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Rules of Fitzroy Legal Service Incorporated

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1. Name

The name of the Association is 'Fitzroy Legal Service Incorporated'.

2. Purposes

The purposes of the Association are:

- 2.1 to provide free and readily accessible legal service to people in necessitous financial circumstances who live, study or work in and around the City of Yarra or the City of Darebin and to such other persons in need as the Association may identify from time to time;
 - 2.2 to initiate and encourage the reform of unjust or inequitable legal structures and processes affecting disadvantaged or vulnerable community members; and
 - 2.3 to promote the agency of disadvantaged or vulnerable community members in the management of their legal affairs by providing legal information and education
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3. Definitions

In these Rules:

- (a) **Act** means *Associations Incorporation Reform Act 2012* (Vic) and includes any Regulations made under that Act;
- (b) **Absolute Majority** of the Board Members means a majority of the Board Members then in office (as distinct from a majority of those present at a Board meeting);
- (c) **Appointed Board Member** means a board member appointed pursuant to Rule 35;
- (d) **Association** means Fitzroy Legal Service Incorporated;
- (e) **Board** means the board of the Association;
- (f) **Board Member** means an Elected Board Member or an Appointed Board Member;
- (g) **Business Days** means a day other than a Saturday, Sunday or a public holiday in Melbourne, Victoria;
- (h) **Chair of the Board** means the Board Member elected to that office pursuant to Rule 39;
- (i) **DCLC** means Darebin Community Legal Centre Incorporated A0017302L) (as it was incorporated prior these Rules coming into effect;

- (j) **Deputy Chair of the Board** means the Board Member elected to that office pursuant to Rule 39.
- (k) **Elected Board Member** means a Board Member elected pursuant to Rule 34, appointed or elected pursuant to Rule 38, or made so by the operation of Rule 32;
- (l) **Financial Year** means the 12 month period ending 30 June;
- (m) **FLS** means Fitzroy Legal Service Incorporated A0002808B (as it was incorporated prior to these Rules coming into effect);
- (n) **General Meeting** means a general meeting of the Members;
- (o) **Initial Board Members** means the members of the board immediately upon these Rules coming into effect, as provided for in Rule 32.
- (p) **Life Member** means a Member granted life membership of the Association pursuant to Rule 13;
- (q) **Member** means a member of the Association;
- (r) **Notice** means notice in writing;
- (s) **Rules** means these rules of the Association;
- (t) **Present** includes, except where these Rules require a person to be physically present, being present through the use of technology in accordance with the Act or through the appointment of a proxy pursuant to Rule 24;
- (u) **Secretary** means secretary of the Association;
- (v) **Special General Meeting** means a General Meeting that is not an annual General Meeting;
- (w) **Special Resolution** means a resolution passed in accordance with section 64 of the Act.

4. Time

Where these Rules require a person or body to do something but a time is not specified for it to be done, unless context requires otherwise, it must be done as soon as practicable.

5. Procedure

Where these Rules empower or require the Board or a General Meeting to determine a matter, elect or appoint a person to an office or committee, or convene a committee or meeting, it must do so by resolution.

6. Service of notice

- 6.1 Where these Rules require notice to be given to a Member or Board Member, it may be given by:

- 6.1.1 handing it to the person;
 - 6.1.2 sending it by prepaid priority post to the address recorded for the Member on the Register of Members; or
 - 6.1.3 if the Member has provided the relevant details, e-mail or facsimile transmission.
- 6.2 Where these Rules require notice to be given to the Board or the Association, it may be given by:
- 6.2.1 handing it to a Board Member or the Secretary;
 - 6.2.2 sending it by post to, or leaving it at, the registered address of the Association; or
 - 6.2.3 if the Board has determined and promulgated the relevant details, e-mail or facsimile transmission.
- 6.3 A notice or other communication is deemed delivered:
- 6.3.1 if delivered personally or left at the person's address, upon delivery;
 - 6.3.2 if posted within Victoria to a Victoria address, using priority prepaid post or priority registered post, 1 Business Day after posting and using ordinary prepaid post, 3 Business Days after posting;
 - 6.3.3 if delivered by facsimile, subject to clause 6.3.5, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the recipient's facsimile;
 - 6.3.4 if delivered by electronic mail, subject to clause 6.3.5, at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient; and
 - 6.3.5 if received after 5.00pm in the place it is received, or on a day which is not a business day in the place it is received, at 9.00am on the next business day.

