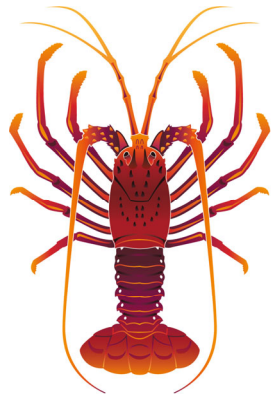


**RULES OF ASSOCIATION
WESTERN ROCK LOBSTER COUNCIL INC.**



Western
**ROCK
LOBSTER**

World leading sustainable fishery

July ~~2018~~2020

INDEX

| | |
|--|-----------|
| 1. NAME OF ASSOCIATION..... | 4 |
| 2. INTERPRETATION..... | 4 |
| 2.1 Definitions..... | 4 |
| 2.2 Interpretation | 5 |
| 2.3 Replacement of the Managed Fisheries System..... | 6 |
| 3. OBJECTS OF ASSOCIATION | 6 |
| 3.1 Objects of Association | 6 |
| 3.2 Property and income of Association..... | 7 |
| 4. POWERS OF ASSOCIATION | 7 |
| 5. MEMBERSHIP | 7 |
| 5.1 Categories of Membership | 7 |
| 5.2 Ordinary (or Voting) Members | 7 |
| 5.3 Associate Members | 8 |
| 5.4 Applications for membership | 8 |
| 5.5 Termination of membership..... | 9 |
| 5.6 Suspension and Expulsion of Members..... | 9 |
| 5.7 Notification | 10 |
| 5.8 Representative of Body Corporate Member | 10 |
| 6. RIGHTS OF MEMBERS | 10 |
| 6.1 Right to receive notices and accounts | 10 |
| 6.2 Right to vote at General Meetings..... | 10 |
| 7. OBLIGATIONS OF MEMBERS | 10 |
| 7.1 Subscription fee | 10 |
| 7.2 Payment of subscription..... | 11 |
| 7.3 Payment of other fees | 11 |
| 7.4 Notify change of name, email address and postal address..... | 11 |
| 8. REGISTER OF MEMBERS..... | 11 |
| 8.1 Register of Members | 11 |
| 8.2 Inspection of register..... | 11 |
| 9. BOARD | 12 |
| 9.1 Board | 12 |
| 9.2 Election of Directors and filling casual vacancies on Board..... | 13 |
| 9.3 Casual vacancy in Membership of Board..... | 14 |
| 10. CHAIRPERSON AND VICE-CHAIRPERSON | 15 |
| 11. SECRETARY | 15 |
| 12. TREASURER | 16 |
| 13. CHIEF EXECUTIVE OFFICER | 16 |
| 14. PROCEEDINGS OF BOARD | 17 |
| 14.1 Frequency of meetings | 17 |
| 14.2 Convening of meetings | 17 |
| 14.3 Quorum..... | 17 |
| 14.4 Proxies at Board meetings | 17 |
| 14.5 Voting..... | 17 |
| 14.6 Board Meetings and Transactions outside Board Meetings..... | 17 |
| 14.7 Circular Resolutions | 17 |
| 14.8 Pecuniary interest..... | 18 |
| 14.9 Expenses | 18 |
| 14.10 Indemnity | 18 |

| | | |
|------------|--|-----------|
| 15. | GENERAL MEETINGS | 18 |
| 15.1 | Convening of meetings | 18 |
| 15.2 | Request for meeting | 18 |
| 15.3 | Notice of meeting | 19 |
| 15.4 | Quorum..... | 19 |
| 15.5 | Adjournment..... | 20 |
| 15.6 | Passing of resolutions | 20 |
| 15.7 | Proxy and representative..... | 20 |
| 15.8 | Poll | 20 |
| 15.9 | Voting rights..... | 21 |
| 16. | MINUTES OF MEETINGS | 21 |
| 16.1 | Proper minutes | 21 |
| 16.2 | Responsibilities of Chairperson | 21 |
| 16.3 | Minutes prima facie evidence | 21 |
| 17. | COMMON SEAL OF ASSOCIATION | 22 |
| 18. | ANNUAL SUBSCRIPTION | 22 |
| 18.1 | Notice of annual subscription | 22 |
| 18.2 | Payment..... | 22 |
| 18.3 | Other charges | 22 |
| 19. | RULES OF ASSOCIATION..... | 22 |
| 20. | INSPECTION OF RECORDS ETC. OF ASSOCIATION..... | 22 |
| 21. | DISPUTES AND MEDIATION | 23 |
| 22. | DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF ASSOCIATION | 23 |

RULES FOR THE WESTERN ROCK LOBSTER COUNCIL INC.

