be:

- a member of, and hold a current practising certificate issued by either CPA Australia, the Institute of Chartered Accountants in Australia or Institute of Public Accountants, or

- any other suitably qualified person approved by the Registrar of Incorporated Associations for this purpose, such as a members of the Association of Taxation and Management Accountants holding a current practising certificate.

If the rules of your association state that its financial statements must be audited. The auditor's report may be submitted, together with the financial statements, to members at the AGM. The association does not also need to have its accounts reviewed by an independent accountant.

The audit must comply with the Australian Auditing Standards.

### **Tier 3**

The financial statements must be audited by an independent auditor in accordance with the Australian Auditing Standards.

The independent auditor must be:

- a registered company auditor or firm
- a member of, and hold a current practising certificate issued by either CPA Australia, the Institute of Chartered Accountants in Australia, or the Institute of Public Accountants, or
- any other suitably qualified person approved by the Registrar of Incorporated Associations for this purpose.

The independent auditor must **not** be:

- a member of the association's committee
- an employer or an employee of a member of the committee
- a member of the same partnership as a member of the committee
- an employee of the association.

### **Sample reports**

Various sample reports are available on the Consumer Affairs Victoria website.

### **Current practising certificate**

Also known as a Public Practice Certificate or Certificate of Public Practice, this is issued by accounting professional bodies and demonstrates that an independent accountant or auditor can carry out their work competently following current accounting standards and practices. This ensures that associations are not placed at risk from changes in accounting requirements.

Anyone wishing to review or audit associations should be advised that it is a legislative requirement to hold a current practising certificate. For more information, visit the website of either CPA Australia, Institute of Chartered Accountants in Australia or Institute of Public Accountants.

To avoid any unnecessary delay in processing the annual statements, we recommend that independent accountants or auditors state clearly in their report:

- their professional qualification
- the business name they operate under.

To access the Australian Auditing Standards, including the Auditing Standards on Review Engagements, visit the [Auditing and Assurance Standards Board website](#).

## Removing an independent auditor

Your association can only remove its auditor by a resolution at a general meeting. You must give at least two months' advance notice of the resolution to all members, the auditor and Consumer Affairs Victoria.

For more information on general meetings, view the [Meetings - incorporated associations page](#).

Lodging an annual statement – incorporated associations

# LODGING AN ANNUAL STATEMENT

Your association must lodge an annual statement with us every year within one month after its annual general meeting.

On or after your association's end of financial year date, we will email your association secretary a notification to lodge your annual statement.

You must lodge your annual statement via the online system myCAV. View the steps involved in the [How to lodge section below](#).

### ***Who can lodge?***

Lodgement can be made by either the secretary or an authorised delegate of the association.

### ***What you'll need***

You will need required documents as electronic files to upload to your annual statement form - these are the same documents presented to members at the annual general meeting:

#### **For Tier 1 associations:**

- no documents required (but you will still need to lodge the annual statement).

#### **For Tier 2 associations:**

- reviewed accounts for both the association and any trusts it administers
- a signed and dated independent report of the review of financial statements.

#### **For Tier 3 associations:**

- audited accounts for both the association and any trusts it administers
- a signed and dated independent audit report.

For more information about **association tiers**, view the [Financial statements and auditing requirements – incorporated associations page](#).

### ***How to lodge***

1. On or after your association's end of financial year date, we will email your association secretary a notice to lodge your annual statement. The email will include a link to the [myCAV sign in page](#).
2. Once you are in the myCAV sign in page, enter your email address and password in the sign in form on the page, then click the 'sign-in' button. This will open your myCAV account page.
3. Once you are in your myCAV account page, you will see your incorporated association(s) name. Below the name, you should see the text 'Annual statement [year] available to lodge' and 'Lodge'. Click 'Lodge'. This will open the annual statement form. The form should take about 5 minutes to complete.

## ***Payment***

You can pay:

- online using a debit or credit Visa or MasterCard, or
- by cheque in person using Post Billpay at a Post Office. If you pay using Post Billpay, we will send an invoice to your email address and you will have 14 days to make the payment.

When payment is accepted, we will send you an email advising your payment has been successful, and a copy of your receipt.

For fee amounts, view the [Fees and forms – incorporated associations page](#).

## ***Difficulty accessing myCAV***

If the secretary or delegates cannot access the internet or myCAV, they can call our Helpline on 1300 55 81 81 to request a copy of the annual statement form. Calling our Helpline costs the same as a local call. Additional charges may apply from mobile or payphones.

## ***Failure to lodge an annual statement***

If your association does not lodge its annual statement, it means it is not meeting its legal obligations, and could face penalties.

Apply for an extension of time to lodge an annual statement

If there are exceptional circumstances that prevent your association from lodging an annual statement by the due date, your association may complete and lodge an [Application for extension of time to hold an annual general meeting or lodge financial statements \(Word, 138KB\)](#).

Note that you can only apply for an extension:

- for your association's most recent financial year
- between the financial year end date and the annual statement due date.

All applications for an extension are subject to approval by Consumer Affairs Victoria.

## ***Changing financial year end date***

If your association wants to change its financial year end date, it must:

1. pass a special resolution if the rules of the association require this
2. complete a change of rules transaction in myCAV
3. ensure all time periods are accounted for in the next annual statement it lodges with Consumer Affairs Victoria.

For more information on special resolutions, view the [Meetings - incorporated associations page](#).

## ***Update association details***

You can update your incorporated association details, including postal and email addresses, rules, secretary, and delegates at any time via your myCAV account. For more information, view the [Update incorporated association details page](#).

# SECRETARY - INCORPORATED ASSOCIATIONS

## Role of the secretary

From 15 April 2015, secretaries of incorporated associations must have an online myCAV account to lodge annual statements and undertake all transactions and notifications of change. For more information on myCAV, view the [myCAV for incorporated associations section](#).

In an incorporated association, the role of secretary includes:

- lodging an annual statement with us within a month after the annual general meeting
- applying to us to change the association's name or rules
- notifying us of:
  - a change to the association's registered address
  - their appointment as secretary or any changes to their details
  - a special resolution to wind up the association or distribute its assets
- dealing with requests to restrict access to information in the association's register of members
- adding or removing delegates of the association. For more information, view the [Delegates of incorporated associations page](#).

The secretary's role may differ according to the association's rules. The rules may allow the secretary to hold any other office within the association.

### The secretary must:

- agree to be named or appointed secretary
- be at least 18 years old
- live in Australia.

### *First secretary*

When your association first incorporates, the person who lodges the application is deemed to be the secretary, unless the application states another person as the secretary.

If the association states another person is the secretary, the person who lodged the application becomes a delegate of the association and will need to create their own [myCAV account](#).

The first secretary does not have to separately notify us of their appointment.

### *Changing the secretary's contact details*

To update the secretary's contact details, a secretary or delegate of an association must sign into their [myCAV account](#).

Your email address and the password you create are used to verify your identity each time you sign into myCAV. In order to maintain strict security levels, to make a change to your email address, please email [cav.registration@justice.vic.gov.au](mailto:cav.registration@justice.vic.gov.au)

### *Changing the secretary*

If a secretary leaves, your association must fill the vacancy within 14 days, using the process specified in its rules.

If it is not practical to appoint a new secretary within 14 days, the association's committee must appoint a person to temporarily fill the role until an official secretary is elected or appointed.

A newly appointed secretary will need to create their own [myCAV account](#).

The new secretary must update the secretary contact details recorded in myCAV, on taking up the position. Departing secretaries will no longer have access to myCAV. Only the current secretary can change the secretary on myCAV.

# COMMITTEE AND COMMITTEE MEMBERS – INCORPORATED ASSOCIATIONS

## **Role of the committee and committee members**

The committee (sometimes referred to as the 'management committee' or 'board') looks after the association's affairs and has legal duties under the *Associations Incorporation Reform Act 2012* (the Act).

Committee members are appointed according to your association's rules. Depending on the rules, their duties may include:

- maintaining the association's financial viability
- ensuring the association's purposes are being achieved
- keeping up to date with legal requirements
- signing contracts on the association's behalf.

Specifically, committee members' functions under the Act include:

- ensuring an annual general meeting is held within five months after the end of the association's financial year
- submitting a financial statement that covers the full financial year, which gives a 'true and fair' view of the association's financial affairs, to members at the annual general meeting
- overseeing the association's financial affairs. This includes making sure the association does not continue to operate if it is insolvent
- appointing a new secretary within 14 days, if the position becomes vacant
- returning all documents that belong to the association within 28 days of ceasing to be a committee member.

## ***First committee***

Unless the rules state otherwise, the first committee members of a newly incorporated association are the same people who were committee members before incorporation.

## ***Material personal interest***

A committee member must disclose any 'material personal interest' to the committee as soon as they are aware of this interest. A material personal interest is something that can have a significant impact on a matter the association is discussing.

All members must be advised of the nature and extent of this interest at the next general meeting.

The details of the interest must be recorded in the committee meeting minutes.

The committee member cannot:

- be present while the matter is discussed at the committee meeting, and
- vote on this matter.

The above does not apply if the:

- interest exists only because the person is employed by the association, or
- association was established to benefit members in the same membership class, or
- person shares this interest with all, or most, of the association's members.

### ***Insolvent trading***

The committee is responsible for overseeing the financial affairs (and financial health) of the association.

If an association is trading while insolvent, it means it is continuing to operate and enter into contracts or incur debts it cannot repay.

A committee member must ensure the association does not trade if it is insolvent.

### ***Documents and contracts***

Your association may authenticate its documents under its common seal (if it has one) or with the secretary's signature.

Your association may, subject to its rules, execute contracts or other documents if these are signed by:

- two committee members, or
- a committee member and the secretary (if the secretary is not a committee member).

### **When a secretary or committee member leaves office**

A committee member or secretary must retire and leave office in accordance with the rules.

In addition, a committee member or secretary vacates office if they:

- resign (a written resignation must be given to the committee)
- are removed via a special resolution
- declare bankruptcy
- become a represented person within the meaning of the *Guardianship and Administration Act 1986* (includes somebody who has suffered a severe injury or illness and can no longer look after their own interests)
- move overseas (in the case of a secretary), or
- get replaced by a statutory manager to conduct the association's affairs.

A person is not eligible to hold office as a member of the committee of an incorporated association, if they have been disqualified from holding office as the director:

- of a company under the *Corporations Act 2001*;
- of an Indigenous corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*; or
- under the Co-operatives National Law.

If they are currently a committee member, they must vacate office immediately under section 78 of the *Associations Incorporation Reform Act 2012*.

An association's rules may include other reasons a person may leave office.

When a secretary or committee member leaves office, they must be replaced in accordance with the rules. For more information, view the [Changing the secretary section of our Secretary - incorporated associations page](#).

# OFFICE HOLDERS - INCORPORATED ASSOCIATIONS

## Role of office holders

An office holder of an incorporated association refers to:

- a committee member
- the secretary
- a person, including an association employee, who takes part in making decisions that affect all or a large part of the association's operations (generally, this will only be senior employees, for example, where an association has a chief executive officer or chief financial officer)
- a person involved in the association's management, who can significantly affect the association's financial standing
- a person whose instructions or wishes the committee is used to following; this does not include a person giving professional advice (for example, a religious order may have an incorporated association, but the members, who all belong to the order, follow the direction of the head of the order).

Office holders have certain legal duties. These duties are based upon, and are broadly equivalent to, the duties of a director, as set out in the *Corporations Act 2001* (Cth). An office holder must:

- carry out their duties with care and diligence
- carry out their duties in good faith in the best interests of the association, and for a proper purpose (not, for example, their own profit)
- not use information acquired through their position for personal advantage, the advantage of others, or to the detriment of the association.

If an office holder makes a business decision relating to the operation of the association, they must, among other things:

- make that decision in the best interests of the association
- not have a personal interest in the decision.

## Using information

An office holder may sometimes make a decision affecting the association based on information or advice they receive from other people. These other people may include employees of the association, fellow office holders or professional advisors (such as lawyers or accountants).

The law protects office holders if, in the circumstances, it was reasonable for them to rely on this information or advice and they did so in good faith.

## Protection for office holders

Your association must indemnify its office holders from liability for activities they undertake on behalf of the association in good faith. This will protect these individuals (although not where they have deliberately broken the law).

For example, if an office holder is sued for something they have done on behalf of the association and must pay damages, the association must indemnify the office holder. That is, the association will be responsible for paying damages.

The association must provide the indemnity from its assets – the government does not fund this indemnity. Large associations that handle contracts or agreements of significant value may consider taking out officers' indemnity insurance.

## **If an office holder does the wrong thing**

An office holder may face:

- **criminal action** if they:
  - misuse their position for personal advantage
  - deliberately allow the association to trade if it is insolvent
- **civil action** of up to \$20,000 if they:
  - misuse information or their position
  - breach their duties of:
    - care and diligence
    - good faith and proper purpose.

# **DELEGATES OF INCORPORATED ASSOCIATIONS**

## **Role**

The role of a delegate is to help the secretary meet the association's obligations under the *Associations Incorporation Reform Act 2012*.

A delegate may be the association's accountant or solicitor, or someone who can help the secretary meet the association's administrative responsibilities.

An authorised delegate may:

- lodge an application to incorporate an association
- lodge an annual return
- change the association's name
- change the association's rules
- change the association's contact details
- change the secretary's contact details
- change their own contact details
- add delegates (when there are fewer than three existing delegates)
- remove other delegates.

## ***Authorisation***

Delegates must be authorised by the incorporated association's secretary.

Even when a delegate is authorised to help the secretary, the secretary remains responsible for compliance with the law. For more information, view [Running an incorporated association section](#).

The person lodging the application must be authorised to do so by the majority of the association's members.

If that person is not the secretary, they will become a delegate of the association automatically in the myCAV system. myCAV is the new online system, which lets you apply to register as an incorporated association, update association details, and lodge annual statements – all in the one place. There is no fee to create an account.

To create a myCAV account and to lodge an application to incorporate your association, view the [Register as an incorporated association page](#).

## ***Maximum number of delegates***

An association may have up to three delegates. If an association has three delegates and an additional delegate is authorised, the secretary must remove one of the existing delegates from myCAV. The outgoing delegate will no longer have access to the association's transactions.

### ***Changing delegates***

When a change of delegate is made in myCAV, an email will be sent to the secretary of the association and the delegate, to advise of the change.

It is best practice to record any changes of secretary or delegate in the minutes of the association and keep a written record.

To create a myCAV account, lodge an application to incorporate your association, or change delegates, view the [Register as an incorporated association page](#).

## **MEETINGS - INCORPORATED ASSOCIATIONS**

### **Types of meetings**

#### ***General Meetings***

A general meeting is one that takes place in accordance with the rules. It includes both annual general meetings and special general meetings.

Your association may hold a general meeting if each member who is entitled to vote has been notified of the date, time and place, as specified in the rules.

If your association's rules provide for voting by proxy using a standard form, members must be given a copy of that form with the notice.

#### ***Annual general meeting (AGM)***

An annual general meeting is a meeting of all the members of an incorporated association which must be held once during each calendar year.

The annual general meeting must be convened in accordance with law, using the procedures in the organisation's rules. For more information on rules, view the [Incorporated association rules section](#).

Procedures for carrying out an annual general meeting of an incorporated association vary between organisations; however the law sets out mandatory minimum rules for giving of notice and conducting an annual general meeting.

An association must hold its first annual general meeting within 18 months of becoming incorporated and all subsequent annual general meetings must be held within five months after the end of the association's financial year.

The association must hold its annual general meeting after its financial year ends, to allow for the association's financial statements for that year to be presented to members.

Each association member who is entitled to vote must be:

- notified of the date, time and place of the general meeting in the manner specified in the association's rule, and
- given a proxy form, if the rules allow for proxy voting and there is a standard form.

#### ***What happens at the annual general meeting?***

At the annual general meeting, the association must present its members with the required financial statements (including additional statements or reports, depending on what tier the association is).

The members review the financial statements and decide whether to accept them as the association's financial statements for that financial year.

The committee must ensure the minutes of the annual general meeting include a copy of the:

- financial statements presented at the meeting
- certification from two committee members that the financial statements give a ‘true and fair’ view of the association's financial position and performance.

After the annual general meeting, a committee member must certify that they attended the annual general meeting and that the financial statements were presented.

Members must provide certification, which they can do on the annual statement form. For a copy of the form, view the [Annual statement - incorporated associations page](#).

### ***Apply for an extension of time to hold an annual general meeting***

If there are exceptional circumstances preventing your association from holding its annual general meeting by the due date, you can complete and lodge an [Application for extension of time to hold an annual general meeting or lodge financial statements \(Word, 147KB\)](#). Lodgement details are on the form.

Extensions of time are subject to approval from Consumer Affairs Victoria.

### ***Special general meetings***

General meetings (other than the annual general meeting) are called special general meetings and must have a specific purpose.

Special general meetings are often called to deal with business that cannot wait until the organisation’s annual general meeting. A range of matters may be considered, including those that must be decided by a special resolution. For more information, view the [Special resolutions section on this page](#).

Your association may hold a special general meeting if each member who is entitled to vote has been notified of the date, time and place, as specified in the rules.

If your association’s rules provide for voting by proxy using a standard form, members must be given a copy of that form with the notice.

### ***Committee meetings***

A committee is a group of members of the incorporated association who are chosen to make decisions on specific matters on behalf of it.

Committee meetings are usually less formal than general meetings and the notice requirements to attend are also less formal. However, it is important to comply with the rules of your association and to take and store accurate minutes from committee meetings.

For more information on rules, view the [Incorporated association rules section](#).

### ***Attending and voting***

Unless a member has been suspended under the rules, your association cannot stop them from:

- attending, or
- voting at a general meeting (if entitled).

You may use any technology to help conduct general meetings. For example:

- teleconference
- videoconference
- online video communication.

A member who takes part in a general meeting through the use of technology has the same rights as the members who are present at the meeting, including voting rights.

### ***Special resolutions***

A special resolution is a decision of particular importance made by the association.

Legally, an association can only make certain decisions by special resolution. This includes decisions to:

- change the association's name or rules
- amalgamate with another association
- voluntarily wind up.

Your association's rules may also require that other decisions be approved via a special resolution.

All voting members must be given at least 21 days' notice of the proposed special resolution. The notice must state the:

- time, date and place where the meeting to vote on the special resolution will be held
- proposed resolution in full
- intention to propose the resolution as a special resolution.

A special resolution will be passed if:

- at least 75 per cent of members voting at the meeting (either in person or, if the rules of the association allow, by proxy) vote in its favour, and
- any further relevant requirements from the rules have been met.

### ***Inspecting rules and minutes***

If a member asks, the association must, at a reasonable time, let them inspect its rules and the minutes (these are a written record of discussions and decisions) of **general meetings**.

If a member makes a written request for a copy of the rules or minutes, the association must give them a copy within 14 days.

Your association may also let a member inspect the minutes of **committee meetings**, but only if its rules allow it. A member does not have a general legal right to inspect minutes of committee meetings.

## **MEMBERSHIP – INCORPORATED ASSOCIATIONS**

### **Register of members**

Your association must keep and maintain a register of members. The register must contain the:

- person's name and address
- class of membership, if applicable (for example, voting or non-voting)
- date the person became a member.

If a person ends their membership:

- the date they stopped being a member must be entered in the register within 14 days
- all other information about that person (other than their name and date they stopped being a member) must be removed from the register within 14 days.

### ***Inspecting the register***

If asked, your association must allow a member, at a reasonable time, to inspect the register. However, there may be some restrictions. For details, view the [Restricting access to personal information section on this page](#).

### ***Using information from the register***

A person may use or disclose information obtained from the register if it is:

- directly related to your association's management or purposes, and
- allowed in the rules.

In any other case, a person cannot use the contact details obtained through the register to contact them, or pass on that information knowing it is likely to be used to contact them.

For example, a person cannot use details from the register to contact members about a new business they are operating.

## **Restricting access to personal information**

A person may ask the secretary to restrict access to their details in certain circumstances. For example, they:

- have been granted a family violence or personal safety intervention order, or
- belong to an association that includes members with sensitive issues.