7. Powers of the Association

- 7.1 Subject to the Act, the Association has power to do all things incidental or conducive to the attainment of its purposes.
- 7.2 Without limiting subrule 7.1, the Association may:
- 7.2.1 acquire, hold and dispose of real or personal property;
 - 7.2.2 open and operate accounts with financial institutions;
 - 7.2.3 invest its money in any security in which trust monies may lawfully be invested;
 - 7.2.4 raise and borrow money on any terms and in any manner as it thinks fit;
 - 7.2.5 secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - 7.2.6 appoint agents to transact business on its behalf; and

7.2.7 enter into any other contract it considers necessary or desirable.

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

8. Association to be not-for-profit

8.1 The Association must not secure pecuniary profit for the Members. All of the income and property of the Association must be applied solely towards the promotion of the purposes of the Association.

8.2 No part of the income or property may be paid or transferred directly or indirectly by way of dividend, bonus or other profit distribution to any of the Members or Board Members.

8.3 The Association must not pay fees to Board Members.

8.4 Subrules 8.1 - 8.3 do not prevent payment in good faith to a Board Member or Member:

8.4.1 of reimbursement for expenses properly incurred on behalf of or for the purposes of the Association;

8.4.2 of remuneration for services rendered or goods supplied to the Association;

8.4.3 of interest on money borrowed by the Association or rent for premises let the Association, where the interest or rent has the prior approval of the Board,

8.5 provided that:

8.5.1 the amount payable is not more than an amount which commercially would be reasonably paid; and

8.5.2 the provision of any goods, services, loan or rental premises by a Board Member has the prior approval of the Board.

Part 2 MEMBERSHIP

9. General

9.1 The Association must have at least 5 Members.

9.2 The following persons are Members:

9.2.1 a person who was a member of FLS and/or DCLC prior to these Rules coming into effect; and

9.2.2 any other person the Board admits as a Member in accordance with these Rules.

9.3 Membership may not be transferred to another person.

10. Qualification

10.1 Any natural person who:

10.1.1 is 18 years or over; and

10.1.2 supports the purposes of the Association

is eligible for membership.

11. Application

11.1 To apply to become a Member, a person must submit to the Board:

11.1.1 a signed application in a form approved by the Board stating that they wish to become a Member, support the purposes of the Association and agree to comply with these Rules; and

11.1.2 the relevant subscription.

12. Consideration of application

12.1 The Board must determine by resolution whether to accept or reject an application for membership and notify the applicant of its decision in writing. The Board need not give any reason for rejecting an application.

12.2 If the Board rejects the application, it must return any money that accompanied the application.

12.3 The membership of a person begins upon the later of the determination of the Board to accept that person's application and the payment of the subscription relating to that person's membership.

12.4 If an application for membership is accepted by the Board, 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.

13. Life Members

13.1 The Board must determine criteria for life membership of the Association.

13.2 The Board may determine in its sole discretion, by Absolute Majority, to make a Member a Life Member.

14. Subscriptions

14.1 The Board may determine:

14.1.1 for the following Financial Year, the categories of subscriptions and the amount due (if any) under each category; and

- 14.1.2 the system (if any) for pro rata subscriptions to be paid by persons made a Member during the Financial Year.
- 14.2 Where the Board has not made a determination pursuant to subrule 14.1.1 or 14.1.2 in respect of a particular Financial Year, the most recent determination made pursuant to each subrule continues to apply.
- 14.3 A Life Member is not required to pay any subscription. A Life Member is considered a financial Member.
- 14.4 Each Member must pay the relevant subscription no later than:
- 14.4.1 31 October, for full Financial Year Members; or
- 14.4.2 the date for payment in accordance with the system determined under subrule 14.1.2, for persons who become members during a Financial Year (the **Due Date**).
- 14.5 Payment of the relevant subscription renders a Member financial.
- 14.6 Subject to Rule 56, if a Member has not paid the relevant subscription within 2 months of such subscription becoming due and payable and fails to rectify that default within 1 month of being given Notice to do so, then upon the expiration of that period of Notice, the Member is deemed to have resigned from membership.

15. General rights of Members

- 15.1 A Member is entitled to vote if:
- 15.1.1 they are a financial Member;
- 15.1.2 more than 60 days have passed since they became a Member; and
- 15.1.3 the Member's membership rights have not been suspended for any reason.
- 15.2 A Member who is entitled to vote has the right:
- 15.2.1 to receive notice of General Meetings and Special Resolutions in the manner and time prescribed by these Rules;
- 15.2.2 to submit items of business for consideration at a General Meeting;
- 15.2.3 to attend and be heard at General Meetings;
- 15.2.4 to have 1 vote at a General Meeting;
- 15.2.5 subject to the Act and Rule 49, to have access to the minutes of General Meetings;
- 15.2.6 to nominate candidates for election to the Board and to stand for election to the Board; and
- 15.2.7 subject to the Act, to inspect the Register of Members.