1. NAME OF ASSOCIATION

The name of the Association is “The Western Rock Lobster Council Inc.”

2. INTERPRETATION

2.1 Definitions

In these rules, unless the context otherwise requires:

Act means the Fish Resources Management Act 1994 (WA) and any statute from time to time regulating the commercial exploitation of west coast rock lobster resources of the State in whole or partial replacement of the Fish Resources Management Act 1994 including where the context permits the New Legislation.

A Zone, B Zone and C Zone mean A Zone, B Zone and C Zone respectively in the West Coast Rock Lobster Fishery.

Annual General Meeting means a meeting of the Members convened once each calendar year in accordance with section 50 of the Associations Act.

Association means the association referred to in rule 1.

Associations Act means the Associations Incorporation Act 2015 (WA) and any amendment or replacement thereof.

Associate Member means a member of the Association having membership under rule 5.3 and 5.4.

Board of Directors means the Board of Directors of the Association as constituted under section 9 and Board, shall have a corresponding meaning.

Board Meeting means a meeting referred to in rule 14.

Business Day means a day other than a Saturday, Sunday or State public holiday in Western Australia or national public holidays.

Chairperson means:

- (a) in relation to the proceedings at a Board Meeting or General Meeting, the person presiding at the Board Meeting or General Meeting in accordance with rule 10; or
- (b) otherwise than in relation to the proceedings referred to in paragraph (a), the person referred to in rule 9.1(c) (iii), or, if that person is unable to perform his or her functions, the Vice Chairperson.

Chief Executive Officer means the Executive Officer of the Association from time to time appointed by the Board under rule 13.

Director means a member of the Board elected or appointed under section 9.

Financial Year has the meaning given by section 3 of the Associations Act.

FRMA means the *Fish Resources Management Act 1994* (WA) and any Act relating to the management of west coast rock lobster resources of the State in force upon the repeal of the *Fish Resources Management Act 1994*.

General Meeting means a meeting of Members convened under these rules.

Incorporation day is the latter date of registration or incorporation of the Association under Associations Incorporation Act 1994 (repealed).

MFL or Managed Fishery License means a WCRLF Managed Fishery License granted, renewed, or continued under the Act and the form of authorisation under the New Legislation which grants rights of access to all or part of the WCRLF which substantially corresponds to the rights held under a WCRLF managed fishery license.

Member means an Ordinary Member or an Associate Member of the Association.

New Legislation means the legislative enactments referred to in rule 2.3 to the extent they replace from time to time the Fish Resources Management Act 1994 and the licenses, entitlements and administrative processes under the latter Act.

Northern Zone means A Zone and / or B Zone.

Commented [MT1]: New definition required due to proposed new zone terminology for electing Directors

Ordinary Member means a member of the Association having membership under rule 5.2.

Ordinary Resolution means a resolution other than a Special Resolution.

Registrar means the registrar referred to in the Act or successor position or office.

Secretary means the Secretary referred to in rule 9.1(c) (1) (iii).

Southern Zone means C Zone.

Commented [MT2]: New definition required due to proposed new zone terminology for electing Directors

Special Resolution has the meaning given by section 3 of the Associations Act.

State means the State of Western Australia.

Treasurer means the Treasurer referred to in rule 9.1(c) (1) (iii).

Unit means a unit of rock lobster entitlement in A Zone, B Zone and C Zone of the WCRLF and any right or authorisation under the New Legislation which substantially corresponds to such a unit.

Usual entitlement has, in respect of units in the WCRLF, the meaning of that term in the FRMA.

Vice-Chairperson means the Vice-chairperson referred to in rule 9.1(c) (1) (iii).

WAFIC means the Western Australian Fishing Industry Council Inc.

WCRLF means the West Coast Rock Lobster Fishery and when New Legislation comes in to effect the area in relation to which corresponding rights and entitlements are held.

Zone Representative means a person elected as a Director by Ordinary Members who hold a MFL with Units of usual entitlement in a particular Zone in accordance with rule 9.2(a)(2) or (3).