The secretary must grant the request if they believe there are special circumstances that justify doing so.

If the secretary refuses the request to restrict access, the member may apply to the Victorian Civil and Administrative Tribunal (VCAT) within 28 days for a review.

If the secretary refuses the request, they must:

- notify the member in writing and include the reasons for the decision
- not release the information without the member's consent for at least 28 days after advising them of the decision, and:
  - the member has not asked VCAT to review the decision, or
  - VCAT has upheld the secretary's decision to release the information.

Sometimes, a member may want to send information relating to the association to another member, but access to that person's contact details is restricted. In such cases, the member wanting to send the information should advise the secretary. The secretary must forward that material to the other member.

## **RESOLVING DISPUTES - INCORPORATED ASSOCIATIONS**

### **Disciplinary action against a member**

An incorporated association may take disciplinary action against a member for breaches relating to that person's status as a member of the association.

The association must take action in accordance with the procedures (if any) outlined in its rules.

In applying the disciplinary procedure, the association must ensure the:

- member who is facing the disciplinary procedure:
  - is informed why the action is being taken, and
  - has been given an opportunity to be heard
- outcome is determined by an unbiased decision-maker (from within or outside the association)
- disciplinary procedure is completed in a timely manner.

A member facing a disciplinary procedure must not initiate a grievance procedure related to the same matter until the disciplinary procedure is completed.

## **Disputes within an association**

Disputes may occur over issues such as:

- a proposed name or rule change
- the appointment of a new secretary or committee member
- distribution of funds
- the association's purposes.

Your association's rules must set out a grievance procedure for resolving disputes between:

- members
- the association and any of its members.

In applying the grievance procedure:

- a member may appoint somebody to act on their behalf
- the association must give each party to the dispute an opportunity to be heard
- the outcome must be determined by an unbiased decision-maker.

If the dispute is between the association and any of its members, the association must not take disciplinary action related to the same matter until the grievance procedure is completed.

If your association's rules do not include a grievance procedure, the grievance procedure set out in the model rules automatically applies. Download a copy of the [Model rules for an incorporated association](#).

### ***Steps to dealing with issues***

1. If the association uses the model rules, members can ask the committee to call a special general meeting to consider any issues they wish to raise.
2. Under the model rules, the committee must call a special general meeting if at least 10 per cent of members entitled to vote make a written request. If the committee does not arrange for this meeting to be held within six weeks of the request, the members may hold the meeting themselves.
3. If the dispute cannot be solved through the internal grievance procedure, the relevant parties may contact the Dispute Settlement Centre of Victoria (DSCV). The DSCV offers free mediation services to help the parties involved reach a solution.
4. If all efforts to settle a dispute have failed and the dispute relates to the rules or rights of members, an association member may apply to the Magistrates' Court for an order to enforce those rules and rights.

### ***The role of Consumer Affairs Victoria***

Consumer Affairs Victoria ensures incorporated associations comply with the requirements of the *Associations Incorporation Reform Act 2012* (the Act). This includes:

- monitoring the lodgement of annual statements to ensure that financial reporting requirements are met
- enforcing compliance and in some circumstances cancelling associations that do not meet their regulatory obligations
- ensuring that any winding up and distribution of assets is in accordance with the law. This includes investigating complaints about incorporated associations that involve breaches of the Act (breaches of conflict of interest and lodging documents that contain false or misleading statements).

It does not:

- intervene in breaches of the rules of the association (an internal matter)
- investigate alleged improper management practices (an internal matter)
- investigate alleged theft of association funds or other criminal matters (a Victoria Police matter) provide legal advice.

### **Related information**

- [Dispute Settlement Centre of Victoria website](#)

## **PENALTIES - INCORPORATED ASSOCIATIONS**

Consumer Affairs Victoria can issue an infringement notice if it identifies breaches of certain sections of the *Associations Incorporation Reform Act 2012*.

An infringement notice allows you to pay a fine for these offences without an admission of guilt, rather than going to court.

The infringement penalty is less than the maximum penalty a court can impose if it finds you guilty of the same offence.

For full details of your legal obligations, refer to the *Associations Incorporation Reform Act 2012*.

The value of a penalty unit changes at the start of each financial year. For more information, visit the [Indexation of fees and penalties page on the Department of Treasury and Finance website](#).

| <b>Section of the Associations Incorporation Act</b> | <b>Obligation</b>  | <b>Infringement penalty for breaching obligation</b> |
|--|--|--|
| s.23(1)<br>s.23(2)                                   | An incorporated association's name and registration number must appear on all notices, advertisements and business documents. The name must also be on the common seal (if any).                                   | 1 penalty unit                                       |
| s.28(1)<br>s.28(3)                                   | An incorporated association must have a registered address and must notify the Registrar of Consumer Affairs Victoria, in the form approved by the Registrar, within 14 days of any changes.                       | 1 penalty unit                                       |
| s.31(3)  | The secretary must, within 14 days of an association becoming a trustee of a trust, lodge with the Registrar particulars of the trust and a copy of any deed or other instrument creating or embodying that trust. | 1 penalty unit                                       |

| Section of the Associations Incorporation Act | Obligation  | Infringement penalty for breaching obligation |
|---|---|---|
|   | Relevant particulars of a trust are: <ul style="list-style-type: none"> <li>• name of the trust</li> <li>• purpose of the trust</li> <li>• beneficiaries of the trust</li> <li>• name of trustee(s)</li> </ul>  |   |
| s.53(1)<br>s.53(2)                            | An incorporated association must permit a member at a reasonable time (see below), to inspect the rules and minutes of general meetings of the association.<br><br>An association must give a member a copy of the rules and minutes within 14 days if the member: <ol style="list-style-type: none"> <li>a) makes a written request, and</li> <li>b) pays the prescribed fee (if any).</li> </ol>  | 1 penalty unit                                |
| s.74(1)                                       | Within 14 days after their appointment, a secretary must give written notification, in the approved form, to the Registrar of their appointment and contact details.  | 1 penalty unit                                |
| s.88(2)                                       | An office holder or member must, within 28 days after ceasing to hold their position, return original copies of any relevant documents to the association's committee.  | 1 penalty unit                                |
| s.99(1)                                       | Before a tier three association's financial statements are submitted to the annual general meeting, the committee must have the financial statements audited.<br><br>The audit must be conducted by an independent: <ol style="list-style-type: none"> <li>a) registered company auditor, or</li> <li>b) firm of registered company auditors, or</li> <li>c) member of, and who holds a current practising certificate from:               <ol style="list-style-type: none"> <li>i) CPA Australia, or</li> <li>ii) the Institute of Chartered Accountants in Australia, or</li> <li>iii) the Institute of Public Accountants</li> </ol> </li> <li>d) approved by the Registrar to audit the financial statements.</li> </ol> | 2 penalty units                               |
| s.101(2)                                      | An incorporated association must allow a member at a reasonable time (see below), to inspect a copy of the trust deed of any trust that holds association funds or assets.  | 1 penalty unit                                |
| s.102(1)                                      | After each financial year of the association, the secretary must lodge with the Registrar a copy of the association's financial statements prepared for that year.<br><br>The financial statements must be lodged within one month of the annual general meeting.   | 1 penalty unit                                |

| Section of the Associations Incorporation Act | Obligation   | Infringement penalty for breaching obligation |
|---|--|---|
| s.105(1)                                      | An incorporated association must keep the financial statements submitted at its annual general meeting for at least seven years.   | 4 penalty units                               |
| s.112   | An incorporated association must notify the Registrar in writing of its transfer of incorporation within 14 days after it registers.   | 2 penalty units                               |
| s.201(2)                                      | An incorporated association must keep an original of a document for which a copy has been lodged with the Registrar for seven years.<br><br>It must also produce that document if requested to by the Registrar. | 4 penalty units                               |
| s.202(3)                                      | If asked by the Registrar, an incorporated association must produce an original document within 28 days or a longer period specified by the Registrar.   | 1 penalty unit                                |
| s.206(3)                                      | If a person lodges with the Registrar a document not written in English, the person must at the same time lodge a certified English translation of the document.   | 1 penalty unit                                |
| s.209(1)                                      | Use of the word 'incorporated', 'inc.' or 'inc' when not entitled to do so.  | 2 penalty units                               |

### Meaning of 'reasonable time'

What 'reasonable time' means depends on the individual circumstances of each association. For example, for a large association with full-time staff, it could mean between normal business hours Monday to Friday.

For a small association with only volunteer officers, it might mean at a time agreed between the member and the secretary.

'Reasonable time' does not include late at night, early in the morning or on public holidays, unless agreed by both parties.

If you wish to inspect particular documents, contact your association in advance to arrange an appointment.

### Related information

- [About infringement notices](#)

# FEES AND FORMS - INCORPORATED ASSOCIATIONS

Incorporation fees are listed on the Consumer Affairs Victoria website.

## ***Model rules***

- [Model rules for an incorporated association - English](#)

## ***Sample reports***

- [Sample audit report - modified opinion](#)
- [Sample audit report - unmodified opinion](#)
- [Sample incorporated associations financial reports](#)
- [Sample review report - modified opinion](#)
- [Sample review report - unmodified opinion](#)

## ***Registry/extract services***

Association secretaries or their authorised delegates can download free additional copies of the certificate of incorporation and copies of their association's rules through their myCAV accounts.

Extracts can be purchased online and emailed to you via the [Search for an incorporated association page](#).

Copies of other documents can be purchased by lodging a [Request to inspect register of incorporated associations](#). Lodgment details are on the form.

## **Services available (at varying costs detailed on the Consumer Affairs Victoria website)**

- Copy of certificate of registration
- Extract of information about an incorporated association
- [Incorporated association extract example](#)
- Copy of a prescribed document
- Copy of the association rules

# **ADDENDUM ONE – MODEL RULES**

**CONSUMER AFFAIRS VICTORIA**

**Associations Incorporation Reform Act 2012**

**MODEL RULES**

**For an**

**INCORPORATED**

**ASSOCIATION**

**Associations Incorporation Reform Regulations 2012**

**Part 3**

**Table of Provisions**

## Model Rules for an Incorporated Association

### Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

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

## PART 1—PRELIMINARY

### 1 Name

The name of the incorporated association is "[insert name] Incorporated".

### Note

Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.

### 2 Purposes

The purposes of the association are—[insert purposes].

### 3 Financial year

The financial year of the Association is each period of 12 months ending on [insert last day of financial year, e.g. "30 June"].

### 4 Definitions

In these Rules—

**absolute majority**, of the Committee, means a majority of the committee members currently holding office and entitled to vote at the time (as distinct from a majority of committee members present at a committee meeting);

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

**Chairperson**, of a general meeting or committee meeting, means the person chairing the meeting as required under rule 46;

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

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

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

**disciplinary appeal meeting** means a meeting of the members of the Association convened under rule 23(3);

**disciplinary meeting** means a meeting of the Committee convened for the purposes of rule 22;

**disciplinary subcommittee** means the subcommittee appointed under rule 20;

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

**general meeting** means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;

**member** means a member of the Association;

**member entitled to vote** means a member who under rule 13(2) is entitled to vote at a general meeting;

**special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;

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

**the Registrar** means the Registrar of Incorporated Associations.

## **PART 2—POWERS OF ASSOCIATION**

### **5 Powers of Association**

(1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.

(2) Without limiting sub rule (1), the Association may—

- (a) acquire, hold and dispose of real or personal property;
- (b) open and operate accounts with financial institutions;
- (c) invest its money in any security in which trust monies may lawfully be invested;
- (d) raise and borrow money on any terms and in any manner as it thinks fit;
- (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
- (f) appoint agents to transact business on its behalf;
- (g) enter into any other contract it considers necessary or desirable.

(3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

## **6 Not for profit organisation**

(1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.

(2) Sub rule (1) does not prevent the Association from paying a member—

(a) reimbursement for expenses properly incurred by the member; or

(b) for goods or services provided by the member—

if this is done in good faith on terms no more favourable than if the member was not a member.

### **Note**

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

## **PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

### **Division 1—Membership**

#### **7 Minimum number of members**

The Association must have at least 5 members.

#### **8 Who is eligible to be a member**

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

#### **9 Application for membership**

(1) To apply to become a member of the Association, a person must submit a written application to a committee member stating that the person—

(a) wishes to become a member of the Association; and

(b) supports the purposes of the Association; and

(c) agrees to comply with these Rules.

(2) The application—

(a) must be signed by the applicant; and

(b) may be accompanied by the joining fee.

### **Note**

The joining fee is the fee (if any) determined by the Association under rule 12(3).

## **10 Consideration of application**

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

(2) The Committee must notify the applicant in writing of its decision as soon as practicable after the decision is made.

(3) If the Committee rejects the application, it must return any money accompanying the application to the applicant.

(4) No reason need be given for the rejection of an application.

## **11 New membership**

(1) If an application for membership is approved by the Committee—

(a) the resolution to accept the membership must be recorded in the minutes of the committee meeting; and

(b) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.

(2) A person becomes a member of the Association and, subject to rule 13(2), is entitled to exercise his or her rights of membership from the date, whichever is the later, on which—

(a) the Committee approves the person's membership; or

(b) the person pays the joining fee.

## **12 Annual subscription and fee on joining**

(1) At each annual general meeting, the Association must determine—

(a) the amount of the annual subscription (if any) for the following financial year; and

(b) the date for payment of the annual subscription.

(2) The Association may determine that a lower annual subscription is payable by associate members.

(3) The Association may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to—

(a) the full annual subscription; or

(b) a pro rata annual subscription based on the remaining part of the financial year; or

(c) a fixed amount determined from time to time by the Association.

(4) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.

### **13 General rights of members**

- (1) A member of the Association who is entitled to vote has the right—
  - (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a general meeting; and
  - (c) to attend and be heard at general meetings; and
  - (d) to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 75; and
  - (f) to inspect the register of members.
- (2) A member is entitled to vote if—
  - (a) the member is a member other than an associate member; and
  - (b) more than 10 business days have passed since he or she became a member of the Association; and
  - (c) the member's membership rights are not suspended for any reason.

### **14 Associate members**

- (1) Associate members of the Association include—
  - (a) any members under the age of 15 years; and
  - (b) any other category of member as determined by special resolution at a general meeting.
- (2) An associate member must not vote but may have other rights as determined by the Committee or by resolution at a general meeting.

### **15 Rights not transferable**

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

### **16 Ceasing membership**

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

### **17 Resigning as a member**

- (1) A member may resign by notice in writing given to the Association.

## **Note**

Rule 74(3) sets out how notice may be given to the association. It includes by post or by handing the notice to a member of the committee.

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

## **18 Register of members**

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

## **Note**

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

## Division 2—Disciplinary action

### 19 Grounds for taking disciplinary action

The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member—

- (a) has failed to comply with these Rules; or
- (b) refuses to support the purposes of the Association; or
- (c) has engaged in conduct prejudicial to the Association.

### 20 Disciplinary subcommittee

(1) If the Committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Committee must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.

- (2) The members of the disciplinary subcommittee—
  - (a) may be Committee members, members of the Association or anyone else; but
  - (b) must not be biased against, or in favour of, the member concerned.

### 21 Notice to member

(1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—

- (a) stating that the Association proposes to take disciplinary action against the member; and
  - (b) stating the grounds for the proposed disciplinary action; and
  - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the ***disciplinary meeting***); and
  - (d) advising the member that he or she may do one or both of the following—
    - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
    - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - (e) setting out the member's appeal rights under rule 23.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

## **22 Decision of subcommittee**

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

- (a) give the member an opportunity to be heard; and
- (b) consider any written statement submitted by the member.

(2) After complying with sub rule (1), the disciplinary subcommittee may—

- (a) take no further action against the member; or
- (b) subject to sub rule (3)—
  - (i) reprimand the member; or
  - (ii) suspend the membership rights of the member for a specified period; or
  - (iii) expel the member from the Association.

(3) The disciplinary subcommittee may not fine the member.

(4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

## **23 Appeal rights**

(1) A person whose membership rights have been suspended or who has been expelled from the Association under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.

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

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

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

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

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

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

(b) state—

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

(ii) the grounds for taking that action; and

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

## **24 Conduct of disciplinary appeal meeting**

- (1) At a disciplinary appeal meeting—
  - (a) no business other than the question of the appeal may be conducted; and
  - (b) the Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
  - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with sub rule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

## **Division 3—Grievance procedure**

### **25 Application**

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

### **26 Parties must attempt to resolve the dispute**

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

### **27 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 26, the parties must within 10 days—
  - (a) notify the Committee of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.

- (2) The mediator must be—
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement—
    - (i) if the dispute is between a member and another member—a person appointed by the Committee; or
    - (ii) if the dispute is between a member and the Committee or the Association—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Committee may be a member or former member of the Association but in any case must not be a person who—
  - (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

## **28 Mediation process**

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

## **29 Failure to resolve dispute by mediation**

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

# **PART 4—GENERAL MEETINGS OF THE ASSOCIATION**

## **30 Annual general meetings**

- (1) The Committee must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.
- (2) Despite sub rule (1), the Association may hold its first annual general meeting at any time within 18 months after its incorporation.
- (3) The Committee may determine the date, time and place of the annual general meeting.
- (4) The ordinary business of the annual general meeting is as follows—

- (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
- (b) to receive and consider—
  - (i) the annual report of the Committee on the activities of the Association during the preceding financial year; and
  - (ii) the financial statements of the Association for the preceding financial year submitted by the Committee in accordance with Part 7 of the Act;
- (c) to elect the members of the Committee;
- (d) to confirm or vary the amounts (if any) of the annual subscription and joining fee.
- (5) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

### **31 Special general meetings**

- (1) Any general meeting of the Association, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Committee may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 33 may be conducted at the meeting.

#### **Note**

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 33 and the majority of members at the meeting agree.

### **32 Special general meeting held at request of members**

- (1) The Committee must convene a special general meeting if a request to do so is made in accordance with sub rule (2) by at least 10% of the total number of members.
- (2) A request for a special general meeting must—
  - (a) be in writing; and
  - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - (c) include the names and signatures of the members requesting the meeting; and
  - (d) be given to the Secretary.
- (3) If the Committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under sub rule (3)—

- (a) must be held within 3 months after the date on which the original request was made; and
- (b) may only consider the business stated in that request.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under sub rule (3).

### **33 Notice of general meetings**

(1) The Secretary (or, in the case of a special general meeting convened under rule 32(3), the members convening the meeting) must give to each member of the Association—

- (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
- (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must—
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a special resolution is to be proposed—
    - (i) state in full the proposed resolution; and
    - (ii) state the intention to propose the resolution as a special resolution; and
  - (d) comply with rule 34(5).
- (3) This rule does not apply to a disciplinary appeal meeting.

#### **Note**

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

### **34 Proxies**

- (1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (3) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- (4) If the Committee has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.

- (5) Notice of a general meeting given to a member under rule 33 must—
  - (a) state that the member may appoint another member as a proxy for the meeting;and
  - (b) include a copy of any form that the Committee has approved for the appointment of a proxy.
- (6) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.
- (7) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association no later than 24 hours before the commencement of the meeting.

### **35 Use of technology**

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

### **36 Quorum at general meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 35) of 10% of the members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
  - (a) in the case of a meeting convened by, or at the request of, members under rule 32— the meeting must be dissolved;

#### **Note**

If a meeting convened by, or at the request of, members is dissolved under this sub rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 32.

- (b) in any other case—
  - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
  - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.

(4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under sub rule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

### **37 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 members present at the meeting, adjourn the meeting to another time at the same place or at another place.

(2) Without limiting subrule (1), a meeting may be adjourned—

(a) if there is insufficient time to deal with the business at hand; or

(b) to give the members more time to consider an item of business.

#### **Example**

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

(3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.

(4) Notice of the adjournment of a meeting 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 33.

### **38 Voting at general meeting**

(1) On any question arising at a general meeting—

(a) subject to sub rule (3), each member who is entitled to vote has one vote; and

(b) members may vote personally or by proxy; and

(c) except in the case of a special resolution, the question must be decided on a majority of votes.