16. Register of Members

- 16.1 The Secretary must keep and maintain a Register of Members that includes:

- 16.1.1 for each current Member:
- (a) the name and address of each Member;
 - (b) the date of becoming a Member; and
 - (c) any other information determined by the Board;
- and
- 16.1.2 for each former Member, the date of cessation of membership.

17. Cessation of membership

- 17.1 The membership of a person ceases:
- 17.1.1 on the Member's resignation or deemed resignation under subrule 14.6;
 - 17.1.2 on the Member's expulsion;
 - 17.1.3 on the Member's death; or
 - 17.1.4 if the Board determines in its absolute discretion that the person is an untraceable Member because the person has ceased to reside at, attend or otherwise communicate with their registered address.
- 17.2 A Member may resign his or her membership by Notice given to the Board.

18. Discipline

- 18.1 The Board may convene a disciplinary committee (**committee**) in relation to a Member, not being an employee, where it has determined that the Member may have:
- 18.1.1 failed to comply with these Rules;
 - 18.1.2 refused to support the purposes of the Association; or
 - 18.1.3 engaged in conduct prejudicial to the Association.
- 18.2 The committee must consist of:
- 18.2.1 an Elected Board Member (but not the Chair of the Board) who must be the chair of the committee;
 - 18.2.2 a Member who is not a Board Member or an employee of the Association; and
 - 18.2.3 a person who is not a Member.
- 18.3 The committee must promptly conduct an investigation into the Member's conduct that accords the Member procedural fairness and otherwise complies with the Act.
- 18.4 Upon completing that investigation, the committee must submit to the Board in writing a summary of its investigation and a recommendation (which may be specified as having been given unanimously or by majority) that the Board ought to:

- 18.4.1 reprimand the Member;
 - 18.4.2 to the extent permitted by the Act, suspend the rights of the Member for a specified period;
 - 18.4.3 expel the Member from the Association; or
 - 18.4.4 take no further action.
- 18.5 At least 14 days before the next Board meeting after it has received the recommendation of the committee, the Board must give Notice to the Member:
- 18.5.1 stating that the committee intends to consider taking disciplinary action;
 - 18.5.2 stating the grounds for the proposed disciplinary action;
 - 18.5.3 advising the Member that they may submit a written statement for consideration by the Board in making its decision; and
 - 18.5.4 setting out the Member's appeal rights under subrule 18.7.
- 18.6 At the next Board meeting after notice has been given to the Member, the Board (excluding the Board Member that chaired the committee) must:
- 18.6.1 determine whether, on the material before it, it is satisfied that subrule 18.3 was complied with;
 - 18.6.2 if it is so satisfied, determine whether to make the recommendation effective or to take some other action; and
 - 18.6.3 notify the Member of the committee's recommendation and the Board's determinations made pursuant to subrules 18.6.1 and 18.6.2.
- 18.7 Where, within 3 days of the Notice required by subrule 18.6.3 being given, the Member gives Notice to the Board that they wish to appeal, the Board must call a Special General Meeting, the sole purpose of which is to determine, after according the Member procedural fairness and otherwise complying with the Act, whether to rescind the Board's determination made pursuant to subrule 18.6.2.
- 18.8 At the Special General Meeting to determine the appeal:
- 18.8.1 a Member may not vote by proxy; and
 - 18.8.2 the Board's determination will be upheld if no less than 75% of Members physically present vote in favour of the determination.

19. Grievance procedure

- 19.1 The procedure set out in this rule 48 applies to disputes under these Rules between a Member and:
- 19.1.1 another Member;
 - 19.1.2 the Board; or
 - 19.1.3 the Association;

but does not apply to disputes involving employees of the Association in their capacity as employees.

- 19.2 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.
- 19.3 The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of both of them.
- 19.4 If the parties are unable to resolve the dispute between themselves within that time, each party must notify the Board of the dispute.
- 19.5 Upon receiving such notice, the Board must appoint an impartial mediator by agreement with the parties, who must then, according to the parties' procedural fairness and otherwise complying with the Act, mediate, but not determine, the dispute.
- 19.6 In default of agreement between the parties, the mediator must be:
- 19.6.1 if the dispute is between a Member and another Member, a person appointed by the Board; or
 - 19.6.2 if the dispute is between a Member and the Board or the Association, a person appointed or employed by the Dispute Settlement Centre of Victoria.
- 19.7 A mediator appointed by the Board may be a Member or former Member of the Association but in any case must not be a person who:
- 19.7.1 has a personal interest in the dispute; or
 - 19.7.2 is biased in favour of or against any party.
- 19.8 The parties must participate in the mediation, and attempt to resolve the dispute, in good faith.
- 19.9 If the mediation does not resolve the dispute, the parties may seek to resolve it in accordance with the Act or otherwise at law.