2.2 Interpretation

In these rules, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa.
- (b) words of one gender include every other gender.
- (c) words denoting individuals include a firm, body corporate, an unincorporated association and any governmental or other public body or authority of any kind and vice versa.
- (d) references to any statute (such as the FRMA), ordinance, code or other law includes regulations, other subsidiary legislation and other instruments made under any of them as amended and in force, re-enactments, replacements or consolidations of any of them occurring at any time.
- (e) headings shall not affect the construction or interpretation of these rules.
- (f) references to a clause, paragraph, annexure or schedule is a reference to the same in these rules.
- (g) a reference to a document includes that document as amended or replaced.
- (h) a reference to a whole thing includes a reference to part of that thing.
- (i) a reference to a professional body includes the successors to, or substitutes for, that body.
- (j) where a word or phrase is defined in these rules, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning.
- (k) “include”, “including” and other similar expressions are not words of limitation.
- (l) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
- (m) if an act prescribed under this agreement to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.
- (n) if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.
- (o) a reference to time is a reference to Western Australian Standard time (WST).
- (p) A reference to a Member being present at a General Meeting means a Member presents in person, by proxy or by a representative appointed under clause 15.7 (b).

2.3 Replacement of the Managed Fisheries System

- (a) The Association recognises that the Fish Resources Management Act 1994 and the licences, entitlements and administrative processes under that statute are under review and may be wholly or partly be replaced or supplemented by new legislation presently represented by the Aquatic Resources Management Bill 2015.
- (b) The Association intends that when the New Legislation and rights, entitlements and licences thereunder comes into force these rules will continue in effect until amended in accordance with the Associations Act and that these rules will be interpreted in good faith to provide substantially the same or similar rights and benefits to Members and applicants for Membership as were provided under the replaced legislation.

3. OBJECTS OF ASSOCIATION

3.1 Objects of Association

The objects of the Association are to:

- (a) represent the MFL holders and Unit holders of the WCRLF for their common

- benefit;
- (b) facilitate discussion and understanding between the catching sector of the WCRLF and other sectors of the WCRLF and organisations and enterprises that relate to the WCRLF;
 - (c) present and represent the views of a cohesive rock lobster industry at all levels of Government and within the general community;
 - (d) act as an adviser to, or intermediary between, the Members, State and Commonwealth Governments and their authorities, agencies and bodies, and the community;
 - (e) work with the WCRLF for the resolution of common problems;
 - (f) appoint and/or nominate representatives to various authorities, agencies and bodies relevant to the WCRLF;
 - (g) promote the sustainable development of the WCRLF to provide profit, resilience and efficiency in the WCRLF through innovative programs, processes and practices and other means;
 - (h) conduct, commission or support projects and programs relevant to marketing, promotion and research, development and extension in the WCRLF;
 - (i) protect and promote the interests of Members of the WCRLF; and
 - (j) undertake any activities that are considered necessary by the Association and its Members to achieve the above objects.

3.2 Property and income of Association

The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to Members, except in good faith in the promotion of those objects.

4. POWERS OF ASSOCIATION

The Association has, so far as the Act permits, the legal capacity of a natural person and has the power to do anything necessary or convenient for carrying out its objects and purposes.

5. MEMBERSHIP

5.1 Categories of Membership

- (a) The Association has the following levels of membership:
 - (1) Ordinary (or voting) Members; and
 - (2) Associate Members who are non-voting.
- (b) No person may be admitted as a Member of the Association other than a person eligible to be a voting Member, or an Associate Member.

5.2 Ordinary (or Voting) Members

- (a) A holder of a MFL is eligible to be a member of the Association, but only while the holder of a MFL.
- (b) A person holding more than one MFL may hold an Ordinary Membership in

respect of each MFL.

- (c) All holders of MFL's as recorded by the Registrar on incorporation day shall be invited to become members of the Association and their continued membership thereafter is subject to these Rules of Association.
- (d) After incorporation day a person may apply to be an Ordinary Member of the Association and, subject to the Secretary confirming:
 - (1) the applicant's eligibility for membership, and
 - (2) payment of any fee set by the Board or general meeting, and
 - (3) that the person has not previously been expelled by the Board;

the Secretary may, without the application being formally considered and determined by the Board, advise the applicant that their application has been successful and amend the Register in Rule 8 to include the new member.

- (e) The voting entitlement of an Ordinary Member is as set out in Rules 15.
- (f) Eligibility to be an Ordinary Member is subject to the provisions for termination or suspension of membership in rules 5.5 and 5.6.