(2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

(3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.

(4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 24.

### **39 Special resolutions**

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

## **Note**

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

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

## **40 Determining whether resolution carried**

(1) Subject to subsection (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—

- (a) carried; or
- (b) carried unanimously; or
- (c) carried by a particular majority; or
- (d) lost—

and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.

(2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—

- (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
- (b) the Chairperson must declare the result of the resolution on the basis of the poll.

(3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.

(4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

## **41 Minutes of general meeting**

(1) The Committee must ensure that minutes are taken and kept of each general meeting.

(2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.

(3) In addition, the minutes of each annual general meeting must include—

- (a) the names of the members attending the meeting; and
- (b) proxy forms given to the Chairperson of the meeting under rule 34(6); and
- (c) the financial statements submitted to the members in accordance with rule 30(4)(b)(ii); and

(d) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and

(e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 5—COMMITTEE**

### **Division 1—Powers of Committee**

#### **42 Role and powers**

(1) The business of the Association must be managed by or under the direction of a Committee.

(2) The Committee may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.

(3) The Committee may—

(a) appoint and remove staff;

(b) establish subcommittees consisting of members with terms of reference it considers appropriate.

#### **43 Delegation**

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

(a) this power of delegation; or

(b) a duty imposed on the Committee by the Act or any other law.

(2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.

(3) The Committee may, in writing, revoke a delegation wholly or in part.

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

#### **44 Composition of Committee**

The Committee consists of—

(a) a President; and

(b) a Vice-President; and

- (c) a Secretary; and
- (d) a Treasurer; and
- (e) ordinary members (if any) elected under rule 53.

#### **45 General Duties**

(1) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act.

(2) The Committee is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Committee comply with these Rules.

(3) Committee members must exercise their powers and discharge their duties with reasonable care and diligence.

(4) Committee members must exercise their powers and discharge their duties—

- (a) in good faith in the best interests of the Association; and
- (b) for a proper purpose.

(5) Committee members and former committee members must not make improper use of—

- (a) their position; or
- (b) information acquired by virtue of holding their position—

so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

#### **Note**

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

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

#### **46 President and Vice-President**

(1) Subject to sub rule (2), the President or, in the President's absence, the Vice-President is the Chairperson for any general meetings and for any committee meetings.

(2) If the President and the Vice-President are both absent, or are unable to preside, the Chairperson of the meeting must be—

(a) in the case of a general meeting—a member elected by the other members present;  
or

(b) in the case of a committee meeting—a committee member elected by the other committee members present.

#### **47 Secretary**

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

#### **Example**

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

(2) The Secretary must—

(a) maintain the register of members in accordance with rule 18; and

(b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in rule 70(3), all books, documents and securities of the Association in accordance with rules 72 and 75; and

(c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and

(d) perform any other duty or function imposed on the Secretary by these Rules.

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

#### **48 Treasurer**

(1) The Treasurer must—

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

(b) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt; and

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

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

(2) The Treasurer must—

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

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

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

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

### **49 Who is eligible to be a Committee Member?**

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

- (a) is 18 years or over; and
- (b) is entitled to vote at a general meeting.

### **50 Positions to be declared vacant**

(1) This rule applies to—

- (a) the first annual general meeting of the Association after its incorporation; or
- (b) any subsequent annual general meeting of the Association, after the annual report and financial statements of the Association have been received.

(2) The Chairperson of the meeting must declare all positions on the Committee vacant and hold elections for those positions in accordance with rules 51 to 54.

### **51 Nominations**

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

(2) An eligible member of the Association may—

- (a) nominate himself or herself; or
- (b) with the member's consent, be nominated by another member.

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

### **52 Election of President etc.**

(1) At the annual general meeting, separate elections must be held for each of the following positions—

- (a) President;
- (b) Vice-President;
- (c) Secretary;
- (d) Treasurer.

(2) If only one member is nominated for the position, the Chairperson of the meeting must declare the member elected to the position.

(3) If more than one member is nominated, a ballot must be held in accordance with rule 54.

(4) On his or her election, the new President may take over as Chairperson of the meeting.

### **53 Election of ordinary members**

(1) The annual general meeting must by resolution decide the number of ordinary members of the Committee (if any) it wishes to hold office for the next year.

(2) A single election may be held to fill all of those positions.

(3) If the number of members nominated for the position of ordinary committee member is less than or equal to the number to be elected, the Chairperson of the meeting must declare each of those members to be elected to the position.

(4) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 54.

### **54 Ballot**

(1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.

(2) The returning officer must not be a member nominated for the position.

(3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.

(4) The election must be by secret ballot.

(5) The returning officer must give a blank piece of paper to—

(a) each member present in person; and

(b) each proxy appointed by a member.

### **Example**

If a member has been appointed the proxy of 5 other members, the member must be given 6 ballot papers—one for the member and one each for the other members.

(6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.

(7) If the ballot is for more than one position—

(a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;

(b) the voter must not write the names of more candidates than the number to be elected.

(8) Ballot papers that do not comply with sub rule (7)(b) are not to be counted.

(9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.

(10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.

(11) If the returning officer is unable to declare the result of an election under sub rule (10) because 2 or more candidates received the same number of votes, the returning officer must—

(a) conduct a further election for the position in accordance with sub rules (4) to (10) to decide which of those candidates is to be elected; or

(b) with the agreement of those candidates, decide by lot which of them is to be elected.

### **Examples**

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

## **55 Term of office**

(1) Subject to sub rule (3) and rule 56, a committee member holds office until the positions of the Committee are declared vacant at the next annual general meeting.

(2) A committee member may be re-elected.

(3) A general meeting of the Association may—

(a) by special resolution remove a committee member from office; and

(b) elect an eligible member of the Association to fill the vacant position in accordance with this Division.

(4) A member who is the subject of a proposed special resolution under sub rule (3)(a) may make representations in writing to the Secretary or President of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.

(5) The Secretary or the President may give a copy of the representations to each member of the Association or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

## **56 Vacation of office**

(1) A committee member may resign from the Committee by written notice addressed to the Committee.

(2) A person ceases to be a committee member if he or she—

(a) ceases to be a member of the Association; or

(b) fails to attend 3 consecutive committee meetings (other than special or urgent committee meetings) without leave of absence under rule 67; or

(c) otherwise ceases to be a committee member by operation of section 78 of the Act.

## **Note**

A Committee member may not hold the office of secretary if they do not reside in Australia.

### **57 Filling casual vacancies**

(1) The Committee may appoint an eligible member of the Association to fill a position on the Committee that—

- (a) has become vacant under rule 56; or
- (b) was not filled by election at the last annual general meeting.

(2) If the position of Secretary becomes vacant, the Committee must appoint a member to the position within 14 days after the vacancy arises.

(3) Rule 55 applies to any committee member appointed by the Committee under sub rule (1) or (2).

(4) The Committee may continue to act despite any vacancy in its membership.

## **Division 4—Meetings of Committee**

### **58 Meetings of Committee**

(1) The Committee must meet at least 4 times in each year at the dates, times and places determined by the Committee.

(2) The date, time and place of the first committee meeting must be determined by the members of the Committee as soon as practicable after the annual general meeting of the Association at which the members of the Committee were elected.

(3) Special committee meetings may be convened by the President or by any 4 members of the Committee.

### **59 Notice of meetings**

(1) Notice of each committee meeting must be given to each committee member no later than 7 days before the date of the meeting.

(2) Notice may be given of more than one committee meeting at the same time.

(3) The notice must state the date, time and place of the meeting.

(4) If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.

(5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

### **60 Urgent meetings**

(1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 59 provided that as much notice as practicable is given to each committee member by the quickest means practicable.

(2) Any resolution made at the meeting must be passed by an absolute majority of the Committee.

(3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

#### **61 Procedure and order of business**

(1) The procedure to be followed at a meeting of a Committee must be determined from time to time by the Committee.

(2) The order of business may be determined by the members present at the meeting.

#### **62 Use of technology**

(1) A committee member who is not physically present at a committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.

(2) For the purposes of this Part, a committee member participating in a committee meeting as permitted under sub rule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

#### **63 Quorum**

(1) No business may be conducted at a Committee meeting unless a quorum is present.

(2) The quorum for a committee meeting is the presence (in person or as allowed under rule 62) of a majority of the committee members holding office.

(3) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting—

(a) in the case of a special meeting—the meeting lapses;

(b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 59.

#### **64 Voting**

(1) On any question arising at a committee meeting, each committee member present at the meeting has one vote.

(2) A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.

(3) Sub rule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.

(4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

- (5) Voting by proxy is not permitted.

## **65 Conflict of interest**

(1) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.

- (2) The member—
  - (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.

### **Note**

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

- (3) This rule does not apply to a material personal interest—
  - (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or
  - (b) that the member has in common with all, or a substantial proportion of, the members of the Association.

## **66 Minutes of meeting**

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following—
  - (a) the names of the members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;
  - (d) any material personal interest disclosed under rule 65.

## **67 Leave of absence**

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

## **PART 6—FINANCIAL MATTERS**

### **68 Source of funds**

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

### **69 Management of funds**

(1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.

(2) Subject to any restrictions imposed by a general meeting of the Association, the Committee may approve expenditure on behalf of the Association.

(3) The Committee may authorise the Treasurer to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit without requiring approval from the Committee for each item on which the funds are expended.

(4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 committee members.

(5) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt.

(6) With the approval of the Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

### **70 Financial records**

(1) The Association must keep financial records that—

- (a) correctly record and explain its transactions, financial position and performance; and
- (b) enable financial statements to be prepared as required by the Act.

(2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.

(3) The Treasurer must keep in his or her custody, or under his or her control—

- (a) the financial records for the current financial year; and
- (b) any other financial records as authorised by the Committee.

### **71 Financial statements**

(1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Association are met.

(2) Without limiting sub rule (1), those requirements include—

- (a) the preparation of the financial statements;

- (b) if required, the review or auditing of the financial statements;
- (c) the certification of the financial statements by the Committee;
- (d) the submission of the financial statements to the annual general meeting of the Association;
- (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

## **PART 7—GENERAL MATTERS**

### **72 Common seal**

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

### **73 Registered address**

The registered address of the Association is—

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

### **74 Notice requirements**

- (1) Any notice required to be given to a member or a committee member under these Rules may be given—
  - (a) by handing the notice to the member personally; or
  - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
  - (c) by email or facsimile transmission.
- (2) Sub rule (1) does not apply to notice given under rule 60.
- (3) Any notice required to be given to the Association or the Committee may be given—
  - (a) by handing the notice to a member of the Committee; or
  - (b) by sending the notice by post to the registered address; or

- (c) by leaving the notice at the registered address; or
- (d) if the Committee determines that it is appropriate in the circumstances—
  - (i) by email to the email address of the Association or the Secretary; or
  - (ii) by facsimile transmission to the facsimile number of the Association.

## **75 Custody and inspection of books and records**

- (1) Members may on request inspect free of charge—
  - (a) the register of members;
  - (b) the minutes of general meetings;
  - (c) subject to sub rule (2), the financial records, books, securities and any other relevant document of the Association, including minutes of Committee meetings.

### **Note**

See note following rule 18 for details of access to the register of members.

(2) The Committee may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

(3) The Committee must on request make copies of these rules available to members and applicants for membership free of charge.

(4) Subject to sub rule (2), a member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.

(5) For purposes of this rule— **relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following—

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

## **76 Winding up and cancellation**

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.

(3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.

(4) The body to which the surplus assets are to be given must be decided by special resolution.

## **77 Alteration of Rules**

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

### **Note**

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



# ADDENDUM TWO – DRAFT MANAGEMENT AGREEMENT



## MANAGEMENT AGREEMENT

Property

COLAC OTWAY SHIRE COUNCIL

and

[INCORPORATED ASSOCIATION/COMMUNITY ASSET COMMITTEE]

for

[Insert Premises address]

|                   |      |
|-------------------|------|
| Date of Agreement | DATE |
| Starting date     | DATE |
| Expiry date       | DATE |
| File No           |      |

This Management Agreement is made on      day of      **[insert year]**

**Between**

**Colac Otway Shire Council (“Council”)**

of 2 – 6 Rae Street, Colac VIC 3250

**and**

**[Insert Incorporated Association Name] (“Community Asset Committee”)**

**of [insert address]**

**The Parties Agree:**

#### **PURPOSE**

The purpose of this Agreement is to:

- (a) Define the relationship between the Council and the Community Asset Committee;
- (b) Identify the respective roles of each party in relation to the effective management of the Property; and
- (c) Establish occupancy arrangements to enable the Community Asset Committee to fulfil its responsibilities under this Agreement.

#### **DEFINITIONS**

In this Agreement:

**“Activity”** means the management, control and operation of the Property as specified in Item 3 of the Schedule in accordance with this Agreement;

**“Agreement”** means this document, including the Schedule and the Annexures, and if there is an inconsistency between any of these parts, a provision in the Schedule or an Annexure is intended to prevail to the extent of any inconsistency;

**“Annexure”** means an annexure to this Agreement;

**“Chief Executive Officer”** or **“CEO”** means the Chief Executive Officer of the Council;

**“Constitution”** means any instrument, charter, rules of association, or memorandum constituting or defining the activities of the Community Asset Committee or its members;

**“Financial Year”** means each period from 1 July to the following 30 June;

**“Community Asset Committee”** means the incorporated Association or Organisation who will be undertaking the management of the Property;

**“Operational Control”** means the authority to introduce and implement any or all of the operating, health and safety and environmental policies for the Property independent of the Council’s permission;

**“Party”** means a party to this Agreement;

**“Property”** means the Property described in Item 1 of the Schedule, including any building premises, facility, structure, land, site, park, oval, reserve or equipment as specified;

**“Records”** include documents, information and data, including notes or minutes of meetings, financial information, stored by any means and all copies and extracts of the same;

**“Schedule”** means the schedule to this Agreement;

**“Term”** means the duration of this Agreement as set out in Item 6 of the Schedule.

## **REVOCAATION**

Any existing Licence, Agreement or Memorandum relating to the management and operation of the Property is revoked and replaced by this Agreement.

## **PURPOSE OF THE PROPERTY**

Council provides Property to not-for-profit groups to:

- Conduct a range of activities that enhance the physical activity, social interaction and cultural development of the community.
- Ensure the equitable, fair and appropriate allocation of facilities whilst optimizing use of the land, buildings and structures to maximise community benefit.
- Ensure that the Property and activities are accessible and inclusive for all.

## **FUNCTION OF THE COMMUNITY ASSET COMMITTEE**

To further its objectives in relation to the Property, the Community Asset Committee is required to:

- a) Develop and implement policies, procedures and a business plan for effective and efficient management. These policies, procedures and plan should reflect Council’s commitment to be a Child Safe organisation and the goals and objectives of Council’s plans;
- b) Manage, operate and maintain the Property in accordance with adopted policies, procedures and principles of sound financial management;
- c) Administer the terms and conditions under which the Property will be made available for use by the general public and by specific user groups through establishment of user agreements;
- d) Promote and develop the use of the Property with a view to maximising use of the community asset;
- e) Comply with all relevant legislation, regulations and guidelines.

## **FINANCIAL MANAGEMENT AND OUTGOINGS**

- a) The Community Asset Committee must do all things necessary to ensure responsible, prudent, transparent financial management of the Property;

- b) The Community Asset Committee is responsible for the setting of hire charges and security deposits. The hire rates are to be agreed to by Council prior to user groups or other hirers occupying the premises;
- c) All fees and other income must be recorded and is the Property of the Community Asset Committee;
- d) All fees and income generated must be used for the operation and improvement of the facility;
- e) The Community Asset Committee will be responsible for the payment of any utility and other like services supplied to the Property including, but not limited to, water, gas, electricity, sewerage, rubbish charges, telephone and internet as outlined in Annexure 2;
- f) The Community Asset Committee is responsible for the payment of routine maintenance as outlined in Annexure 2;
- g) The Chief Executive Officer or his/her delegate may, at any time, request to see a copy of a financial statement and the Community Asset Committee must provide this within a reasonable time (seven (7) days) after the request.

#### **PERMISSION TO OCCUPY AND MANAGE THE PROPERTY**

- a) The Chief Executive Officer authorises the Community Asset Committee to occupy the Property as necessary for the purposes of this Agreement;
- b) This permission does not create any interest or estate in the Property and is subject to the terms of this Agreement;
- c) The Chief Executive Officer may designate, manage and operate the Property for any emergency related purpose or as otherwise required under this Agreement;
- d) The Community Asset Committee will not, without the prior written consent of the Chief Executive Officer, or his/her delegate, assign, mortgage or charge this permission or part with or share possession of the Property or part of it.

#### **USE OF PROPERTY AND HIRING**

The Property is to be used as per the activity defined in Item 3 of the Schedule including the following:

- a) The Community Asset Committee is responsible for the administration of the terms and conditions for the use of the Property;
- b) All terms and conditions of use and access must be consistent with relevant government legislation, Council policies and Local Laws;
- c) The Community Asset Committee will hire out the Property to user groups consistent with the primary purpose of the Property;
- d) The Community Asset Committee will make the Property available for casual hire to other community groups where appropriate and where this does not interfere with the primary purpose of the Property or adversely affect the amenity of nearby neighbours;

- e) The Community Asset Committee must use and execute a standard User Agreement, or variation of, as approved by the Chief Executive Officer or his/her delegate that includes an indemnity to be entered into with users of the Property;
- f) The Community Asset Committee must ensure that any user/hirer has the appropriate public liability insurance. The public liability scheme offered by the Golden Plains Shire Council may be of assistance if the hirer of the venue has no existing public liability;
- g) No alcohol is permitted to be sold at the Property unless the relevant organiser has obtained a temporary or permanent Liquor Licence for any function or event. At Golden Plains Shire's request, a copy of the Liquor Licence must be provided. Any person behind a bar catering for these functions or events should display a Responsible Serving of Alcohol (RSA) Certificate or have available for inspection at all times. Further information can be found at the Department of Justice website at the following link –[www.justice.vic.gov.au/alcohol](http://www.justice.vic.gov.au/alcohol);
- h) No smoking is permitted inside the Property. The Community Asset Committee must comply with the Tobacco Act 1987 including a 10 metres exclusion zone around playgrounds, skate and BMX parks (24/7) and during under 18 competitions;
- i) No gambling is permitted at the Property; and
- j) The Community Asset Committee must allow Council to use the premises for Council sponsored events at no cost to Council. Such use will be subject to giving the Community Asset Committee at least 30 days' notice of its need to use the Property, provided that Council's use of the Property does not unreasonably interfere with the Community Asset Committee's use of the Property.

## **INSURANCE**

Council will insure the Property, unless alternative provisions are expressly indicated in this Agreement.

Unless otherwise provided for as a special condition in Annexure 3, the Community Asset Committee, must:

- a) Provide public liability insurance to the value of \$20 million for the legal liability to third parties for injury and/or damage to Property caused by an occurrence in connection with the Insured's operation;
- b) Insure and keep insured in the joint names of the Council and the Community Asset Committee with an insurer approved of by the Council a public liability insurance policy in respect of any injury, harm or damage allegedly caused, suffered or sustained by any person or persons coming in or upon the land;
- c) Hold and maintain insurance policies including, but not limited to, contents insurance to cover the Community Asset Committee's possessions, workers compensation insurance (as required), volunteers insurance and personal accident insurance. Council may require evidence that insurance policies are current at any time;
- d) All forms of damage to the Property must be immediately reported to Council for investigation and assessment for potential insurance claims. Incidents of damage include vandalism, burglary/theft and arson (must also be immediately reported to the Police),

impact, water damage, storm/lightning, accidental damage, fusion and/or fire. Incidents that may give rise to a public liability claim must also be reported to Council.

## **REPORTING**

- a) The Community Asset Committee will provide the Chief Executive Officer, or his/her delegate, with an annual report of the Activity and its obligations under this Agreement;
- b) The Community Asset Committee will provide the Chief Executive Officer, or his/her delegate, upon written request, electronic or paper copies of electricity, natural gas and water consumption accounts for Council's reporting and accounting purposes;
- c) The Chief Executive Officer, or his/her delegate, may at his/her discretion, waive the requirement to provide an annual report as required under subclause 10(a).