Part 3 GENERAL MEETINGS

20. Annual General Meetings

- 20.1 The Association must hold an annual General Meeting (apart from the first annual General Meeting) in every calendar year within 5 months of the end of its Financial Year at the time and place determined by the Committee.
- 20.2 The ordinary business of the annual General Meeting is:
- 20.2.1 to confirm the minutes of the previous annual General Meeting and of any Special General Meeting held since then;
 - 20.2.2 to receive and consider:

- (a) the annual report of the Board on the activities of the Association during the preceding Financial Year; and
- (b) the financial statements of the Association submitted by the Board in accordance with Part 7 of the Act; and

20.2.3 to elect and confirm the appointment of Board Members.

20.3 The annual General Meeting may also conduct any other business:

20.3.1 of which 14 days' Notice has been given to the Board by a Member; or

20.3.2 raised by a member at the meeting, at the discretion of the Chair.

21. Special General Meetings

21.1 The Board may convene a Special General Meeting whenever it sees fit to do so.

21.2 A Special General Meeting may only consider the business and/or resolutions set out in the Notice of the meeting.

21.3 Where a Notice is given to the Board that:

21.3.1 requests that a Special General Meeting be convened;

21.3.2 states the business to be considered at the meeting and any resolutions to be proposed;

21.3.3 contains, in support of the request, the names and signatures of at least 5 per cent of the Members entitled to vote; and

21.3.4 names 1 of the Members referred to in subrule 21.3.3 as the spokesperson,

the Board must convene a Special General Meeting pursuant to this subrule to consider the matters stated in the notice.

21.4 If the Board fails to convene a Special General Meeting pursuant to subrule 21.3 within 1 month of the notice being given, the spokesperson may convene a Special General Meeting to be held within 3 months of the notice being given.

21.5 The spokesperson must give 28 days' notice to the Secretary of the date, time and place of any meeting convened pursuant to subrule 21.4, and the Secretary must give notice of that meeting in accordance with Rule 22.

21.6 A Special General Meeting convened pursuant to subrule 21.3 or 21.4 may only consider the matters stated in the notice pursuant to subrule 21.3.2.

21.7 The Association must reimburse all reasonable expenses incurred by any Member in convening a Special General Meeting under subrule 21.4.

22. Notice of General Meetings

22.1 The Secretary must give each Member the following Notice of General Meetings:

- 22.1.1 in the case of a General Meeting adjourned pursuant to subrule 25.3.2 or 26.1, no later than 21 days after the adjournment; and
 - 22.1.2 not less than 21 days if a Special Resolution is to be proposed; and
 - 22.1.3 not less than 14 days in all other cases.
- 22.2 Such Notice must:
- 22.2.1 specify the type, date, time and place of the meeting;
 - 22.2.2 indicate the general nature of each item of business to be considered at the meeting;
 - 22.2.3 advise of any elections that are required by these Rules to be held at the meeting and call for the nomination of eligible members to stand in those elections;
 - 22.2.4 if a Special Resolution is to be proposed:
 - (a) state in full the proposed resolution; and
 - (b) state the intention to propose the resolution as a Special Resolution; and
 - 22.2.5 state that the Member may appoint a proxy for the meeting pursuant to Rule 23.
- 22.3 The accidental omission to give Notice of a meeting to any Member or the non-receipt of such Notice by any Member does not invalidate any resolution passed at, or proceeding of, that meeting.
- 22.4 A person's attendance at a General Meeting waives any objection that the person may have to:
- 22.4.1 a failure to give Notice, to the giving of a defective Notice, of a General Meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - 22.4.2 the consideration of a particular matter at the meeting which is not within the business referred to in the Notice of the meeting, unless the person objects to considering the matter when it is presented.