5.3 Associate Members

Any of the following persons are eligible to become an Associate Member of the Association for so long as they are:

- (a) a lessee of a MFL; and / or
- (b) a holder of Units; and / or
- (c) a lessee of Units; and / or
- (d) a person who the Board determines has a real and significant interest in the promotion and support of the objects of the Association.

Any such person may apply to the Association for Associate Membership.

In this rule 5.3 reference to a lessee includes a person holding a right to carry on commercial fishing in the WCRLF by agreement with the MFL licensee or with the Unit holder.

5.4 Applications for membership

- (a) A person who wishes to become a Member must apply for membership to the Board in such form as the Board directs.
- (b) The application form must be signed by the applicant and be accompanied by the application fee (if any) in the sum the Association determines, from time to time, for each category of membership.
- (c) The Board will consider each application for membership at a Board meeting and must at that Board meeting, or the next Board meeting, accept or reject the application.
- (d) If an applicant for membership of the Association is accepted, the Board will notify the applicant in writing and update the register of Members. The Board may accept or reject in its absolute discretion:
 - (1) an application for Associate Membership; or
 - (2) any application for Ordinary Membership or Associate Membership by a person who has previously been suspended or expelled under rule 5.6.

- (e) If an applicant for membership of the Association is rejected, the Board will notify the applicant giving a summary of reasons. The applicant may appeal against the decision by giving notice to the Secretary of his or her intention to do so within a period of 14 days from the date he or she is advised of the rejection.
- (f) When notice is given under rule 5.4(e), the Association in a general meeting, no later than the next annual general meeting, must either confirm or set aside the decision of the Board to reject the application, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the general meeting.

5.5 Termination of membership

A Member's membership of the Association shall terminate:

- (a) if the Member ceases to be eligible to be a Member as required by this rule 5;
- (b) if the Member gives notice in writing to the Association of his or her resignation from the Association;
- (c) if the Member fails to pay his or her annual subscription (if any) within the time fixed by the Board for subscriptions to be paid.
- (d) in accordance with rule 5.6, if the Board of Directors determines that a member has acted contrary to the interests of the objectives of the association.

5.6 Suspension and Expulsion of Members

- (a) If the Board receives a complaint that a Member has acted contrary to the interests of the Association, and the Board determines to consider the complaint, then the Board must give notice to the Member of:
 - (1) the proposed consideration of the complaint and of the time, date and place of the Board meeting at which the Board's determination of that complaint will occur; and
 - (2) sufficient particulars of the relevant alleged conduct complained of to allow the member to understand what is alleged against them, not less than 14 days before the date of the Board meeting referred to in rule 5.6(a)(1).
- (b) At the Board meeting referred to in rule 5.6(a)(1), the Board shall, after having afforded the Member concerned a reasonable opportunity to be heard by, or to make representations on the complaint in writing to the Board, either dismiss the complaint, or uphold the complaint, and then proceed to consider whether to suspend or expel the Member from membership of the Association, and must forthwith after deciding whether or not to suspend or expel that Member, communicate that decision in writing to that Member.
- (c) Subject to rule 5.6(e), a Member who has his or her membership suspended, ceases to be a member 14 day after the day on which the decision to suspend or expel a Member is communicated to him or her under rule 5.6(b).
- (d) A Member who is suspended or expelled under rule 5.6(b) must, if they wish to appeal against that suspension or expulsion, give notice to the Association of their intention to do so within the period of 14 days referred to in rule 5.6(c).
- (e) When notice is given under rule 5.6(d):
 - (1) the Association in a General Meeting, must either confirm or set aside the decision of the Board to suspend or expel the Member, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the

- Association in the General Meeting; and
- (2) the Member who gave that notice is not suspended, nor do they cease to be a Member, unless and until the decision of the Board to suspend or expel him or her is confirmed under this rule 5.6(e).

5.7 Notification

When a person becomes a Member they must promptly give the Secretary written notice of his or her full name and contact details and forthwith advise the Secretary of any changes thereto.

5.8 Representative of Body Corporate Member

- (a) If a Member is a body corporate, then the body corporate may, by a written notice signed by a person authorized by that body corporate and delivered to the Association, nominate a natural person who may represent the body corporate and exercise all of the rights of the body corporate in relation to the Association, including being personally present at a general meeting of the Association and any such nomination will apply for as long as its terms provide, or until revoked if no term is set.
- (b) A Member who is a body corporate holding more than one Ordinary Membership under rule 5.2 (b) may appoint a natural person to represent the Member in relation to each Ordinary Membership held and to exercise all the Member's rights in relation to the Association.