## **ACCESS TO PROPERTY AND RECORDS**

- a) With reasonable prior notice (seven (7) days), the Community Asset Committee will give persons authorised by the Chief Executive Officer, or his/her delegate, access to records associated with this Agreement and allow those authorised persons to inspect and copy records in the possession and control of the Community Asset Committee for purposes associated with this Agreement;
- b) During the Term of this Agreement the Council, its staff, contractors and agents will have full access to the Property;
- c) Council officers, contractors or tradespersons are entitled to enter the Property at all reasonable times, to inspect or make repairs and alterations as Council deems necessary for the safety, preservation and improvement of the Property. Accordingly, where required, the Community Asset Committee will be required to provide alarm codes and procedures to enable independent access to undertake these activities.

## **SECURITY**

- a) The Community Asset Committee must keep the Property secure at all times when not being used and shall notify the Council of any breach of security or vandalism within 24 hours of any the occurrence of such an event;
- b) The Community Asset Committee is not to install any security systems, including alarms or CCTV in the Property without the prior written consent of the Chief Executive Officer, or his/her delegate.

## **KEYS**

- a) The Property is keyed to the Council Key or Card system (restricted system);
- b) No installation of locks, key cylinders or padlocks is permitted without prior written consent from Council. If found to be installed or removed without written consent, the Council will rectify the issue and any expenses incurred from doing so will be charged directly to the Community Asset Committee;
- c) The Community Asset Committee must not make copies of keys. Lost or stolen keys shall be reported to Council within 24 hours;

- d) The Community Asset Committee is required to maintain a register of keys/cards issued to the community.

## **MAINTENANCE**

- a) The Community Asset Committee must keep the Property, including fittings, furniture and equipment in good repair and condition;
- b) The Community Asset Committee is responsible for the maintenance and operation of buildings; plant and equipment (see Annexure 2 – Maintenance Schedule);
- c) Council is responsible for the cost of maintaining, repairing and replacing what it determines to be structural elements as outlined in Annexure 2 – Maintenance Schedule;
- d) A general condition for all maintenance projects is that no fixtures, alterations or additions may be made without written consent of Council;
- e) All contractor/s engaged by the Community Asset Committee must meet Occupational Health and Safety requirements through evidence of adequate insurances and demonstrating safe work practices;
- f) All associated sub-contractors will need to have the appropriate qualifications. The principle contractor will be required to provide a list of all subcontractors and their qualifications to the Community Asset Committee prior to the commencement of maintenance works. The Community Asset Committee will record these details on file;
- g) All works undertaken at the Property must comply with the applicable statutory standards, including Building Regulations and Essential Safety Measures;
- h) Council reserves the right to conduct inspections and condition audits on all Council owned or controlled facilities from time to time. Council will issue rectification orders for any items which the Community Asset Committee has not maintained to Council's expectations.

## **CLEANING**

- a) The Community Asset Committee is responsible for all cleaning and associated costs and ensures the Property is kept in a clean and tidy manner at all times;
- b) The Community Asset Committee is responsible to keep the Property free of pest animals and weeds. Council is committed to waste minimisation and recycling. The Community Asset Committee must:
  - Comply with Council's waste management policy
  - Recycle all recyclable waste
  - Provide receptacles for the disposal of recyclable waste by residents and visitors.

## **MAJOR WORKS AND ALTERATION TO PROPERTY**

- a) Capital improvements to the Property such as extensions and/or renovations will occur at the Council's sole discretion, and funding or contributions may be subject to negotiation and agreement between the Council and the Community Asset Committee on a project by project basis;

- b) The Community Asset Committee must not make any alterations, additions or improvements (whether internal, external, structural or otherwise), or any extension or refurbishment to the Property or construction of any further building on the Property, without first consulting with, and then obtaining written permission from the Council;
- c) In the event that written consent is granted for works to be undertaken by the Community Asset Committee, all works shall be undertaken by Council approved contractors and tradespeople;
- d) The Community Asset Committee must not install any equipment (including air-conditioning or sprinkler systems) or exterior fixtures and fittings (including shade structures, blinds, security cameras etc.) to the Property without written permission from Council;
- e) Any additions, modifications or improvements made to the Property during the term of this Agreement remain the Property and asset of the Council.

### **FUNDRAISING**

The Community Asset Committee is responsible for obtaining all applicable permits and licences for any fundraising activities for or in relation to the Property.

### **FUNDING AND GRANTS**

- a) The Community Asset Committee may be eligible to apply to the Council for funding support from any grant scheme or other funding source, such as the Community Grants Program, and subject to usual assessment requirements;
- b) The Community Asset Committee may apply for other grants and funding through external organisations at any time. Endorsement and support of other grant applications is at the Council's discretion.

### **WORKPLACE HEALTH & SAFETY**

The Community Asset Committee is responsible for Workplace Health & Safety and must ensure that all risks are appropriately managed to ensure that its members, spectators, guests, hirers and the public are kept safe at all times.

### **FIRE PROTECTION**

- a) The Council is responsible for Essential Safety Measures including all maintenance and servicing of the Property including mechanical ventilation systems, hot water and cooling systems, entry and exit doors, fire equipment and fire safety features in each building;
- b) The Community Asset Committee must take all precautions, as requested by Council, and as required by law, against fire and ensure that all fire and emergency service regulations and requirements are complied with in relation to the Property.

### **INCORPORATION**

- a) The Community Asset Committee warrants that it is an incorporated body or corporation and its Constitution is not inconsistent with this Agreement;

- b) The Community Asset Committee will not alter its Constitution in a way that makes it inconsistent with this Agreement without the prior written consent of the Chief Executive Officer or his/her delegate;
- c) A copy of the Constitution shall be made available to the Council, upon request.

#### **NO PARTNERSHIP OR AGENCY**

- a) The Community Asset Committee will not, by virtue of this Agreement, become or be deemed to be a partner or agent of the Council;
- b) The employees, partners and agents of the Community Asset Committee will not, by virtue of this Agreement, be or for any other purpose be deemed to be employees, partners or agents of the Council;
- c) This Agreement shall not be construed or interpreted as a lease or sublease of the Property.

#### **SUBCONTRACTING AND ASSIGNMENT**

- a) The Community Asset Committee will not, without the prior written consent of the Chief Executive Officer, or his/her delegate, subcontract the whole or any part of the Activity;
- b) The Community Asset Committee agrees not to assign its rights, let, charge or share possession of the Property or any part of it under this Agreement without the prior written consent of the Chief Executive Officer, or his/her delegate.

#### **TERMINATION**

The Chief Executive Officer, or his/her delegate, may, in writing, terminate or suspend this Agreement where:-

- a) There is a major breach of any terms or conditions by the Community Asset Committee after written notice of the breach and a period of one (1) month from receipt of the notice to rectify the breach;
- b) The Community Asset Committee becomes insolvent or is subject to petition or resolution for winding up;
- c) The Community Asset Committee is discontinued or its purpose is varied without the consent of the Chief Executive Officer, or his/her delegate;
- d) The Chief Executive Officer, or his/her delegate, determines that an alternative administrative or operational arrangement is more appropriate;
- e) The Chief Executive Officer, or his/her delegate, reasonably believes the continued use of the Property will cause increasing or irreparable damage and deterioration to the Property;
- f) The Property or any part of it is destroyed or damaged so that the Community Asset Committee cannot access the Property or any part of it or that the Community Asset Committee cannot carry out their Activity;
- g) If this Agreement is terminated:

- The Community Asset Committee forfeits all rights and entitlements to the management, operation and control of the Property; and
- The Community Asset Committee must deliver up and vacate the Property in good order as required under this Agreement, including all keys, fixtures and any fittings owned by the Council.
- All funds raised for the management of the Property shall be returned to Council for use at the Property.

#### **DISPUTE RESOLUTION**

- a) The Chief Executive Officer and the Community Asset Committee agree to endeavour to resolve any dispute arising in relation to this Agreement in good faith;
- b) If the Community Asset Committee are dissatisfied with communications they may discuss their concerns with the Manager Community Development, 03 5220 7111. If after these discussions the Community Asset Committee is still dissatisfied with that outcome they can then write to the Chief Executive Officer, Colac Otway Shire, PO Box 283, Colac, VIC 3250.

#### **COMPLIANCE WITH LAWS AND RELEVANT COUNCIL POLICIES**

The Community Asset Committee must comply with all laws and Council policies relating to the management, control and operation of the Property, including (but not limited to) *Liquor Control Reform Act 1998*, *Occupational Health and Safety Act 2004* and *Occupational Health and Safety Regulations 2004*, *Privacy and Data Protection Act 2014*.

#### **REVIEW AND VARIATION OF AGREEMENT**

- a) This Agreement shall be reviewed and updated at the end of each Term as stated in the Schedule;
- b) The Community Asset Committee is to provide a list of names of the current Office Bearers, other positions on the Committee or Corporation and contact details at the commencement of each Term;
- c) The Community Asset Committee shall notify the Council in writing of any changes to the Office Bearers or other members on the Committee/Corporation;
- d) This Agreement may be updated or varied at any time with the written consent of both Parties.

#### **CONSENT AND NOTICES**

Any consent, approval or notice required by this Agreement must be in writing and may be served either in person, by post, fax or email at the relevant address set out in Item 8 and Item 9 of the Schedule.

#### **SPECIAL CONDITIONS**

This Agreement may contain special conditions (refer Annexure 3 for applicability) which to the extent of any inconsistency shall prevail over any of the general conditions in this Agreement.

**SIGNING PAGE**

Executed as a Deed:

IN WITNESS whereof the parties hereto have hereunto set their seals.

**The COMMON SEAL of**

**COLAC OTWAY SHIRE COUNCIL**

was hereunto affixed on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

in the presence of

.....

**CEO COLAC OTWAY SHIRE COUNCIL**

..... **WITNESS**

Signed by the authorised representatives of **[Incorporated Association]**

on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

**PRESIDENT**

Name: .....

Signature: .....

**SECRETARY**

Name: .....

Signature: .....

## Schedule – Management Agreement

|    |                                    |   |
|----|------------------------------------|---|
| 1. | <b>PROPERTY:</b>                   | [insert Property name], located at [insert street address of premises/property] as highlighted in the aerial photo in Annexure 1 (approx. XXX m2) and known as Allotment XX, Section X, Parish of XXX   |
| 2. | <b>PURPOSE:</b>                    | <p>The purpose of the Community Asset Committee is to:</p> <p>(a) Manage, control, operate, promote and maintain the Property for the benefit of the community, having regard to the principles of good governance without the day-to-day involvement of the Council.</p> <p>(b) Ensure the financial control of the Property to meet the Community Asset Committee’s objectives in a responsible, efficient, effective and practical manner.</p> <p>(c) Encourage public interest and maximise involvement and participation of the community in the development, use and sharing of the Property.</p> |
| 3. | <b>ACTIVITY:</b>                   | To manage, operate and maintain the [insert Premises] for the benefit of the user groups and local community  |
| 4. | <b>COMMENCEMENT DATE:</b>          | dd month year   |
| 5. | <b>EXPIRY DATE:</b>                | dd month year   |
| 6. | <b>TERM:</b>                       | [Insert Years]  |
| 7. | <b>Role of Council:</b>            | <p>Colac Otway Shire Council will:</p> <ul style="list-style-type: none"> <li>• Act in an advocacy and advisory capacity when necessary and to otherwise in accordance with this Agreement.</li> <li>• [insert others as appropriate]</li> </ul>  |
| 8. | <b>Council Address for Notices</b> | <b>Needs Contact details</b>  |

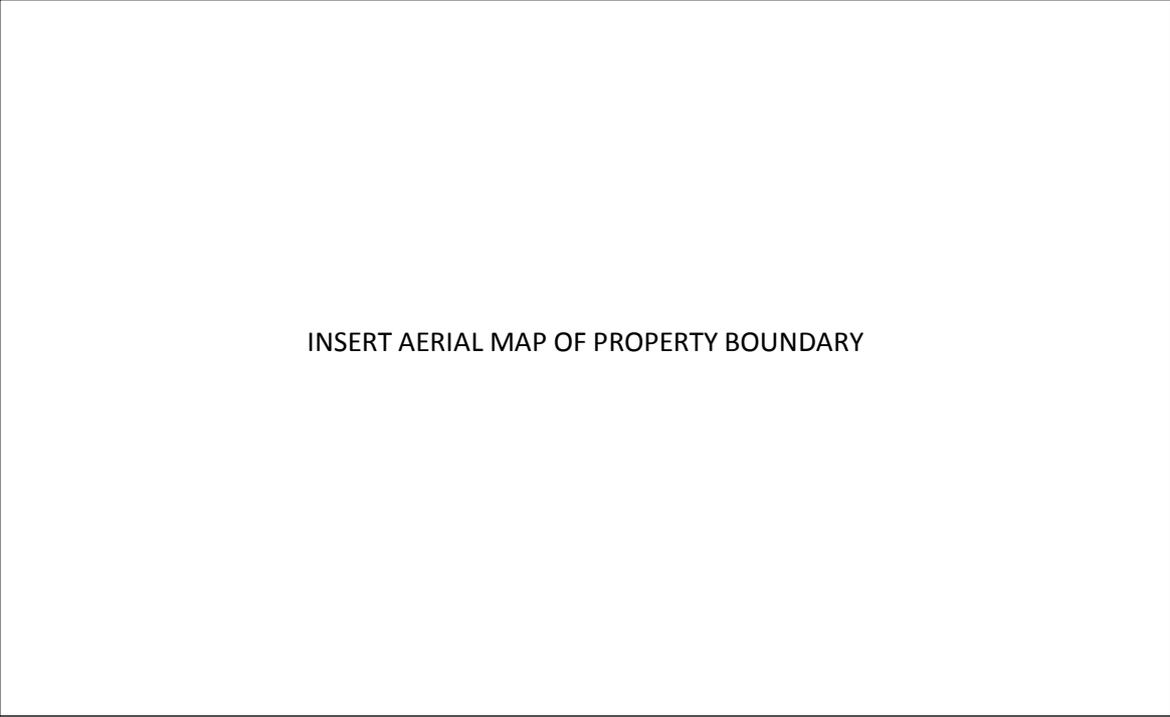
|     |  |  |
|-----|--|--|
| 9.  | <b>Committee</b><br><br><b>Address for</b><br><br><b>Notices</b> | [insert name]<br><br>[insert title], [insert COM name] Inc.<br><br>[insert postal address]<br><br>Phone: [insert number]<br><br>Mobile: [insert mobile]<br><br>Email: [insert email]           |
| 10. | <b>Committee</b><br><br><b>Members:</b>                          | [insert Committee member names and positions]  |
| 11. | <b>User Groups:</b>  | [insert regular user groups]   |
| 12. | <b>Rent:</b>   | [Insert figure]  |
| 13. | <b>Annexures:</b>  | <ul style="list-style-type: none"> <li>• ANNEXURE 1 – SITE PLAN OF PREMISES</li> <li>• ANNEXURE 2 - ROUTINE MAINTENANCE RESPONSIBILITIES</li> <li>• ANNEXURE 3 – SPECIAL CONDITIONS</li> </ul> |

## **ANNEXURE 1 – SITE PLAN OF PREMISES**

The subject Asset comprises the following:

The whole of the Asset known as [insert Property name], situated in [insert street address of premises/property] being:

- Allotment XX, Section X, Parish of XXX (XXX m2)



INSERT AERIAL MAP OF PROPERTY BOUNDARY

## ANNEXURE 2 – ROUTINE MAINTENANCE RESPONSIBILITIES

The following table outlines existing maintenance responsibilities for Council and the Community Asset Committee.

A general condition for all maintenance projects is that no fixtures, alterations or additions may be made without written consent of Council. Safe Work Method Statements (SWMS) should be completed for all maintenance activities that involve risk of injury.

All contractor/s engaged by the Community Asset Committee must evidence adequate insurances, qualifications and demonstrates safe work practices in accordance with the OH&S Act 2004

All associated sub-contractors will need to have the appropriate qualifications. The principle contractor will be required to provide a list of all subcontractors and their qualifications to the Community Asset Committee prior to the commencement of maintenance works. The Community Asset Committee will record these details on file.

| ITEM   | COM RESPONSIBILITY  | COUNCIL'S RESPONSIBILITY                                     |
|--|---|--|
| <b>Furniture and Fixtures</b>                          |   |  |
| 1. Heating Fixtures                                    | Payment of all gas and electricity bills, servicing, replacing and repairing when required. | No responsibility.   |
| 2. Ceiling Fans and Air Conditioning Units             | Purchase, installation, servicing, replacing and repairing when required.                   | No responsibility.   |
| 3. Curtains and Blinds                                 | Purchase, installation, cleaning and maintenance.   | No responsibility.   |
| 4. Doors (including cupboard doors and door fittings). | Regular cleaning, repair/replacement of internal doors.                                     | Repairs on all external doors. Council manage security risk. |
| 5. Goal Posts, Nets and Padding                        | Purchase installation and maintenance.  | No responsibility.   |
| 6 Clubroom Equipment as provided by user groups        | Responsible for installation, servicing and maintenance.                                    | Inspections as required under legislation                    |
| 7. Other Permanent Fixtures                            | Regular cleaning of all fixtures and repair/replace if due to foreseeable misuse.           | No responsibility.   |

| <b>Building/Structural</b>             |  |   |
|--|--|---|
| 8. Building Alterations                | For determining and documenting the specific needs of the building relating to any requests to Council for building alterations. | For assessing all requests submitted and if approved by Council, ensuring satisfactory completion of work by the responsible parties. |
| 9. Ceiling                             | Repairs due to foreseeable misuse.   | Major repair and/or replacement due to structural faults and age.   |
| 10. Floor Surfaces and Coverings       | Purchase, installation, cleaning and maintenance.  | No responsibility.  |
| 11. Walls and Floor                    | Cleaning and repair if damaged through foreseeable misuse.   | Structural maintenance.   |
| 12. Glazing                            | To keep clean and replace internal and external breakages.   | Council will assess insurance claims as per clause 9D   |
| 13. Roofs and Gutters                  | No responsibility.   | All maintenance and repair as per Council's asset renewal program. .  |
| 14. Skylights                          | No responsibility.   | All maintenance and repair as required.   |
| 15. Painting                           | Internal painting if damaged through foreseeable misuse or on an as needs basis.   | External painting as per Council's Asset Management System.   |
| 16. Building External                  | All external maintenance.  | Structural or weather proofing maintenance as per Council's Asset Management System.  |
| 17. Scoreboards and Coaching Boxes     | Purchase, installation and maintenance costs. Application to Council for installation approval.                                  | No responsibility.  |
| 18. Hard Courts - Underlying Structure | No responsibility.   | Maintenance as per Council's Asset Management System. Repair of structural defects as assessed by Council.                            |

| <b>Electrical</b>  |  |   |
|--|--|---|
| 19. Electrical Wiring and Fittings in buildings                                  | Repair and replacement due to foreseeable misuse. Secure a certificate of compliance and forward to Council for all electrical works arranged.   | All building wiring from main supply to and including the switchboard, power points, switches and light fittings.                         |
| 20. Tested and Tagged Electrical Appliances                                      | Annual test and tagging of all electrical appliances.  | No responsibility.  |
| 21. Training Lights (Lamps)  | Purchase of parts, globes and fittings.<br>Payment of utility costs and repairs.   | Provision of 1 x crane hire and electrical technician per facility per annum with timing to be negotiated with Community Asset Committee. |
| 22. Indoor Stadium Lights (Lamps)  | Purchase of parts, globes and fittings.<br>Payment of utility costs and repairs.   | Provision of 1 x crane hire and electrical technician per facility per annum with timing to be negotiated with Community Asset Committee. |
| 23. Light Globes and Fittings (external building fittings)                       | Responsible for enhancements.  | Replacement and maintenance when required.  |
| 24. Light Globes and Fittings (internal)   | Responsible for enhancements.<br>Replacement of globes up to 2 metres height off the ground, including the completion of a Safe Work Method Statement (SWMS).  | Replace light globes over 2 metres height off the ground and repair faulty fittings as determined by Council.                             |
| <b>Fire Services – Emergency Safety</b>  |  |   |
| 25. Fire Services (Extinguishers, hose reels, hydrants, booster systems, alarms) | To fill extinguishers when discharged.<br>Arrange annual inspection of extinguishers by local CFA and forward invoice and copy of inspection results to Council.   | For maintenance cost of fire services and replacement due to age.   |
| 26. Essential Services   | Induction of facility users.<br><br>Compliance with building code and Certificate of Occupancy (Varies depending on structure). Costs associated with compliance to be approved by and forwarded to Council. | For maintenance cost of Essential Services and replacement due to age.  |