23. Chair of General Meetings

- 23.1 The spokesperson of a Special General Meeting convened pursuant to subrule 21.4 will preside as chair of that meeting. If the spokesperson is physically present within 15 minutes of the time appointed for holding the meeting, or being present is unwilling to preside, then the Members Present will choose a Member who is physically present to preside as chair of the Special General Meeting.
- 23.2 In any other case, the Chair of the Board or in their absence, the Deputy Chair of the Board will preside at every General Meeting. If at any General Meeting neither is physically present within 15 minutes of the time appointed for holding the meeting, or being present neither is willing to preside, the Members Present will choose a physically present Board Member to preside. If no Board Member is physically present or if all Board Members present decline to preside, then those Members Present will choose a Member who is physically present to preside as chair of the General Meeting.

24. Proxies

- 24.1 A Member may, in writing signed and dated by the Member, appoint as his or her proxy, to vote and speak on his or her behalf at a General Meeting:
- 24.1.1 the chair of the General Meeting; or
 - 24.1.2 a Member that has not been appointed the proxy of more than 2 other Members for the relevant meeting.
- 24.2 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 as he or she sees fit.
- 24.3 The original document appointing a proxy must be given to the chair of the General Meeting at the commencement of the relevant meeting.
- 24.4 A purported appointment of a proxy in breach of subrule 24.1 is void and of no effect.

25. Quorum

- 25.1 No business may be conducted at a General Meeting unless a quorum is Present.
- 25.2 A quorum is 20 members entitled to vote, or 10 per cent of the Members entitled to vote, whichever is the lesser.
- 25.3 If a quorum is not Present within 30 minutes after the notified commencement time of a General Meeting:
- 25.3.1 in the case of a meeting convened pursuant to subrule 21.3 or 21.4, the meeting must be dissolved; and
 - 25.3.2 in any other case, the meeting must be adjourned to a date no earlier than 7 days and no later than 21 days after the adjournment.
- 25.4 If a quorum is not Present within 30 minutes after the time to which a General Meeting has been adjourned under subrule 25.3.2:
- 25.4.1 if at least 10 Members entitled to vote are Present, the meeting may proceed as if a quorum were Present; and
 - 25.4.2 otherwise, the meeting must be dissolved.

26. Adjournment

- 26.1 The chair of a quorate General Meeting may, with the consent of the meeting, adjourn the meeting to another time at the same or another place.
- 26.2 Without limiting subrule 26.1, a meeting may be adjourned if there is insufficient time to deal with the business at hand or to give the Members more time to consider an item of business.
- 26.3 No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.

27. Voting

- 27.1 Except in the case of a Special Resolution or a Special General Meeting pursuant to subrule 18.8, a question must be decided on a majority of votes.
- 27.2 Subject to subrule 27.3, the chair of the General Meeting may, on the basis of a show of hands, declare that a resolution has been:
- 27.2.1 passed unanimously;
 - 27.2.2 passed by not less than 75% of the Members Present;
 - 27.2.3 passed; or
 - 27.2.4 lost,
- and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- 27.3 Where a poll (where votes are cast in writing) is demanded by more than 2 Members physically present, the poll must be taken in the manner determined by the chair of the General Meeting and the chair must declare the result of the resolution on the basis of the poll.
- 27.4 A poll demanded on:
- 27.4.1 the election of the chair of the General Meeting or on a question of an adjournment, must be taken immediately; and
 - 27.4.2 any other question, must be taken before the close of the meeting at a time determined by the chair of the General Meeting.

28. Minutes of General Meeting

- 28.1 The Board must ensure that minutes are taken and kept of each General Meeting.
- 28.2 The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 28.3 The minutes of each annual General Meeting must include:
- 28.3.1 the names of the Members and any other person attending the meeting;
 - 28.3.2 any proxy forms;
 - 28.3.3 a copy of the financial statements submitted to the Members;
 - 28.3.4 a copy of the certificate signed by 2 Board Members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
 - 28.3.5 a copy of any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

29. Role and power

The Board has the management of the Association and may exercise all its powers save those that are reserved to other persons or bodies by the Act.

30. Delegation

30.1 The Board may determine to delegate, subject to any condition and/or limitation, to:

30.1.1 1 or more Board Members;

30.1.2 a committee that includes at least 1 Board Member;

30.1.3 1 or more employees of the Association;

30.1.4 1 or more Members; or

30.1.5 any combination of Board Members, Members and employees of the Association

any of its powers other than this power of delegation.

30.2 Any individual or committee so formed must conform to any direction given to it by the Board in the execution of the delegated powers.

30.3 The meetings and proceedings of any committee will be governed by the provisions of these Rules for regulating the meetings and proceedings of the Committee so far as applicable and so far as those provisions are not superseded by any other direction given by the Committee.