| <b>Security/Vandalism</b>                                      |   |   |
|--|---|---|
| 27. Vandalism (internal, where break in occurs)                | Reporting to Council and Police. Cost for repairs/replacement of user owned fixtures.   | Council will assess insurance claims as per clause 9D   |
| 28. Vandalism (external)                                       | Reporting vandalism including graffiti to Council and Police.   | Repairs as determined by Council (copy of police report required).  |
| 29. Keys & Locks (compatible with Council's Master Key System) | Responsible for keys issued by Council and maintaining a site specific key register.  | Purchase, install and maintain external locks.  |
| 30. Security System  | Purchase, installation, service and maintenance. To be compatible to Council's Master Key System and provide Council with a key / code.   | No responsibility.  |
| <b>Plumbing/Irrigation/Toilets</b>                             |   |   |
| 31. Plumbing and Fixtures                                      | Maintenance of all plumbing fixtures including reticulated hot water systems and hot water units for tea/coffee making (e.g. Billie/Zip boilers). Consult with Council as to whether a repair or replacement is required. | Replacement or renewal of reticulated hot water system/s will be determined by Council on failure only.   |
| 32. Plumbing Waste Pipes and Drains                            | Keep clear of foreign objects and clear if blocked. Monitor and undertake septic tank pump out as required.   | Renewal of septic system will be determined by Council.   |
| 33. Irrigation Maintenance                                     | Minor adjustments of sprinkler heads (i.e. spray pattern, maintaining surrounds of heads). Reporting malfunctions to Council and undertaking pre-seasonal inspections of irrigation system before use.                    | All irrigation piping from main supply, control system and distribution infrastructure. Repairs where required, including sprinkler heads.          |
| 34. Storm Water Drain Maintenance                              | No responsibility.  | All maintenance as required.  |
| 35. Public Toilets   | Cleaning of reserve-only use toilets.   | Cleaning to an approved schedule those toilets designated as Shire 'public toilets'.<br><br>Maintenance and repairs as required for public toilets. |
| 36. Reserve only use / Internal Toilets                        | Maintenance, cleaning and minor repairs.  | Major repairs as determined by Council.   |

| <b>Food Handling/Hygiene/Cooking Equipment</b>              |   |  |
|---|---|--|
| 37. Hygiene   | To keep all areas in a clean and hygienic state.  | No responsibility.   |
| 38. Food Handling Areas and Equipment                       | To comply with the relevant Health Acts and maintain such equipment required under the Health Act.                                      | No responsibility.   |
| 39. Stoves, Cooking Equipment and Grease Traps              | Keep clean and maintain in operable condition. Cost of repairs. Maintain grease traps in accordance with manufacturer's recommendation. | No responsibility.   |
| 40. Exhaust Fans  | Keep clean and maintain in operable condition. Cost of repairs.   | No responsibility.   |
| <b>Oval Maintenance/Synthetic &amp; Artificial Surfaces</b> |   |  |
| 41. Line Marking of Sports Fields                           | Purchase and application (non-toxic and non-permanent materials only).  | No responsibility.   |
| 42. Management of Watering Sports Ovals                     | Responsibility for coordination and management of watering ovals (including cost).  | Responsible for investigating alternative water management systems and providing advice where required on watering regimes/schedules |
| 43. Mowing of Designated Sporting Ovals                     | As per Councils Asset Management System   | As per Councils Asset Management System (within program resources)   |
| 44. Fire Prevention Mowing of Reserves                      | Mowing/whipper snipper around buildings and garden beds.  | All other fire prevention mowing at Reserves.  |
| 45. Oval Surfaces (fertilise, aeration and weed spray)      | No responsibility.  | As per Councils Asset Management System (within program resources).  |

|  |  |  |
|--|--|--|
| 46. Oval Top Dressing  | Clubs to repair pot holes identified by pre-usage inspection. Report issues to Council.  | Minor, localised top dressing once per year as per Council's asset management system (within program resources). |
| 47. Synthetic / Artificial Sports Surfaces   | Seek Council approval for appointment of contractors and pay for pressure washing and cleaning of surfaces.                          | Approve and supervise contractors. Council to undertake all resurfacing works.                                   |
| <b>Utilities</b>   |  |  |
| 48. Payment of Utility Costs i.e. gas, electricity, telephone, water (including ovals) | Cover all costs including supply and security arrangements of gas bottles.   | No responsibility.   |
| <b>Cricket Pitches</b>   |  |  |
| 49. Covering and Un-Covering of Cricket Pitches (Soil)                                 | Levelling of soil during the season to maintain safety. Undertake the works to cover/uncover pitch using Council supplied materials. | Supplying materials for Committee to Cover/Uncover pitch between seasons.  |
| 50. Covering and Un-covering of Cricket Pitches (Covers)                               | Monitor and report any damage of covers to Council.  | Council to arrange removal/application of approved cricket pitch covers with applicator.                         |
| 51. Synthetic Cricket Wickets (including training nets)                                | Maintenance and replacement of synthetic surface material including removal of grit, sand, grime and rubber fleck.                   | No responsibility.   |
| <b>Car Parks/Roads/Playgrounds Other Reserve Maintenance</b>                           |  |  |
| 52. Grading of Unsealed Entrance Roads and Car Parks – Sealed                          | No responsibility. Reporting hazards to Council.   | Council responsible for maintenance.   |
| 53. Maintenance of Council Approved Bike Parks, Skate Parks and Playgrounds.           | No responsibility.   | All maintenance as per Councils Asset Management System.   |

| <b>Other Reserve Maintenance</b>      |   |   |
|---------------------------------------|---|---|
| 54. Fences                            | All fence maintenance.  | No responsibility.  |
| 55. Trees                             | Landscaping and vegetation planting/maintenance. Reporting dangerous limbs/trees to Council.  | All assessment, safety and removal as required (within program resources).    |
| 56. Advertising Signs                 | Purchase, installation and maintenance costs. Application to Council for installation approval. Annual risk assessment and repair of signs. | Assessment and approval of all requests submitted. No further responsibility. |
| 57. Rubbish                           | Picking up of rubbish within managed area. Placement of bins at collection point and all costs associated with additional bins.             | Emptying of rubbish bins as per Council's waste management policy.            |
| 58. Control of weeds and pest animals | Take all reasonable steps to control declared weeds and pest animals  | No responsibility.  |

**ANNEXURE 3 – SPECIAL CONDITIONS (if applicable)**

3.1 Special Condition A (if applicable)

## ADDENDUM THREE - COMMUNITY ASSET COMMITTEE – ANNUAL RETURN TO COUNCIL

When completed please return to:

When completed please return by  
the 30<sup>th</sup> of November for the financial year being reported on to:  
Colac Otway Shire  
2-6 Rae Street  
Colac VIC 3250  
or email: [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au)

**NAME OF COMMUNITY ASSET COMMITTEE:**

**INTRODUCTION:** *This is where you would describe your facility and information on the management of the asset.*

**ACHIEVEMENTS:** *Describe what achievements/improvements have been made at the asset for the past 12 months; this could include exceeding expected hirings for the year, construction of an asset, smooth change over period, excellent volunteer work etc.*

**FUTURE VISION:** *Describe where the committee believes the future of the reserve lies and what could possibly be done to achieve this.*

**CONFLICT OF INTEREST:** *Please list any minuted conflicts of interest.*

## REVIEW KEY COMMITTEE CONTACT DETAILS

*If the Committee's contact details have changed since your last return please insert the new details below.*

*(Please provide a current email address for the Committee if you have not already done so).*

|   |  |
|---|--|
| <b>Name</b>                                   |  |
| <b>Title</b><br>(eg Chair, Secretary, Member) |  |
| <b>Postal address</b>                         |  |
| <b>Committee email address</b>                |  |
| <b>Telephone number</b>                       |  |
| <b>Mobile number</b>                          |  |

**CONCLUSION:** *Describe the assets position after 12 months of trading and how things will progress in the future.*

## FINANCIAL REPORTS:

### Income

(Insert Year) (\$)

- a) Fees (*eg hall hire, entrance fees, membership fees*)
- b) Fundraising (*eg garage sales, raffles, fundraising events*)
- c) Gifts / Donations
- d) Grants
- e) Leases / Licences / Informal Agreements
- f) Proceeds from disposal of Asset (*eg sale of lawn mower*)
- g) Interest received
- h) GST / Tax refunds (*if applicable*)
- i) Other (*please specify*)

**Income Total** (*add a to i*)

### Expenditure

(Insert Year) (\$)

- a) Utilities (*eg electricity, gas, water, council rates, phone, internet*)
- b) Fundraising costs
- c) Administration expenses (*eg stationery, postage, contract admin staff*)
- d) Building maintenance (*eg repairs, up keep, contract cleaners*)
- e) Asset purchases and additions (*eg tools, lawn mower, capital improvements*)
- f) Land maintenance (*eg tree removal, fencing, contract gardeners*)
- g) Insurance costs (*include premiums and any excess payments*)
- h) Salaries & Wages (*payments to staff & related costs - not payments to contractors*)
- i) Banking costs (*eg fees and charges*)
- j) GST / Tax Payments (*if applicable*)
- k) Other (*please specify*)

**Expenditure Total** (*add j to t*)

### Attestation of Committee's responsible officer

*The Committee's Responsible Officer must be a Committee Member (eg Chairperson, Secretary or Treasurer).*

**I certify that the financial information supplied can be substantiated from supporting records and that any attached information is accurate.**

**Name**

**Title**

**Telephone number**

**Signature**

**Date of signing**

## 4. Review key Committee contact details

If the Committee's contact details have changed since your last return, please insert the new details below.

**(Please provide a current email address for the Committee if you have not already done so.)**

**Name**

**Title**

(eg Chair, Secretary, Member)

**Postal address**

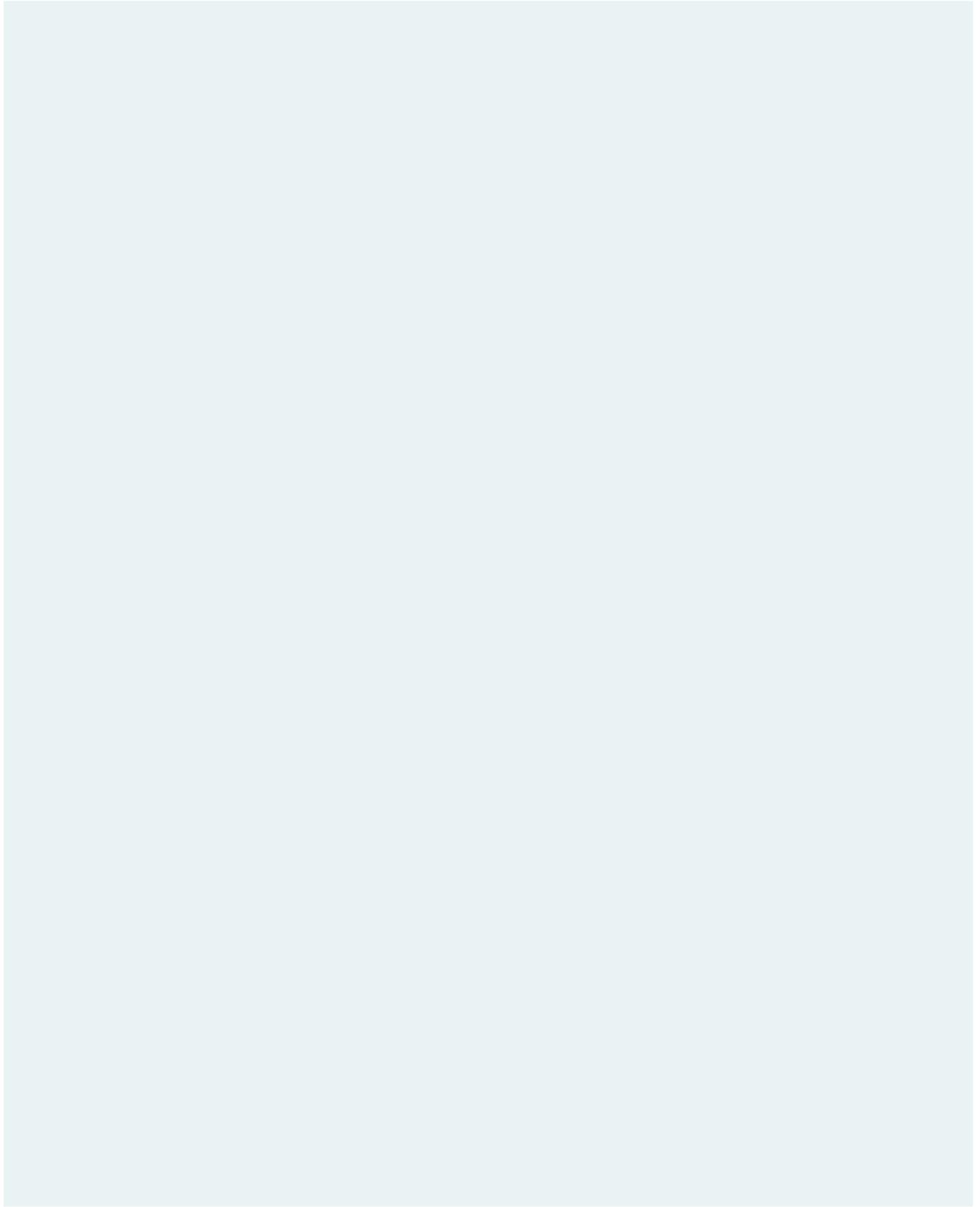
**Committee email address**

**Telephone number**

**Mobile number**

## 5. Additional comments

**Include issues you would like to bring to Council's attention**



**ADDENDUM FOUR – COMMUNITY ASSET BUSINESS PLAN**

# Community Asset Committee

(Insert Name)

## Business Plan

**Prepared:** (Insert Date)

# The Business

**Community Asset Name:**

**ABN (if applicable):**

**Community Asset Location:**

## Services Provided

| <i>Service name</i>            | <i>Brief service description</i>              |
|--------------------------------|---|
| <i>Example: Hall Hire</i>      | <i>Hall hired to community for functions</i>  |
| <i>Example: Farmers market</i> | <i>Farmers conducted on a quarterly basis</i> |
|                                |   |

### Market position:

*Are there other facilities/organisations that offer similar services in your location?*

### Current Demand:

*What is the current usage of the asset?*

### Anticipated demand:

*Has the demand for your services increased/decreased/stayed the same?*

### Pricing strategy:

*How do you decide on charges?*

### Value to customer:

*What about the asset provides value to the customer? Example: the facility has a commercial kitchen, an accessible toilet and plenty of parking.*

### Growth potential:

*Is there growth potential and if yes how?*

**Insurance:**

Usual day-to-day activities are covered by Colac Otway Shire insurances however irregular events, especially those where an increased number of attendees are expected, need to be discussed well in advance with the appropriate Council officer.

**Legal considerations:**

*What are the legal considerations? Example: Occupational Health and Safety, Accessibility.*

**Quality control:**

*Do you have a process to ensure the facility meets the needs of its customers?*

**Memberships & affiliations:**

*Are you member of other groups? Example: Tennis Victoria*

**Risk Management**

| <b>Risk</b>   | <b>Likelihood</b> | <b>Impact</b> | <b>Strategy</b>                                |
|---|-------------------|---------------|--|
| <i>Example: Not accessible to wheelchairs/walkers</i> | <i>High</i>       | <i>High</i>   | <i>Lobby Council to increase accessibility</i> |
| <i>Example: Lack of Committee members</i>             | <i>Low</i>        | <i>High</i>   | <i>Advertise for and recruit new members</i>   |
|   |                   |               |  |

**Our competitors**

| <b>Competitor</b>          | <b>Strengths</b>   | <b>Weaknesses</b>  |
|----------------------------|--|--|
| <i>Example: Hall XYZ</i>   | <ul style="list-style-type: none"> <li>• <i>Commercial Kitchen</i></li> <li>• <i>Sealed parking</i></li> </ul> | <ul style="list-style-type: none"> <li>• <i>Dirt road access</i></li> <li>• <i>Not well sign posted</i></li> </ul>             |
| <i>Example: School ABC</i> | <ul style="list-style-type: none"> <li>• <i>Large, modern facility with new hall</i></li> </ul>                | <ul style="list-style-type: none"> <li>• <i>Not accessible during school hours</i></li> <li>• <i>High hire cost</i></li> </ul> |
|                            |  |  |

|  |   |
|--|---|
| <b>Strengths</b>   | <b>Weaknesses</b>   |
| <i>Example: Good committee who attend meetings regularly</i> | <i>Example: No commercial Kitchen</i>                       |
|  |   |
|  |   |
|  |   |
| <b>Opportunities</b>   | <b>Threats</b>  |
| <i>Example: Upgrade to commercial kitchen</i>                | <i>Example: Ageing committee and no succession planning</i> |
|  |   |
|  |   |
|  |   |

# The Future

## Vision statement

*What is your business' vision statement? It should briefly outline your future plan for the business and include your overall goals.*

## Mission statement

*What is your business' mission statement? ie. how will you achieve your vision?*

## Action plan

|   |                                   |                |
|---|-----------------------------------|----------------|
| <b>What action is to be undertaken:</b>             |                                   |                |
| <b>Why is this action important (Cost/Benefit):</b> |                                   |                |
| <b>How will this action be achieved?</b>            | <b>Who will help achieve this</b> | <b>By when</b> |
|   |                                   |                |
|   |                                   |                |

|   |                                   |                |
|---|-----------------------------------|----------------|
| <b>What action is to be undertaken:</b>             |                                   |                |
| <b>Why is this action important (Cost/Benefit):</b> |                                   |                |
| <b>How will this action be achieved?</b>            | <b>Who will help achieve this</b> | <b>By when</b> |
|   |                                   |                |
|   |                                   |                |

## ADDENDUM FOUR – COMMUNITY ASSET COMMITTEE POLICIES

### Conflict of interest – An overview

This guidance note is for use by Community Asset Committees managing Council facilities.

#### Introduction

Your committee performs a valuable community service by managing a facility for the public benefit.

To protect the reputation of the committee and ensure that the reserve is managed in the **public interest** (the best interests of the community):

- conflicts of interest should be avoided where possible; and
- if a conflict of interest exists, it must be declared and managed in the public interest.

#### Conflict of interest policy

Your committee is expected to have a *Conflict of Interest* policy. Council can assist in the development of the policy or alternatively you can visit <https://www.communitydirectors.com.au/icda/> which provides information for community committees.

#### Definitions

##### What is a conflict of interest?

A conflict of interest is a conflict between:

- your public duty to manage the reserve in the best interests of the community; and
- your **private interests**.

##### What is a conflict of duty?

A conflict of duty (also known as a conflict of role) is a type of conflict of interest that can occur even if you do not have any private interest at stake. It is a conflict between:

- your public duty to manage the asset in the best interests of the community; and
- your **duty to another organisation** (private or public). It exists due to your role with the other organisation (e.g. as a committee member, employee, volunteer, or member).

##### How broad is the definition?

A conflict of interest:

- exists whether it is real, potential, or perceived
- can be an interest that is direct (held by you) or indirect (held by a relative or close associate)
- can be pecuniary (financial) or non-pecuniary (non-financial), or a mixture of both.

For details see [Appendix 1](#) (following).

#### Register of interests

Your committee should have a *Register of Interests* in which the interests of committee members that **may give rise to a conflict of interest** are recorded.

You are responsible for ensuring that your interests as recorded in the register are correct and complete.

The chair will ensure that the register is stored in a manner that maintains the confidentiality of members.

## At the meeting

### Confirm your interests in the register

The chair will bring the *Register of Interests* to all committee meetings. At the start of each meeting, he/she will ask you and the other members present to confirm that your interests as recorded in the register are complete and correct.

If there are no changes, the minutes will note that 'all committee members present confirmed that their entries in the *Register of Interests* are complete and correct'.

If you have new interests that may give rise to a conflict but are not yet included in the register, you must declare them so that they can be recorded in the minutes. The chair will then arrange for them to be entered into the register.

### Declare any conflict with an agenda item

Conflicts of interest should be avoided where possible. If a conflict exists, it must be declared and managed in the **public interest** (the best interests of managing the reserve for the benefit of the community).

At the start of each committee meeting, the chair will also ask you and the other members present to declare any interest (private interest or duty to another organisation) in relation to any item on the agenda. You must declare any interest you have that relates to any item on the agenda, *even if it is already recorded in the register*.

During the meeting, if you realise that you have an undeclared interest, declare it immediately. Similarly, if you believe that another member may have an undeclared interest, raise a query to enable him/her to declare the interest, if it exists.

## Managing a conflict of interest

The committee determines how a conflict of interest will be managed in the public interest. In doing so, it starts by deciding whether the conflict is 'material' (serious).

**Material conflicts:** the standard procedure for managing a material conflict of interest is **remove** – ie. the member with the conflict leaves the room and does not take part in any discussion or decision-making on the 'conflicted' issue. A lesser option will not usually be in the public interest. However, a stronger option may be required if the conflict is of unacceptable frequency or duration.

**Non-material conflicts:** if a conflict of interest is not material, there is more likelihood that a lesser option will be in the public interest – eg. recording the conflict in the minutes and then allowing the member to participate in the committee's discussion and decision, or to participate in discussion but not decision-making.

For details of what options are available to the committee for managing a conflict of interest, see [Appendix 2](#) (following).

For details of how the committee should decide whether a conflict is material and how the conflict should be managed, see [Appendix 3](#) (following).

## Recording in the minutes

The minutes of the committee meeting should record:

- a description of the interest and the conflict (the dollar value of a financial interests does not need to be included);
- whether the conflict is material;

- how it will be managed (and for an option other than ‘remove’, why it is in the public interest); and
- where applicable, the times and item, or part thereof, for which the member is absent from the room.

## Breach of committee’s policy

If you may have breached your committee’s policy, notify the chair immediately. If you believe another member may have breached the policy but not notified the chair, advise the chair or approach the other member, who should then notify the chair. For details of the process the committee should follow if a breach may have occurred, see Council’s model policy.

## Appendix 1: How broad is the definition of a conflict of interest?

For all conflicts of interest, including conflicts of duty:

### *Real, potential or perceived*

A conflict of interest exists whether it is:

**real** – it currently exists;

**potential** – it may arise, given the circumstances;

**perceived** – members of the public could reasonably form the view that a conflict exists or could arise that may improperly influence the performance of your duty as a committee member, now or in the future.

### *Direct or indirect*

A private interest can be direct or indirect. A direct interest is held by you. An indirect interest is held by your relative or close associate, for example:

- an immediate family member (e.g. spouse, partner, child, parent, sibling);
- a regular household member; or
- another close associate (e.g. friend, relative, business associate, rival, enemy).

### *Pecuniary or non-pecuniary*

A private interest can be pecuniary (financial) or non-pecuniary (non-financial), or a mixture of both. It can arise from a wide range of personal or professional/business-related sources.

**Pecuniary interests** - include actual, potential, or perceived financial gain or loss. Money does not need to change hands. The interest exists if you (or a relative or close associate):

- own property;
- hold shares, investments or other business interests;
- have a position in a company bidding for government work;
- receive benefits such as concessions, discounts, gifts or hospitality from a particular source;
- hold office in a corporation (public, private or trustee), an incorporated association, or other entity;
- have any other relevant financial interest, for example, are:
  - entitled to receive income from a contract;
  - a beneficiary or trustee of a trust; or
  - entitled to receive income from an office held for payment/reward or from a trade, vocation, or profession.

**Non-pecuniary interests** - may arise from personal or family relationships or from your involvement in sporting, social, or cultural activities, etc. They include a tendency towards favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If your personal values are likely to impact on the proper performance of your public duty, this can also lead to a conflict of interest. Enmity as well as friendship can give rise to a conflict of interest.

## Appendix 2: Options for managing a conflict of interest

The committee must manage all conflicts of interest in the **public interest** (the best interests of the community). Depending on the conflict, the options are:

1. **Remove** – the member with the conflict leaves the room and does not participate in any discussion or decision-making on the ‘conflicted’ matter.
2. **Record** – details of the conflict of interest are recorded in the minutes. Monitoring occurs to check whether this remains the appropriate option.
3. **Restrict** – the member’s involvement in discussion and/or decision-making on the matter is restricted to the extent that matches the public interest. Monitoring occurs to check whether this remains the appropriate option.
4. **Recruit** – an impartial third party is engaged to provide advice (eg. probity adviser, lawyer, or governance expert from DELWP or the Victorian Public Sector Commission).
5. **Relinquish or resign** – the member relinquishes their private interest or steps down from their role with the other organisation on a temporary or permanent basis. Alternatively, he or she resigns from the committee itself.

For which option to choose, see [Appendix 3](#) (following).

## Appendix 3: Process for deciding

The process for deciding how to manage a particular conflict of interest is as follows:

### a) Is the conflict material?

The committee starts by deciding whether the conflict is material (serious). To do so, it takes into account all relevant factors and circumstances, including:

- the objectives and functions of the committee;
- the matter to be discussed and determined;
- the nature of the conflict (real, potential or perceived?);

the severity of the conflict, including:

- the amount, scope, and likelihood of any expected benefit (e.g. is it a large benefit primarily to the committee member or a small benefit that thousands of people including the member will receive?); and
- any other relevant circumstances (e.g. if the conflict relates to a member’s partner working at an organisation about which the committee is to make a decision: is the partner currently working there as the CEO? Or did they leave a few years ago from a large organisation in which their work was not connected to the decision being made by the committee?);

the potential effect of the conflict, including:

- the extent to which the member’s ability to make an impartial decision in the public interest could be compromised (or could reasonably be seen to be compromised); and

- the overall likelihood that the conflict of interest may affect public confidence in the integrity of the committee and its decisions.

## b) Managing material conflicts of interest

The **standard procedure** for managing a material conflict of interest is to **remove** the member with the conflict from all participation in the matter. The committee member:

- leaves the room at the start of the relevant agenda item and not return until the start of the next item;
- does not discuss the matter at all with any other member (either in the meeting or elsewhere); and
- does not participate in any committee decision on the matter.

The standard procedure is followed unless the committee determines and records in the minutes clear reasons why it is not in the public interest.

### *Stronger option for managing a material conflict*

If the public could reasonably form the view that a conflict of interest is of unacceptable frequency or duration then to maintain public confidence and protect the reputation of the committee it may be necessary, in the public interest, for the member to:

- relinquish their private interest;
- resign or stand down on a temporary basis from the other organisation to which he/she has a duty; or
- resign from the committee.

If the committee is unsure whether a stronger option is in the public interest Council will be contacted for advice.

### *Lesser options for managing a material conflict*

A lesser option (record, restrict or recruit) will not usually be in the public interest for managing a material conflict of interest. If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution.

If the committee decides on a lesser option then, in addition to clearly minuting why it is in the public interest, careful monitoring will occur to ensure that the lesser option remains appropriate.

Examples of when a lesser option may be in the public interest include:

**Discussion:** If the ‘conflicted’ member was appointed on the basis of their knowledge of the matter then it may be in the public interest for them to be present for part of the committee’s discussions. (However, if an ‘unconflicted’ member is absent who also has this expertise then it will usually be in the public interest for discussion to occur at the next meeting instead.)

**Decision:** If the recommended procedure of ‘remove’ would mean that there is no quorum for the decision even if all ‘unconflicted’ members are present then a lesser option will be in the public interest. (However, if ‘unconflicted’ committee member/s are absent then it will usually be in the public interest for the decision to be held over to the next committee meeting instead). *If this is a common occurrence Council should be notified.*

## c) Managing non-material conflicts of interest

For a non-material conflict of interest, there is more likelihood that a lesser option (record, restrict or recruit) will be in the public interest. In making its decision, the committee takes into account all relevant factors.

- eg. the lower the severity of the conflict, the more likely that a lesser option will be in the public interest.

If the committee decides on a lesser option then, in addition to minuting why it is in the public interest, careful monitoring will occur to ensure that it remains appropriate – eg. the committee may initially decide to only ‘record’ the conflict but after monitoring may decide instead to ‘restrict’ the member by allowing them to participate in some aspects of the discussion but removing them from others and from all decision-making on the issue.

If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution and decide on the standard procedure of **remove** (ie. the member leaves the room and does not participate in any discussion or decision-making on the matter).

## Further information

Information on this topic (eg. model policy and this guidance note) is available from Council’s Website <http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues> .

# Conflict of Interest – Policy

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[insert name of committee]

## 1. Scope

This policy sets out the committee's procedures for the declaration and management of conflicts of interest.

## 2. Definitions

### Conflict of interest

A conflict of interest is a conflict between a committee member's:

- **public duty** to manage the asset in the best interests of the community; and
- their **private interests**.

### Conflict of duty

A conflict of duty (also known as a conflict of role) is a type of conflict of interest that can occur even if a member does not have any private interest at stake. It is a conflict between a committee member's:

- **public duty** to manage the asset in the best interests of the community; and
- their duty to **another public sector or private organisation**. It exists due to the member's role with the other organisation (eg. as a committee member, employee, volunteer, or organisation member).

### How broad is the definition?

The following applies to all conflicts of interest, including conflicts of duty:

#### *Real, potential or perceived*

A conflict of interest exists whether it is:

- **real** – it currently exists;
- **potential** – it may arise, given the circumstances; or
- **perceived** – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the committee member's performance of his/her duty to the committee, now or in the future.

#### *Direct or indirect*

A private interest can be direct or indirect. A **direct** interest is held by the committee member. An **indirect** interest is held by a relative or close associate of the member, for example:

- an immediate family member (eg. spouse, partner, child, parent, sibling);
- a regular household member; or
- another close associate (eg. friend, relative, business associate, rival, enemy).

### *Pecuniary or non-pecuniary*

A private interest can be pecuniary (financial) or non-pecuniary (non-financial), or a mixture of both. It can arise from a wide range of personal or professional/business-related sources.

**Pecuniary interests** - include actual, potential, or perceived financial gain or loss. Money does not need to change hands. The interest exists if the committee member (or a relative or close associate):

- owns property;
- holds shares, investments or other business interests;
- has a position in a company bidding for government work;
- receives benefits such as concessions, discounts, gifts or hospitality from a particular source;
- holds office in a corporation (public, private or trustee), incorporated association, or other entity; or
- has any other relevant financial interest, for example:
  - is entitled to receive income derived from a contract;
  - is a beneficiary or trustee of a trust; or
  - is entitled to receive income from an office held for payment/reward or from a trade, vocation, or profession.

**Non-pecuniary interests** - may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc. They include a tendency towards favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If personal values are likely to impact on the proper performance of public duty, this can also lead to a conflict of interest. Enmity as well as friendship can give rise to a conflict of interest.

## 3. Register of Interests

The committee maintains a *Register of Interests* which includes both the direct and indirect interests of each member that **may give rise to a conflict of interest**. The chair ensures that the register is:

- kept up-to-date;
- brought to each committee meeting; and
- stored in a manner that maintains the confidentiality of members.

At the start of each committee meeting, the chair asks for all members to state whether their interests as recorded in the register are complete and correct. If there are no changes, the minutes note that 'all committee members present confirmed that their entries in the *Register of Interests* are complete and correct'. If any changes are declared, these are recorded in the minutes for entry into the register.

The *Register* template is set out in Appendix 2.

## 4. Declaring conflicts of interest at the start of a meeting

In addition to checking whether the *Register of Interests* is complete and correct (see above), at the start of each committee meeting the chair asks if any member present has an interest (a private interest or a duty to another organisation) in respect to any item on the agenda. If a member has an interest he/she must declare it, including the nature of the interest and the conflict that results, or may result, from it. An interest must be declared even if it is already recorded in the *Register*.

A member who becomes aware during the meeting that he/she has an undeclared interest must declare it immediately.

A member who believes that another member may have an undeclared interest should raise this as a query, so as to enable the other committee member to declare the interest, if it exists.

## 5. Options for managing a conflict of interest

The committee manages all conflicts of interest in the **public interest** (the best interests of managing the reserve for the benefit of the community). Depending on the conflict of interest, options include:

1. **Remove** – the member with the conflict leaves the room and does not participate at all in the ‘conflicted’ matter.
2. **Record** – details of the conflict of interest are recorded in the minutes. Monitoring occurs to check whether this remains the appropriate option.
3. **Restrict** – the member’s involvement in discussion and/or decision-making on the matter is restricted to the extent that matches the public interest. Monitoring occurs to check whether this remains the appropriate option.
4. **Recruit** – an impartial third party is engaged to provide advice.
5. **Relinquish or resign** – the member relinquishes their private interest or steps down from their role with the other organisation on a temporary or permanent basis. Alternatively, the member resigns from the committee itself.

The process for determining which option is in the public interest for a particular conflict is set out in items 6 to 8.

## 6. Is the conflict material?

When deciding how to manage a conflict of interest, the committee first determines whether the conflict is **material** (serious). In doing so, the committee takes into account all the relevant factors and circumstances, including:

- the **objectives** and **functions** of the committee;
- the **matter** that is to be discussed and determined;
- the **nature** of the conflict (eg. is it real, potential, or perceived?);

the **severity** of the conflict, including:

- the amount, scope, and likelihood of any expected benefit (eg. is it a large benefit primarily to the committee member or a small benefit that thousands of people including the member will receive?); and
- any other relevant circumstances (eg. if the conflict relates to a member’s partner working at an organisation about which the committee is to make a decision: is the partner currently working there as the CEO? Or did they leave a few years ago from a large organisation in which their work was not connected to the decision being made by the committee?);

the **potential** effect of the conflict, including:

- the extent to which the member’s ability to make an impartial decision in the public interest could be compromised (or could reasonably be seen to be compromised); and
- the overall likelihood that the conflict of interest may affect public confidence in the integrity of the committee and its decisions.

## 7. Managing material conflicts of interest

The committee’s **standard procedure** for managing a material conflict of interest is to **remove** the member from all participation in the matter. The member will:

- leave the room at the start of the relevant agenda item and not return until the start of the next agenda item;
- not discuss the matter at all with any other member (either in the meeting or elsewhere); and
- not participate in any committee decision on the matter.

The standard procedure will be followed unless the committee determines and records in the minutes clear reasons why it is not in the public interest.

### Stronger option for managing a material conflict

If the public could reasonably form the view that a material conflict is of unacceptable frequency and/or duration then to maintain public confidence and protect the reputation of the committee it may be necessary, in the public interest, for the member to:

- relinquish their private interest;
- resign or stand down on a temporary basis from the other organisation to which he/she has a duty; or
- resign from the committee.

If the committee is unsure whether a stronger option is in the public interest the department will be contacted for advice.

### Lesser options for managing a material conflict

A lesser option (record, restrict or recruit) will not usually be in the public interest for managing a material conflict of interest. If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution.

If the committee decides on a lesser option then, in addition to minuting why it is in the public interest, careful monitoring occurs to ensure that the lesser option remains appropriate.

#### Examples

Examples of where a lesser option may be in the public interest, taking into account all the relevant circumstances, are:

- **Discussion:** If the member with the conflict was appointed on the basis of their knowledge of the matter then it may be in the public interest for them to be present for part of the committee's discussions. (However, if an 'unconflicted' member is absent who also has this expertise then it will usually be in the public interest for discussion to occur at the next meeting instead.)
- **Decision:** If the recommended procedure of 'remove' would mean that there is no quorum for the decision even if all 'unconflicted' members are present then a lesser option will be in the public interest.<sup>1</sup> (However, if 'unconflicted' member/s are absent then it will usually be in the public interest for the decision to be held over to the next committee meeting instead.)

## 8. Managing non-material conflicts of interest

For a non-material conflict of interest, there is more likelihood that a lesser option (record, restrict or recruit) will be in the public interest. In making its decision, the committee will take into account all relevant factors and circumstances - eg. the lower the severity of the conflict, the more likely that a lesser option will be in the public interest.

If the committee decides on a lesser option then, in addition to minuting why it is in the public interest, careful monitoring occurs to ensure that it remains appropriate – eg. the committee may initially decide

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<sup>1</sup> If this is a common occurrence, council should be notified.

to only ‘record’ the conflict but after monitoring may decide instead to ‘restrict’ the member by allowing them to participate in some aspects of the discussion but removing them from others and from all decision-making on the issue.

If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution and decide on the standard procedure of **remove** (ie. the member leaves the room and does not participate in any discussion or decision-making on the matter).

## 9. Recording in minutes

If a committee member declares a conflict of interest, the following is recorded in the minutes:

- a description of the interest and the conflict (the dollar value of a financial interest does not need to be included);
- whether the conflict is material;
- the action that the committee will take to manage the conflict in the public interest;
- if a lesser option or stronger option is to be taken, why it is in the public interest; and
- if the member leaves the room during discussion and/or decision-making on the ‘conflicted’ matter, the time that he/she leaves and returns and the item, or part thereof, for which he or she was absent.

## 10. Breach of this policy

A committee member who may have breached this policy will notify the chair immediately:

- If the chair is of the view that a breach has not occurred, the committee determines at the next scheduled committee meeting, and records in the minutes, whether a breach has occurred.
- If the chair is of the view that a breach has occurred, the chair arranges for the committee to determine on an urgent basis, and record in the minutes, whether a breach has occurred.
- If the committee decides that a breach has occurred, the chair notifies the department (i.e. the Regional Director) in writing as soon as practicable, including whether the breach relates to a material conflict.

A member who believes that another member may have breached this policy but not yet notified the chair will either approach the other member, who will then notify the chair, or will notify the chair directly. (In the case of a possible breach by the chair, the member nominated by the committee to assist the chair with conflict of interest queries is notified instead).

## 11. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

## Appendix 1: Register of Interests template

| Name of committee member | Description of interest  | Interested parties  | Is the interest current? |
|--------------------------|--|---------------------|--------------------------|
| [eg. John Smith]         | [eg. sister-in-law co-owns a company which could potentially become a contractor to this committee.] | [eg. sister-in-law] | [eg. Yes]                |
|                          |  |                     |                          |

# Code of Conduct – An Overview

This guidance note is for use by Community Asset Committees managing Council facilities.

## Introduction

As a member of a committee of management, you are performing a valuable service to your local community and to the wider Victorian community. Your role is an important and trusted one with corresponding obligations in relation to integrity and accountability, which are described in this guidance note.

## Code of Conduct policy

Your committee is expected to have a *Code of Conduct* policy. Council can assist in the development of the policy or alternatively you can visit <https://www.communitydirectors.com.au/icda/> which provides information for community committees.

## Standard of Conduct policy

Committee members act in the **public interest** at all times (the best interests of managing the facility for the benefit of the community).

As a committee member, you have a duty to:

- act honestly, with integrity, in a financially responsible manner, with a reasonable degree of care, diligence and skill, in compliance with the *Associations Incorporation Reform Act 2012*, and in good faith in the best interests of managing the facility;
- maintain confidentiality, even after your appointment ends;
- avoid improperly using your position, or any information acquired in your role, to gain advantage for yourself or another person or to cause detriment to the committee; and
- if standing for election to parliament/local council, notify the committee and avoid using committee resources in connection with your candidature.

This is basic good governance practise that is required of all committee members.