30.4 The Board may, in writing, revoke a delegation wholly or in part.

31. Eligibility

31.1 Subject to Rule 15, a Member is eligible to be elected, re-elected, appointed or re-appointed as a Board Member if they:

31.1.1 are 18 years or over and resides in Australia;

31.1.2 are not an employee of the Association; and

31.1.3 if the Association is registered as a charity under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth), are not disqualified by the Commissioner under that Act from being a responsible person within the previous 12 months.

32. Composition of the Board - transitional

- 32.1 Despite any other provision of these Rules, upon these Rules coming into effect, the initial Board Members will comprise:
- 32.1.1 4 eligible Members nominated by FLS (**FLS Nominees**);
 - 32.1.2 4 eligible Members nominated by DCLC (**DCLC Nominees**); and
 - 32.1.3 1 independent Member to be agreed between the FLS Nominees and DCLC Nominees.
- 32.2 No later than 2 months after these Rules come into effect, the initial Board Members must be allocated into the following classes:
- 32.2.1 2 (which number includes the Chair of the Board and the Deputy Chair of the Board) to each of class A, class B and class C of the Elected Board Members such that each class contains 1 FLS Nominee and 1 DCLC Nominee; and
 - 32.2.2 3 to the Appointed Board Members class, with a term of up to 3 years to be determined by agreement between the initial Board Members or, failing which agreement, with a term ending at the date of the first annual General Meeting held after these Rules become effective.
- 32.3 Unless they agree otherwise among themselves, the allocation of initial Board Members to a particular class will be determined by lot.

33. Composition of the Board - general

- 33.1 The Board is made up of:
- 33.1.1 6 Elected Board Members; and
 - 33.1.2 up to 3 Appointed Board Members.

34. Elected Board Members

- 34.1 There are 3 classes of Elected Board Members, being class A, class B and class C, and each Elected Board Member belongs to a class by virtue of the class to which they were appointed under Rule 35 or elected pursuant to subrule 34.3, elected or appointed pursuant to Rule 38, or allocated by the operation of Rule 32.
- 34.2 At each annual General Meeting, after the annual report and financial statements of the Association have been received, the chair must declare vacant the offices of a class of Elected Board Members, determined as follows:
- 34.2.1 at the first annual General Meeting held after these Rules come into effect—class A;
 - 34.2.2 at the second annual General Meeting held after these Rules come into effect—class B;
 - 34.2.3 at the third annual General Meeting held after these Rules come into effect—class C; and

- 34.2.4 at each subsequent annual General Meeting—the class required to maintain the sequence of vacancies as class A then class B then class C.
- 34.3 The chair must then call for nominations and hold an election for 2 eligible Members to be elected to the vacant class.
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35. Appointed Board Members

- 35.1 Where there are fewer than 3 Appointed Board Members, the Board Members may appoint, by Absolute Majority, an eligible Member as an Appointed Board Member for a term of between 1 and 3 years, subject to confirmation at the next annual General Meeting and failing such confirmation, for a term expiring at the end of that annual General Meeting.
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36. Maximum terms of Board Members

A person may not be elected or appointed as a Board Member for more than 9 consecutive years (excluding any appointment to fill a casual vacancy), without a break of at least 1 year.

37. Vacancy

- 37.1 The office of a Board Member becomes vacant if they:
- 37.1.1 resign by Notice given to the Board;
 - 37.1.2 cease to be a Member;
 - 37.1.3 become an employee of the Association;
 - 37.1.4 are deemed to have resigned in accordance with subrule 37.2.
- 37.2 Where a Board Member fails to attend 3 consecutive Board meetings without the prior consent of the other Board Members, that Board Member is deemed to have resigned.
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38. Filing a casual vacancy of Elected Board Member

- 38.1 Where a class of Elected Board Members contains fewer than 2 Board Members, the Elected Board Members may determine, by Absolute Majority, to appoint an eligible person to hold that office until the next annual General Meeting.
- 38.2 Where, at an annual General Meeting, a class of Elected Board Members not being the class for which elections are to be held pursuant to subrule 34.3 contains fewer than 2 Board Members, the chair must hold an election for eligible persons to be elected to the vacant class in such number as is necessary to cause it to contain 2 Board Members.
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39. Officers of the Board

- 39.1 The offices of Chair of the Board and Deputy Chair of the Board are established.