## Committee policies

Always ensure that you comply with your committee's policies, in particular, its policies on:

- Code of Conduct
- Meetings and decisions
- Conflict of interest
- Dispute resolution.

## Gifts, benefits and hospitality

Unless good reason exists otherwise, avoid accepting or giving gifts in your role as a committee member.

A 'gift' is a free or heavily discounted item or service (eg. an offer to paint your fence at a reduced rate).

The term 'gift' also includes a benefit or hospitality that exceeds common courtesy (eg. an offer of a cup of coffee is a common courtesy; an offer of a \$100 bottle of wine is a gift offer).

The more valuable or significant a gift, the less likely that it will be in the public interest for you to accept or give it. When in doubt, err on the side of caution. Council can be contacted for advice.

Any gift that is accepted or given must be recorded in the minutes of the next committee meeting.

The following requirements apply:

### When a gift offer must be refused

You must:

- never solicit gifts
- always refuse and report any attempt to bribe you
- never accept any gift that may cast doubt on your integrity or impartiality or that of the committee.

Examples of gifts that must never be accepted include:

- gifts from a donor who is likely to be affected by a decision that the committee makes, now or in the future (eg. from a person who is likely to apply for a contract or tender with the committee)
- money or other items that are easily converted into money.

The above restrictions apply to gifts offered to you directly or indirectly (eg. grand final tickets offered to your family by someone who is seeking a licence from the committee).

### Gift giving

The committee never purchases a gift from committee funds unless it can *clearly* be justified in the public interest, which is rare. This applies to gifts to committee members and to non-committee members. Any such expense is recorded in the committee's records.

### Collective accountability and responsibilities

The overall role of the committee is to manage, improve, maintain and control the reserve for the purpose for which it is reserved. The committee:

- acts in accordance with its collective accountability to the Council;
- ensures that all of its actions and decisions are consistent with its functions and powers under the *Associations Incorporation Reform Act 2012*;
- informs Council of any known major risks (existing or emerging) to the effective management of the facility; and
- unless prohibited by law, provides the Council with any information relating to the committee and its operations that is requested.

### Employment principles

If the committee employs staff it treats them in accordance with the National Employment Standards.

### Further information

Information on this topic (eg. model policy and this guidance note) is available from Council's website <http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues>.

# Code of Conduct (including gifts) – Policy

.....

[insert name of committee]

## 1. Scope

This policy sets out the committee’s code of conduct.

## 2. Standard of conduct

Committee members act in the **public interest** at all times (the best interests of managing the asset). Each member is required to:

- act honestly, with integrity, in a financially responsible manner, with a reasonable degree of care, diligence and skill, in compliance with the *Incorporation Act*, and in good faith in the best interests of managing the asset;
- maintain confidentiality, even after their appointment expires or otherwise terminates;
- avoid improperly using their position or any information acquired in their role as a committee member to gain advantage for themselves or another person or to cause detriment to the committee; and
- if standing for election to parliament or local council, formally notify the committee and avoid using any committee resources in connection with their candidature.

## 3. Committee policies

Committee members are required to comply with the committee’s policies, in particular, this policy and the policies on:

- Meetings and decisions
- Conflict of interest
- Dispute resolution.

## 4. Gifts, benefits and hospitality

Unless good reason exists otherwise, committee’s members avoid accepting or giving gifts in their role as a member.

A ‘gift’ is a free or heavily discounted item or service (eg. an offer to paint your fence at a reduced rate).

The term ‘gift’ also includes a benefit or hospitality that exceeds common courtesy (e.g. an offer of a cup of coffee is a common courtesy, an offer of a \$100 bottle of wine is a gift offer).

The more valuable or significant a gift, the less likely that it will be in the public interest to accept or give it. When in doubt, committee members err on the side of caution. Council can be contacted for advice. Any gift that is accepted or given must be recorded in the minutes of the next committee meeting.

The following requirements apply:

## When a gift offer must be refused

A committee member must:

- never solicit gifts
- always refuse and report any attempt to bribe them
- never accept any gift that may cast doubt on their integrity or impartiality or that of the committee.

Examples of gifts that must never be accepted include:

- gifts from a donor who is likely to be affected by a decision that the committee makes, now or in the future (eg. from a person who is likely to apply for a contract or tender with the committee)
- money or other items that are easily converted into money.

The above restrictions apply to gifts offered to a member directly or indirectly (eg. grand final tickets offered to a member's spouse by someone who is seeking a licence from the committee).

## Gift giving

The committee never purchases a gift from committee funds unless it can *clearly* be justified in the public interest, which is rare. This applies to gifts to committee members and to non-committee members. Any such expense is recorded in the committee's records.

## 5. Collective accountabilities and responsibilities

The overall role of the committee is to manage, improve, maintain and control the asset for the purpose for which it is reserved, for the benefit of the whole community. The committee:

- acts in accordance with its collective accountability to the council;
- ensures that all of its actions and decisions are consistent with its functions and powers under the *Incorporations and Local Government Acts*;
- informs council of any known major risks (existing or emerging) to the effective management of the asset; and
- unless prohibited by law, provides the council with any information relating to the committee and its operations that is requested.

## 6. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

## Appendix 1: Committee Members Code of Conduct

The requirements of the Committee Members Code of Conduct are:

- *Act with honesty and integrity.* Be open and transparent in your dealings; use power responsibly; do not place yourself in a position of conflict of interest; strive to earn and sustain public trust of a high level.
- *Act in good faith in the best interests of the public entity.* Demonstrate accountability for your actions; accept responsibility for your decisions; do not engage in activities that may bring you or the public entity into disrepute.
- *Act fairly and impartially.* Avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner.

- *Use information appropriately.* Ensure information gained as a committee member is only applied to proper purposes and is kept confidential.
- *Use your position appropriately.* Do not use your position as a committee member to seek an undue advantage for yourself, family members or associates, or to cause detriment to the public entity; ensure that you decline gifts or favours that may cast doubt on your ability to apply independent judgement as a committee member of the public entity.
- *Act in a financially responsible manner.* Understand financial reports, audit reports and other financial material that comes before the committee; actively inquire into this material.
- *Exercise due care, diligence and skill.* Ascertain all relevant information; make reasonable enquiries; understand the financial, strategic and other implications of decisions.
- *Comply with the establishing legislation, or its equivalent, for your public entity.* Act within the powers and for the functions set out in your public entity's establishing legislation.
- *Demonstrate leadership and stewardship.* Promote and support the application of the council's values; act in accordance with the committees Code.

# Dispute Resolution – An Overview

This guidance note is for use by Community Asset Committees managing Council assets.

## Introduction

As a member of a committee of management, you are performing a valuable service to your local community, and to the wider Victorian community.

As part of your role, you make collective decisions with the other members of the committee.

If dispute arises between members which unduly effects the working of the committee, this needs to be resolved as quickly as possible in the public interest (the best interests of managing the reserve for the benefit of the community).

## Dispute resolution policy

Your committee is expected to have a *Dispute Resolution* policy. Council can assist in the development of the policy or alternatively you can visit <https://www.communitydirectors.com.au/icda/> which provides information for community committees.

## Definition of a “dispute”

A difference of opinion between committee members in relation to a proposed decision (e.g. whether to build a new shelter shed or repair the old one) is *not* a ‘dispute’. It is a normal difference of views which the committee talks through in a considered, courteous, and constructive manner before voting to make a decision, in accordance with the committee’s policy on *Meetings and Decisions*.

A ‘dispute’ is where:

- two or more committee members have difficulty working together (e.g. because of ideological differences or a conflict of personalities); and
- it is unduly affecting the ability of some or all of the committee to perform their duties in an effective and efficient manner.

## Duty to act in good faith

Disputes should be avoided where possible. If a dispute arises:

- the members in dispute (the parties) have a duty to act in **good faith** to resolve the dispute as soon as possible in the public interest;
- the chair actively guides the parties towards resolution of the dispute; and
- the other committee members support this process.

## Informal resolution

The members in dispute are required to make a **reasonable, thorough, and conscientious** effort to resolve the dispute on an informal basis, under the guidance of the chair.

Sometimes, the chair will formally notify the committee of the dispute by placing the matter on the agenda of the next committee meeting for noting and/or monitoring. Typically, this would happen if the chair is concerned that the dispute may pose a major risk to the effective management of the reserve. This does not stop the informal resolution process. It just makes the committee officially aware of it, if the chair thinks this is advisable.

## Unresolved dispute

If a dispute cannot be resolved informally despite everyone's best efforts, it is placed on the agenda of the next committee meeting. At the meeting, the committee invokes its formal mediation process if it is satisfied that:

- a dispute exists which cannot be resolved on an informal basis; and
- it is in the public interest to do so.

## Formal mediation process

If the committee invokes the formal mediation process, an independent, suitably qualified mediator is appointed who is acceptable to all the parties.

If the committee members in dispute cannot agree on a mediator, the [Dispute Settlement Centre of Victoria](#) is asked to organise a mediation using its mediators. The Centre is a free service run by the Department of Justice and Regulation.

The members in dispute co-operate with the mediator and provide all reasonable assistance. Under the guidance of the chair, they actively work in good faith to resolve the dispute.

If the dispute is resolved, unless good reason exists otherwise, the outcome is recorded in writing by the mediator and signed by the parties, who each receive a copy and consent to the chair receiving one.

If the dispute cannot be resolved and is continuing to unduly affect the operation of the committee, Council should be contacted for advice.

## Major risk

If at any time the dispute poses a major risk to the effective management of the asset, Council should be notified.

## Further information

Information on this topic (eg. model policy and this guidance note) is available from Council's website <http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues>.

# Dispute Resolution – Policy

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[insert name of committee]

## 1. Scope

This policy sets out the committee’s procedures for resolving disputes between committee members.

**2. Definition of a dispute** A difference of opinion between members in relation to a proposed decision by the committee (eg. whether to build a new shelter shed or repair the old one) is *not* a ‘dispute’. It is the normal difference of views which the committee talks through together in a considered, courteous, and constructive manner before voting to make their decision, in accordance with the committee’s policy on *Meetings and Decisions*.

For the purposes of this policy, a ‘dispute’ exists if:

- two or more committee members have difficulty working together (e.g. due to a conflict of personalities or ideological differences); and
- the situation is unduly affecting the ability of some or all of the committee to perform their duties in an effective and efficient manner.

## 3. Duty to act in good faith

Disputes are avoided where possible. If a dispute arises:

- the members in dispute (the parties) have a duty to act in **good faith** to resolve the dispute as soon as possible in the **public interest** (the best interests of the management of the reserve);
- the chair actively guides the parties towards resolution of the dispute;<sup>2</sup> and
- the other committee members support this process.

## 4. Informal resolution

All parties to a dispute are required to make a **reasonable, thorough, and conscientious** effort to resolve the dispute on an informal basis, under the guidance of the chair.

If at any time during the informal resolution process the chair is of the view that the committee should be formally notified of the existence of the dispute (e.g. because it may pose a major risk to the effective management of the reserve), the matter is placed on the agenda of the next committee meeting for noting and/or monitoring.

## 5. Notice of an unresolved dispute

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<sup>2</sup> If the chair is a party to the dispute, this role is undertaken by a member nominated by the board.

If a dispute cannot be resolved on an informal basis, the chair places the matter on the agenda of the next committee meeting. At the meeting, the committee invokes the formal mediation process if it is satisfied that:

- a dispute exists which cannot be resolved on an informal basis; and
- it is in the public interest to do so.

## 6. Formal mediation process

If the committee invokes the formal mediation process, an independent, suitably qualified mediator is appointed who is acceptable to all the parties.

If the parties cannot agree on a mediator, the dispute is referred to the [Dispute Settlement Centre of Victoria](#) (Department of Justice and Regulation), which organises a mediation using its mediators, in consultation with the parties and the chair. If the Centre advises that the matter is not suitable for its free service, the Council is contacted for advice.

The parties co-operate with the mediator and provide all reasonable assistance. Under the guidance of the chair, they actively work in good faith to resolve the dispute.

If the dispute is resolved, unless good reason exists otherwise, the outcome is recorded in writing by the mediator and signed by the parties, who each receive a copy and consent to the chair receiving one.

If the dispute is not resolved and is continuing to unduly affect the operation of the committee, the council is contacted for advice.

## 7. Major risk

If at any time the dispute poses a major risk to the effective management of the reserve, the Council must be notified.

## 8. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

# Meetings and Decisions – An Overview

This guidance note is for use by Community Asset Committees.

## Introduction

Your committee performs a valuable community service by managing a council facility for the public benefit (the benefit of the community as a whole). Its official role is to ‘manage, improve, maintain and control the asset for the purposes for which it is reserved’.

The purpose of committee meetings is to enable members to exchange information and views, consider issues and make decisions in the **public interest** (the best interests of managing the asset for the benefit of the community).

The committee is collectively accountable to the Chief Executive Officer, Colac Otway Shire.

## Meetings and decisions policy

Your committee should have a *Meetings and Decisions* policy. Council can assist in the development of the policy or alternatively you can visit <https://www.communitydirectors.com.au/icda/> which provides information for community committees.

## Chair’s role at meetings

The chair presides at committee meetings. If he/she is absent, the members present decide which of them will preside at the meeting. The chair (or presiding member) ensures that:

- the *Register of Interests* (see next page) and committee policies are present at the meeting for use by members;
- conflicts of interest are managed in accordance with the committee’s *Conflict of Interest* policy;
- members treat one another with respect and courtesy and participate actively and constructively in each decision;
- no decision is taken without the required quorum; and
- meetings run in an effective and timely manner.

Overall, the chair balances the need to ensure that all members have a fair opportunity to express their views and ask questions with the need to progress the meeting in a timely manner, taking into account the nature, complexity, and importance of the issue being discussed and decided, and all other relevant circumstances. Committee members assist the chair with this process.

## Meeting schedule and agendas

Your committee’s *Meetings and Decisions* policy will set out how frequently it usually meets each year. Additional meetings can be arranged as needed. The chair sets the meeting schedule and agendas in consultation with the other members. Items of strategic significance are listed on the agenda before routine matters (e.g. regular reports), so that everyone is ‘fresh’ and there is sufficient time for discussion and decisions on priority items.

The model policy contains an agenda template.

The agenda, and any related papers, should be circulated at least five working days prior to the meeting, to provide reasonable time for members to fulfil their obligation to read all the materials, consider the issues, and fully prepare for the meeting.

## Attendance at meetings

You are expected to attend all committee meetings. A minimum attendance of 75% is required unless good reason exists otherwise. Council usually recommends at least three to four meetings occur annually.

### Remote attendance

Attendance in person at a committee meeting is preferable. However, the committee may permit you to attend 'remotely' (e.g. via conference call or internet link). If you wish to attend a meeting remotely, contact the chair beforehand to ascertain whether this is likely to be suitable. The committee's decision whether to allow you to attend remotely is made at the start of the meeting. Permission should not be withheld unreasonably but remote attendance should not be your standard way of attending (unless good reason exists and it does not impede the proper functioning of the committee).

Regardless of any decision to allow you to attend remotely, if a document is tabled at the meeting to inform a proposed decision then unless you can read (or be read) the document and properly comprehend it, *abstain from the vote*.

## Attendance by non-members

A non-committee member may only attend a committee meeting if invited by the chair or other member on behalf of the committee. The committee can choose whether its usual practise is to allow the public to attend meetings, with the right to close part or all of a meeting or to rescind this practise at any time, or whether its usual practice is that only committee members attend meetings unless guest(s) are specifically invited.

It is up to the committee to determine the item(s), or part thereof, which the invited guest may attend. A non-committee member must not participate in any committee discussions unless requested to do so by the chair and never takes part in any committee decision.

### External guests

The chair may advise external guests that, as a condition of attending the meeting, they must refrain from discussing any matters raised at the meeting with non-committee members.

### Staff

If your committee employs staff then, to assist the committee to maintain its independence, the chair should ensure that no staff member is present as 'a matter of course' during committee meetings and that there is a period of time during each committee meeting when no staff member is present.

### Nominees not permitted

You cannot nominate another person to attend a committee meeting on your behalf or to exercise any of your decision-making powers or rights as a committee member.

## Conflict of interest

*Council offers a guidance note and a model policy on this topic.*

### Register of interests

Your committee maintains a *Register of Interests* in which the interests of members that **may give rise to a conflict of interest** are recorded. At the start of each meeting, the chair asks for members to confirm that their interests as recorded in the register are complete and correct.

If there are no changes, the minutes will note that ‘all committee members present affirmed that their entry in the *Register of Interests* remains complete and correct’.

If you have new interests that may give rise to a conflict of interest but are not yet included in the register you must declare them. They will be recorded in the minutes for entry into the register.

### Declarations of conflict of interest

In addition to checking that the register is up to date (see above), at the start of each committee meeting the chair will also ask you and the other members to declare any interest (private interest or duty to another organisation) in relation to any item on the meeting agenda.

You must declare any such interest, *even if it is already recorded in the register*. The committee will then decide how to manage the conflict of interest.

The standard process for managing a ‘material’ (serious) conflict of interest is for the member with the conflict to ‘remove’ – ie. leave the room for all discussion and decision-making on the issue.

### Due consideration

As part of each member’s duty to exercise due care, diligence and skill, prior to making a decision the committee should:

- ascertain all relevant information;
- objectively consider all relevant facts and criteria (and avoid irrelevant considerations);
- consider all relevant options; and
- understands the full implications (strategic, financial, community, etc.) of the proposed decision.

Each member needs to balance respect for the expertise of others with their own duty to speak up, ask questions, and ensure that the correct decision is made.

### Advice/reports

It is important for the committee to ensure that it has the information and advice necessary to fulfil its role effectively. Reports which the committee receives should be suitable to its needs.

When a new committee is appointed the members should discuss together how they want reports (in particular, financial reports) to be presented. Just because a report has been presented in a certain format to date, does not mean that it cannot be improved to make it easier for everyone to understand. For this reason, the format of reports should be reviewed periodically during the term of the committee.

### Courtesy and respect

Prior to a decision being made, there should be an appropriate opportunity for all members to ask questions, express ideas, and offer opinions. Members are required to treat one another with courtesy and respect during this process (and at all other times in their role as a committee member). Whilst the chair has a key role in ensuring this occurs, all members share this responsibility.

### Decisions must be valid and in the public interest

The committee must ensure that each of its decisions is **valid** and in the **public interest**, including that it is consistent with:

- the committee’s role and powers;
- quorum and voting requirements (see below/opposite);
- all applicable laws and procedures (eg. a contract may need to be in writing and, if your committee is incorporated, the common seal affixed).

- government policy; and
- the public sector values (eg. made in good faith, with honesty and integrity, without bias, in a financially responsible manner, with a reasonable degree of care, diligence and skill, and ethically sound and fair).

## Quorum

The minimum number of committee members (i.e. quorum) who must **attend** the committee meeting (in person or remotely) and **participate** in a decision for it to be valid is *'a majority of the members for the time being in office'*.

If a member is unable to vote on a particular issue (eg. due to a conflict of interest), the chair checks that a quorum still exists before the committee proceeds with making a decision.

### *Proxy or absentee decision-making is not permitted*

Proxy or absentee voting is not permitted. Only committee members who attend the meeting, in person or remotely, are part of the quorum.

## Voting requirements

Each decision is made by **formal vote**. A decision is determined by the 'majority of votes' of members who are present and voting on the question. In the event of a deadlock, the chair (or presiding member) has a casting (second) vote.

Whilst it is vital for the committee to consult together as a team, you must each decide individually whether to agree with, or dissent from, a proposed decision, and make your choice known.

## Minutes of the meeting

The Secretary of the committee records the minutes of each meeting (or arranges for someone else to do so).

The minutes must be an accurate record of the meeting. The model policy sets out what should be included in the minutes and has a minute's template.

The draft minutes are sent to the chair for review (preferably within a few days of the meeting) and then to the other members.

The minutes are endorsed by the committee, with any necessary amendments, at the next meeting. *Only members who were present at a meeting can endorse the minutes of that meeting.*

The chair signs the endorsed minutes on each page on behalf of the committee. The minutes and related papers (including copies of any documents tabled at the meeting) are retained as an enduring record of the committee's decisions.

As with other documents produced by the committee (e.g. *Register of Interests*), the minutes are a public record. However, this does not mean they are automatically 'open to the public'. Unless the committee agrees, a member of the public who wants to see the minutes would need to lodge an application under the *Freedom of Information Act 1982*. If this occurs, the committee can contact Council; which can provide advice and assist the committee to assess whether the minutes are exempt from disclosure.

## Other requirements and good practice

### Confidentiality and proper use of information

Any information that a committee member receives in his/her role must only be used for proper purposes. It must not be used to gain advantage for the member (or any other person) or to cause detriment to the management of the reserve. It must also be kept confidential, *even after the member resigns or otherwise leaves the committee*.

### Major risks

If the committee decides that there is a major risk to the effective management of the asset, council should be notified.

### Traditional owner acknowledgement

Committees are encouraged to acknowledge the traditional owners of the land at the start of each meeting. The council office can assist with appropriate wording.

### Further information

Information on this topic (eg. model policy and this guidance note) is available from Council's website. <http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues> .

# Meetings and Decisions – Policy

.....

[insert name of committee]

## 1. Scope

This policy sets out the committee’s meeting and decision-making procedures.

## MEETINGS

## 2. Frequency of meetings

The committee meets at least [insert] times a year. The usual frequency for meetings is [insert]. Additional meetings are arranged as needed. *[Council usually recommends that committees meet at least three to four times per year.]*

## 3. Meeting schedule and agendas

The chair sets the meeting schedule and agendas in consultation with the other committee members. Items of strategic significance (e.g. decisions on proposed works to be undertaken on the reserve; progress reports on works currently being undertaken) are listed on the agenda before routine matters (eg. regular reports from the chair, treasurer and secretary), so as to ensure that members are fresh and that there is sufficient time for discussion and decisions on priority items.

The agenda, including any related papers, is circulated at least five working days before the meeting to give members reasonable time to fulfil their obligation to:

- read all the materials;
- consider the issues; and
- fully prepare for the meeting.

The meeting follows the agenda unless good and fair reason exists to vary from it. The addition of new items at the start of the meeting when the agenda is confirmed is acceptable, but a proposed new item may need to be deferred to the next meeting – e.g. if it is not urgent and the agenda is full or it is contentious and some members are absent, etc. Depending on its strategic importance, a new item is added as a priority item or included in ‘other business’ towards the end of the meeting.

A standard template for meeting agendas is set out in **Appendix 1**.

## 4. Attendance at meetings by committee members

Committee members are expected to attend all committee meetings. A minimum attendance of 75% is required unless good reason exists otherwise. Each member is expected to make a significant contribution to the work of the committee. [You may wish to set a minimum number of meetings a member must attend.]

## Remote attendance

Attendance in person at a committee meeting is preferable; however the committee may permit a member to attend 'remotely' (eg. via conference call or internet link). A member who wishes to attend a meeting remotely contacts the chair beforehand to ascertain whether this is likely to be suitable. The committee's decision whether to permit the member to attend remotely is made at the start of the meeting. The committee should not unreasonably refuse to permit a member to attend remotely. However, it should not become the standard way for a member to attend meetings, unless good reason exists and it does not impede the proper functioning of the committee.

**Regardless of any decision by the committee to permit a member to attend remotely**, if a document is tabled to inform a proposed decision then, unless the member can read (or be read) the document and properly comprehend it, he/she abstains from that decision.

Note that a series of separate telephone calls does not constitute a meeting as the committee cannot participate in collective discussion.

## 5. Attendance at meetings by non-committee members

A non-committee member may only attend a committee meeting if he/she is invited by the chair or another member on behalf of the committee. The committee can choose whether its usual practise is to allow the public to attend meetings, with the right to close part or all of a meeting or to rescind this practise at any time, or whether its usual practice is that only committee members attend meetings unless guest(s) are specifically invited.

The committee determines the item(s), or part thereof, which an invited guest may attend. A non-committee member who attends a committee meeting:

- must not participate in any committee discussions unless requested to do so by the chair; and
- never takes part in any committee decision.

### External guests

The chair may advise an external guest that, as a condition of attending the meeting:

- he/she must refrain from discussing any matters raised at the meeting with non-committee members; and
- if he/she is provided with any committee papers, access is limited to during the meeting, unless specific arrangements are made for their use and return.

### [Insert if applicable] Staff

The presence of staff members at a committee meeting is by invitation. If the committee requires a staff member to attend a committee meeting, the chair advises the person of the item(s), or part thereof, for which he/she is to be present. To assist the committee to maintain its independence, the chair ensures that:

- no staff member is present as 'a matter of course' during committee meetings; and
- there is a suitable period of time during each committee meeting when no staff member is present.

### Nominees not permitted

A committee member cannot nominate another person to attend a committee meeting on his/her behalf or to exercise any of his/her decision-making powers or rights as a committee member.

## 6. Conflict of interest – standing items

In accordance with the committee's policy on *Conflict of Interest*, at the start of each committee meeting:

- **Register of Interests**

The chair asks for all members to state whether their interests as recorded in the *Register of Interests* (register) are complete and correct. If there are no changes, the minutes note that 'all committee members present confirmed that their entry in the *Register of Interests* remains complete and correct'. If any changes are declared, these are recorded in the minutes for entry into the register.

- **Conflicts of Interest**

The chair asks if any member present has an **interest** (a private interest or a duty to another organisation) in respect to any item on the agenda. Any such interest must be declared, even if it is already recorded in the register. Conflicts of interest are dealt with by the committee in accordance with its *Conflict of Interest* policy. The standard procedure for **material** (serious) conflicts of interest is for the member with the conflict to 'remove' – ie. leave the room for all discussion and decision-making on the issue.

## 7. Chair's role at committee meetings

The chair presides at committee meetings. If he/she is absent, the members present decide which of them will preside at the meeting. The chair (or presiding member) ensures that:

- the *Register of Interests* and all committee policies are brought to the meeting for use by members;<sup>3</sup>
- conflicts of interest are declared and managed in accordance with committee's policy on *Conflict of Interest*;
- members treat one another with respect and courtesy and participate actively and constructively in each decision;
- no decision is taken without the required quorum (see item 11); and
- committee meetings run in an effective and timely manner.

Overall, the chair balances the need to ensure that all members have a fair opportunity to express their views and ask questions with the need to progress the meeting in a timely manner, taking into account the nature, complexity, and importance of the issue being discussed and decided, and all other relevant circumstances. Committee members assist the chair in ensuring that meetings and decisions occur in accordance with this policy.

## DECISION-MAKING

## 8. Committee's role and accountability

The committee's role is to 'manage, improve, maintain and control the asset for the purposes for which it is reserved'. The committee is collectively accountable to the council for its decisions. Each member participates actively in each decision, which is made in the **public interest** (the best interests of the management of the asset).

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<sup>3</sup> The chair should also ensure that each member is given a copy of all committee policies upon their appointment and that if a policy is updated all members have the new version.

## 9. Due consideration

As part of each member's duty to exercise due care, diligence and skill, prior to making a decision the committee:

- ascertains all relevant information;
- objectively considers all relevant facts and criteria (and avoids irrelevant considerations);
- considers all relevant options; and
- understands the full implications (strategic, financial, community, etc.) of its proposed decision.

Each member balances respect for the expertise of others with their own duty to speak up, ask questions, and ensure that the correct decision is made.

### Courtesy and respect

Prior to a decision being made, there will be an appropriate opportunity for each member present to ask questions, express ideas, and offer opinions. Members are required to treat one another with courtesy and respect during this process (and at all other times in their role as a committee member). Whilst the chair has a key role in ensuring that this occurs, all members share this responsibility.

### Advice and reports

The committee ensures that:

- it has the information/advice it needs to fulfil its role effectively; and
- the reports it receives are suitable to its needs and easy to understand – e.g. contain all the relevant information and no irrelevant information and, particularly for financial reports, are in an easy to understand format.

The committee reviews the style and format of its reports on a regular basis to ensure they meet its needs.

## 10. Ensuring each decision is valid and in the public interest

The committee ensures that each of its decisions is **valid** and in the **public interest**, including that it is consistent with:

- the committee's role and powers;
- quorum and voting requirements (see items 11 and 12, below);
- all applicable laws and procedures (eg. a contract may need to be in writing [*insert for incorporated committees 'and the common seal affixed'*]);
- government policy; and
- the council values (e.g. made in good faith, with honesty and integrity, without bias, in a financially responsible manner, with a reasonable degree of care, diligence and skill, and otherwise ethically sound and fair).

## 11. Quorum

The minimum number of committee members (ie. quorum) who must **attend** the meeting, in person or remotely, and **participate** in a decision for it to be valid is 'a majority of the members for the time being in office'.

If a member is unable to vote on a particular issue (eg. due to a conflict of interest), the chair checks that a quorum still exists before the committee proceeds with making a decision.

### *Proxy or absentee decision-making is not permitted*

Proxy or absentee voting is not permitted. Only members who attend the meeting, in person or remotely, are part of the quorum.

## 12. Voting requirements

Each decision is made by **formal vote**. A decision is determined by the 'majority of votes' of members who are present and voting on the question'. In the event of a deadlock, the chair (or presiding member) has a casting (second) vote.

Whilst it is vital for the committee to consult together as a team, each member must decide individually whether to agree with, or dissent from, a proposed decision and make their choice known.

## 13. Minutes

The Secretary of the committee records the minutes of each meeting (or arranges for someone else to do so). The minutes must be an accurate record of the meeting. They should include:

### • Attendance and quorum

- Committee members attending, apologies, and confirmation of a quorum.
- If a member leaves the room during the meeting (e.g. due to a conflict of interest), the agenda item(s), or part thereof, for which he/she is absent and confirmation that a quorum remains.
- Any non-committee members attending and the agenda item(s), or part thereof, for which they are present.

### • Agenda items

- The time each agenda item starts and finishes.
- Details of standing items (eg. Register of Interests, and declaration of conflicts of interest etc).

### • Decisions

Each committee decision, including the exact wording of the motion (and, optionally, who moved and seconded it).

The vote:

- who votes in favour
- who dissents
- who abstains and why (e.g. due to a conflict of interest).

A brief note of key factors material to the committee's decision. Avoid details of 'who said what'. (See example in the template in Appendix 2).

Action items (if any) flowing from the decision, who is responsible for completing each action, and any relevant timelines.

The draft minutes are sent to the chair for review (preferably within a few days of the meeting) and then to the other committee members. Each page of the minutes is numbered and includes the date of the meeting.

The minutes are endorsed by the committee, with any necessary amendments, at the next committee meeting. The chair then signs the endorsed minutes at the bottom of each page on behalf of the committee.

The endorsed minutes are retained as an enduring record of the committee's decisions, consistent with the *Public Records Act 1973*. A complete set of committee papers is also retained, including copies of any documents tabled at the meeting.

A standard template for minutes of the committee meeting is set out in **Appendix 2**.

## OTHER

### 14. Major risks

If the committee determines that there is a major risk (existing or emerging) to the effective management of the reserve, the chair will notify the regional office of the Department of Environment, Land, Water and Planning.

### 15. Confidentiality and the proper use of information

Any information that a committee member receives in his/her role must be:

- used only for proper purposes. It must not be used to gain advantage for the member (or any other person) or to cause detriment to the management of the reserve.
- kept confidential, even after the member resigns or otherwise leaves the committee.

### 16. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

## Appendix 1 – Template for meeting agenda

| <i>[insert name of committee]</i>                                  |   |
|--|---|
| <b>Agenda - committee meeting</b>                                  |   |
| Date and time <i>[and, if applicable, also insert meeting no.]</i> |   |
| Location   |   |
| No.  | Item (for decision, noting, recording, endorsing, etc.)   |
| <b>1.</b>  | <b>Opening Formalities</b>  |
| 1.1  | Opening and Welcome   |
| 1.2  | Apologies   |
| 1.3  | Confirmation of quorum  |
| 1.4  | Confirmation of agenda (including any proposed additions)   |
| <b>2.</b>  | <b>Register of interests</b>  |
|  | Committee members confirm that their entries in the register are complete and correct (or update their details).                                    |
| <b>3.</b>  | <b>Conflict of interest</b>   |
| 3.1  | Declarations - committee members declare any interest (i.e. private interest or duty to another organisation) in respect to any item on the agenda. |
| 3.2  | Management – the committee determines (i) whether the conflict of interest is ‘material’ and (ii) how it will be managed.                           |
| <b>4.</b>  | <b>Minutes of previous meeting</b>  |
| 4.1  | Confirm minutes: confirm minutes of previous meeting, noting any amendments   |
| 4.2  | Actions arising: review the progress of actions arising from the previous minutes.  |
| <b>5.</b>  | <b>Priority item A – <i>[insert title, e.g. Shelter shed]</i></b>   |
|  | Description: <i>[Insert– e.g. ‘Need for minor repairs to the shelter shed on the reserve, including repainting.’]</i>                               |
| <b>6.</b>  | <b>Priority item B – <i>[insert title]</i></b>  |
|  | <i>[As above]</i>   |
| <b>7.</b>  | <b>Reports and operational matters</b>  |
| 7.1  | <i>[Insert – e.g. Chair’s report (dated XXX) - attached]</i>  |
| 7.2  | <i>[Insert – e.g. Treasurer’s report - including financial report (dated XXX) - attached]</i>   |
| 7.3  | <i>[Insert – e.g. Secretary’s report – including correspondence sent and received (dated XXX) - attached]</i>                                       |
| <b>8.</b>  | <b>Other business</b>   |
|  | <i>Items not on the agenda can be raised for discussion, subject to the chair’s permission.</i>   |
| <b>9.</b>  | <b>Next meeting</b>   |
|  | <i>Decide or confirm the date, time, and location of next meeting.</i>  |
| <b>10.</b>   | <b>Meeting adjourns</b>   |
|  | Meeting closes.   |

## Appendix 2 – Template for minutes of committee meeting

| <i>[insert name of committee]</i>  |     |  |   |
|--|-----|--|---|
| Minutes - committee meeting  |     |  |   |
| Date and time <i>[and if applicable, also insert the meeting no.]</i>  |     |  |   |
| Location   |     |  |   |
| Chair (or presiding member)  |     |  |   |
| Committee members present<br><i>[List committee members in attendance. If a member is absent for any item(s), or part thereof, record this beside their name. If they attend remotely, note this also (e.g. teleconference)]</i> |     |  |   |
| Invited guests present (if any)<br><i>[List any invited guests in attendance. Record the item(s), or part thereof, they are present for. If they attend remotely, note this (e.g. teleconference).]</i>                          |     |  |   |
| Apologies<br><i>[List names and any relevant titles – e.g. chair.]</i>   |     |  |   |
| Start time   | No. | Item   | Actions arising (if any) who is responsible; due date |
| <i>[Insert]</i>  | 1.  | <b>Opening formalities</b>   |   |
|  | 1.1 | The meeting was opened by the chair.   |   |
|  | 1.2 | Apologies as listed above.   |   |
|  | 1.3 | Confirmation of quorum: <i>[Insert – e.g. ‘There being X committee members present the required quorum of Y is satisfied.’]</i>  |   |
|  | 1.4 | The committee confirmed the agenda <i>[Insert if applicable: ‘with the following changes ...’]</i>   |   |
| <i>[Insert]</i>  | 2.  | <b>Register of interests</b>   |   |
|  |     | All committee members present affirmed that their entries in the Register of Interests are complete and correct <i>[Insert if applicable: ‘subject to the following additions/changes:’ then set out or attach any additions/changes]</i>  |   |
| <i>[Insert]</i>  | 3.  | <b>Conflicts of interest</b>   |   |
|  |     | ‘The committee noted that there were no conflicts of interest (real, potential or perceived) in relation to any item on the agenda.’<br><i>OR, if a conflict of interest is declared, record:</i><br><i>who declared the conflict;</i><br><i>a description of the interest and conflict (\$ value does not need to be recorded);</i><br><i>the committee’s decision on whether the conflict is ‘material’ (serious); and</i><br><i>the committee’s decision on what action will be taken to manage the conflict.</i> |   |
| <i>[Insert]</i>  | 4.  | <b>Minutes of previous meeting</b>   |   |
|  | 4.1 | The committee endorsed the minutes of the previous meeting <i>[insert meeting date and/or number]</i> as complete and accurate. <i>[Insert if applicable: ‘subject to the following amendments ...’]</i>   |   |
|  | 4.2 | <i>[Insert – e.g. ‘The committee noted the current status of the actions arising from the previous meeting’.]</i>  |   |
| <i>[Insert]</i>  | 5.  | <b>Priority item A – <i>[insert title, e.g. Shelter shed]</i></b>  |   |
|  |     | <b>Description</b>   |   |

| Start time | No. | Item   | Actions arising (if any) who is responsible; due date |
|------------|-----|--|---|
|            |     | <p>[Insert – e.g. ‘Need for minor repairs to shelter shed on the reserve, including repainting.’]</p> <p><b>Key factors</b></p> <p>[Briefly note key factors in the committee’s decision. Avoid details of ‘who said what’.</p> <p>– e.g. ‘The condition of the shelter shed is deteriorating. It also looks unsightly. Boards are starting to fall off and it needs repainting. Unless minor repairs occur soon, the shed is likely to require more extensive repairs within a few months and may become hazardous. It would also be preferable to fix it before winter’.]</p> <p><b>Decision/outcome</b></p> <p>The committee voted that [Insert - e.g. ‘A working bee will be held on 1 March. It will be organised by X and Y in consultation with other committee members. Z will seek donations of paint from the local hardware store and elsewhere.’]</p> <p>- <b>Voting in favour:</b> [Insert names of members voting in favour OR insert ‘All’]</p> <p>- <b>Voting in dissent:</b> [Insert names of members voting in dissent (and, if requested, briefly note key factors material to their decision here or above in ‘key factors’) OR insert ‘Nil’]</p> <p>- <b>Abstained from vote:</b> [Insert if applicable – e.g. ‘As a result of a conflict of interest, X was absent for all discussion and decision-making on this item’ OR ‘X abstained from the vote on the basis that he was attending remotely and was unable to satisfactorily read or be read Y document, which was tabled at the meeting and was relevant to the decision’.]</p> <p>[The member moving/seconding the motion can also be recorded if the committee so chooses.]</p> |   |
| [Insert]   | 6.  | <b>Priority item B – [insert title]</b>  |   |
|            |     | [As above.]  |   |
| [Insert]   | 7.  | <b>Reports and operational matters</b>   |   |
|            | 7.1 | <p>[Insert – e.g. Chair’s report (dated X)]</p> <p>Key factors: [Briefly note, avoiding details of ‘who said what’ - e.g. ‘No changes to the report as written’.]</p> <p>Decision/outcome: [Insert – e.g. ‘The committee noted the Chair’s report.’]</p>   |   |
|            | 7.2 | <p>[Insert – e.g. Treasurer’s report - including financial report (dated X)]</p> <p>[‘Key factors’ and ‘Decision/outcome’ as above.]</p>   |   |
|            | 7.3 | <p>[Insert – e.g. Secretary’s report – including correspondence sent and received (dated X)]</p> <p>[‘Key factors’ and ‘Decision/outcome’ as above, including decisions in relation to correspondence. List correspondence in and out.]</p>  |   |
| [Insert]   | 8.  | <b>Other business</b>  |   |
|            | 8.1 | <p>[Insert title and brief description]</p> <p>Key factors: [Briefly note, depending on whether for decision, noting, etc. Avoid details of ‘who said what’.]</p> <p>Decision/outcome: [Insert, depending on whether for decision, noting, etc.]</p>   |   |
|            | 8.2 | [As above]   |   |
| [Insert]   | 9.  | <b>Next meeting</b>  |   |
|            |     | The next meeting is as follows: [insert date, time, and location.]   |   |
| [Insert]   | 10. | <b>Meeting Adjourns</b>  |   |
|            |     | The meeting was closed by the chair.   |   |