- 39.2 Where the office of Chair of the Board or Deputy Chair of the Board is vacant, before the Board may consider any other business, the Board Members must elect, by Absolute Majority, 1 of their number to that office.
- 39.3 The office of Chair of the Board or Deputy Chair of the Board becomes vacant:
- 39.3.1 if the current office holder:
- (a) resigns by Notice given to another Board Member; or
 - (b) ceases to be a Board Member;
- 39.3.2 if the Board Members determine, by Absolute Majority, to remove the incumbent Chair of the Board or Deputy Chair of the Board (as applicable) from that office; or
- 39.3.3 at the opening of the quorate first Board meeting after an annual General Meeting.
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40. Elections

Elections held pursuant to this part must be conducted in accordance with the procedure determined by the Board and, to the extent of any deficiency of that procedure or where no such determination has been made, at the direction of the chair of the meeting.

41. Board meetings

- 41.1 Subject to subrule 41.2, the calling, Notice, business and procedure of Board meetings must be determined by the Board.
- 41.2 A Board meeting may be called by the Chair of the Board, Deputy Chair of the Board or any 3 Board Members on 14 days' Notice and, in exceptional circumstances, by the Chair of the Board or the Deputy Chair of the Board on 1 days' Notice.
- 41.3 No decisions may be taken at a Board meeting unless a quorum is Present.
- 41.4 Quorum is a majority of Board Members.
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42. Chairperson and decisions

- 42.1 The Chair of the Board will be the chair of Board meetings. If the Chair of the Board is not Present within 15 minutes after the time appointed for holding that meeting (or being present is unwilling to act), the Deputy Chair of the Board will preside at the meeting. If the Deputy Chair of the Board is not Present (or being Present is unwilling to act) then the Board Members Present will choose one of their number to be the chair of the meeting.
- 42.2 On any question arising at a Board meeting, each Board Member Present has 1 vote.
- 42.3 Unless otherwise provided for by these Rules, a resolution is passed if a majority of the Board Members Present vote in favour of it.

43. Written resolutions of the Board

- 43.1 A resolution of the Board is taken to have been passed by a meeting of Board Members if an Absolute Majority of the Board Members entitled to vote on the resolution (other than any Board Member on leave of absence approved by the Board Members) consents to a written resolution.
- 43.2 A Board Member may consent to a resolution by:
- 43.2.1 signing the document containing the resolution (or a copy of that document);
 - 43.2.2 giving to the Association a Notice including (including by fax or other electronic means) signifying assent to the resolution and including the text of the resolution in their reply.

44. Conflict of interest

- 44.1 A Board Member who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- 44.2 The Board Member must not be present while the matter is being considered and must not vote on the matter.

45. Minutes

- 45.1 The Board must cause proper minutes to be made of the proceedings and resolutions of all meetings of the Board and committees formed by the Board.
- 45.2 The minutes must record the following:
- 45.2.1 the names of the Board Members and any other person attending the meeting;
 - 45.2.2 the business considered at the meeting;
 - 45.2.3 any resolution on which a vote is taken and the result of the vote; and
 - 45.2.4 any material personal interest disclosed by a Board Member.
- 45.3 The minutes must be signed within a reasonable time by the chair of the meeting or by the chair of the next meeting and entered in books kept for that purpose.
- 45.4 A minute that is recorded and signed in accordance with clause 45.3 is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

46. Source of funds

The funds of the Association may be derived from such subscriptions, donations and such other sources as the Board determines.

47. Financial records and statements and management of funds

47.1 The Association must:

47.1.1 open an account with a financial institution into which all income of the Association is deposited and all expenditure of the Association is made;

47.1.2 keep financial records that correctly record and explain its transactions, financial position and performance and enable financial statements to be prepared as required by the Act; and

47.1.3 ensure the financial records of the Association are kept in accordance with the Act.

47.2 The Board:

47.2.1 must ensure that the requirements under the Act relating to financial statements of the Association are met;

47.2.2 subject to any restriction imposed by a General Meeting, may approve expenditure on behalf of the Association;

47.2.3 may authorise the 2 or more delegates to expend funds on behalf of the Association (including electronic funds transfer), subject to subrule 47.4, up to a specified limit without requiring approval from the Board for each item on which the funds are expended.

47.3 The Board must ensure (personally or by delegation):

47.3.1 the secure custody or control all financial records for the current Financial Year and any other financial records authorised by the Board;

47.3.2 the collection and receipt of all moneys due to the Association;

47.3.3 that at least 2 persons authorised by the Board have access to the accounts and financial records of the Association; and

47.3.4 that all accounts and books showing the financial affairs of the Association that are in any officer or employee's custody or control, are returned to the Association immediately upon the officer or employee leaving office or ceasing employment.

47.4 All cheques, drafts, bills of exchange, promissory notes, other negotiable instruments and electronic transfers must be signed or otherwise authorised by 2 Board Members or 2 delegates of the Board.

48. Custody of records and other documents

48.1 Except as otherwise provided in these Rules, the Secretary must keep custody or control of the minutes, records, securities and other relevant documents of the Association.

49. Access to documents, information

49.1 Subject to the Act and subrule 49.3, financial records, books, securities and any other relevant documents (as defined in the Act) of the Association must be available for inspection free of charge by any Member upon request.

49.2 Subject to the Act and subrule 49.3, a Member may make a copy of any accounts, books, securities and any other relevant documents (as defined in the Act) of the Association.

49.3 The Board 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.

50. Secretary

50.1 The Board must appoint a suitably qualified person to the office of Secretary.

50.2 The office of Secretary becomes vacant if:

50.2.1 the current office holder resigns by Notice given to the Board; or

50.2.2 if the Board Members determine, by Absolute Majority, to remove the current officer holder.

50.3 The Secretary must perform the duties and exercise the powers that are imposed on that office by the Act, these Rules and any determination of the Board.

50.4 Despite subrule 50.1, the first Secretary is the person who has consented to act as secretary, is approved as the first Secretary by the members of FLS and DCLC and named in the application for amalgamation of FLS and DCLC as the first Secretary.

51. Chief executive officer

51.1 The Board may appoint a person as chief executive officer (**CEO**).

51.2 The appointment of a CEO may be for the period, at the remuneration and on the conditions that the Board thinks fit.

51.3 The Board may:

51.3.1 confer on a CEO the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by Board Members) it thinks fit;

51.3.2 withdraw, suspend or vary any of the powers, discretions and duties conferred on a CEO; and

51.3.3 authorise a CEO to delegate all or any of the powers, discretions and duties conferred on him or her.

52. Registered address

The registered address of the Association is the address determined by the Board.

53. Common seal

53.1 The Association may have a common seal.

53.2 If the Association has a common seal:

53.2.1 the name of the Association must appear in legible characters on the common seal;

53.2.2 a document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of 2 Board Members; and

53.2.3 the common seal must be kept in the custody of the Secretary.

54. Alteration of these Rules

These Rules may be altered by Special Resolution at a General Meeting.

55. Winding up

55.1 The Association may be wound up voluntarily by Special Resolution.

55.2 In the event of the winding up or 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.

55.3 Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to 1 or more charities:

55.3.1 with charitable purposes(s) similar to, or inclusive of, purposes to the Association; and

55.3.2 the rules of which prevent the distribution of property and income to members at least to the same extent as these Rules.

55.4 If the Association is endorsed as a deductible gift recipient under subdivision 30BA of the *Income Tax Assessment Act 1997* (Cth) at the time it is wound up, then in addition to the requirements under subrule 55.3, the charity or charities to which the surplus assets are distributed must also be endorsed as a deductible gift recipient at the time the distribution is made.

- 55.5 The charity or charities to be given the surplus assets in the event of the winding up or the cancellation of the incorporation of the Association must be determined:
- 55.5.1 by a Special Resolution at or before the time of winding up; or
- 55.5.2 if no such Special Resolution is passed, by a Judge of the Supreme Court or such other court of competent jurisdiction.
- 55.6 If the endorsement of the Association as deductible gift recipient endorsement is revoked (whether or not the Association is to be wound up), any surplus gift funds must be transferred to 1 or more charities that meet the requirements of subrule 55.3, as decided by the Board Members.
- 55.7 For the purpose of this Rule 55:
- 55.7.1 **gift fund** means:
- (a) gifts of money or property for the purposes of the Association;
 - (b) contributions made in relation to a fund-raising event held for the purposes of the Association; and
 - (c) money received by the Association because of such gifts and contributions.
- 55.7.2 **contributions** and **fund-raising event** have the same meaning as in Division 30 of the *Income Tax Assessment Act 1997* (Cth).

Part 7 TRANSITIONAL

56. Delayed operation of subrule 14.6

- 56.1 Subrule 14.6 does not take effect until the beginning of the first Financial Year after these Rules come into effect.
- 56.2 Despite any other Rule, any subscription due to FLS or DCLC and remaining unpaid at the date of these Rules coming into effect (**Outstanding Pre-Amalgamation Subscriptions**) will become immediately due and payable to the Association on the date that these Rules come into effect and must be paid before the end of the Financial Year in which these Rules come into effect.
- 56.3 Any Member who has not paid any Outstanding Pre-Amalgamation Subscription upon the commencement of the first Financial Year following these Rules coming into effect will be deemed to have resigned and that Member's membership will cease.