6. RIGHTS OF MEMBERS

6.1 Right to receive notices and accounts

The Association may serve notices and advice on its website, by post, and other electronic medium the Board may decide to use, from time to time, for the following:

- (a) notice of the convening of any General Meeting; and
- (b) notice of any proposed election of Directors.

In addition the Association may use post and electronic medium to place notices for the following:

- (c) notice of any subscription and any other Association fees payable by that Member to the Association; and
- (d) a copy of the signed annual financial accounts, and in the case of joint Members, the Association will send the documents referred to in 6.1 (a), (b), (c) & (d) to the Member whose name appears first in the register of Members or as nominated by the MFL holder.

6.2 Right to vote at General Meetings

- (a) Ordinary (or voting) Members have the right to vote at a General Meeting in accordance with rule 15.
- (b) Associate Members have no right to vote at a General Meeting.

7. OBLIGATIONS OF MEMBERS

7.1 Subscription fee

A Member shall promptly pay the relevant annual subscription fee, which fee shall be \$0 for an Ordinary Member and \$0 for an Associate Member until altered by the Association at a General Meeting.

7.2 Payment of subscription

Where an annual subscription is payable:

- (a) a Member must pay to the Treasurer, annually on or before 1 July, or such other date as the Board from time to time determines, the amount of the subscription determined under rule 7.1.
- (b) A Member whose subscription is not paid within 3 months after the relevant date fixed by or under rule 7.2(a), ceases on the expiry of that period, to be a Member.

7.3 Payment of other fees

A Member must pay any other fee levied in accordance with these rules. Joint Members are jointly and severally liable to pay such fees.

7.4 Notify change of name, email address and postal address

A Member will give the Association written notice of any change in their contact details as soon as possible after the change, and in any event no later than 1 calendar month after the change.

8. REGISTER OF MEMBERS

8.1 Register of Members

- (a) The Secretary must maintain a current register of its Members, derived initially from the records maintained by the Registrar, showing the names of the Members and their postal or residential addresses.
- (b) The voting rights of an Ordinary Member in a poll at a General Meeting shall be suspended during any period of suspension of the person's membership.
- (c) The Secretary may from time to time verify the register of Members from the records maintained by the Registrar under the FRMA, including verifying who is the holder of a MFL and the associated unit entitlements in the WCRLF.
- (d) If requested by a Member, the Secretary shall verify the voting entitlement of any Member by reference to the records kept by the registrar and the requesting Member shall reimburse the Secretary any fee charged by the registrar for that purpose.
- (e) The name of a person whose membership is terminated under rule 5.5 must be deleted from the register of Members.

8.2 Inspection of register

- (a) The Secretary or Chief Executive Officer must make the register of Members available at the Association office for the inspection and the making of copies by any Member during business hours.
- (b) The Secretary or Chief Executive Officer may determine that a member will be required to provide a statutory declaration setting out the purposes for which the making of a copy of the register of members is required and confirming that it is

required for a purpose connected with the affairs of the Association.

9. BOARD

9.1 Board

- (a) The affairs of the Association will be managed by a Board of Directors where the majority of Directors must be Members. Each elected Director will serve a two year term. Half of those Director positions with the lowest votes in ~~each zone~~ the Northern and Southern Zones will be up for re-election at the ~~end of year one~~ Annual General Meeting immediately following any dissolution of the Board. Thereafter zonal representatives will be elected on a two year basis.
- (b) The Board will consist of:
- ~~(1) 2 elected A Zone representatives~~
 - ~~(2) 2 elected B Zone representatives~~
 - (1) 4 elected Northern Zone representatives
 - ~~(2)~~ 4 elected ~~C-Southern~~ Zone representatives
 - ~~(4)~~(3) No more than two Independent Directors may be appointed by the Board
- (c) An Independent Director must not be:
- (1) a holder of, or the nominated representative under rule 5.8 of a body corporate who is the holder of, a MFL in the WCRLF operating in A, B or C Zone;
 - (2) a lessee or the holder of Units in A, B or C Zone; or
 - (3) a skipper or other licensed fisherman engaged in the commercial fishing of rock lobster in the WCRLF in A, B or C Zone.
 - (4) subject to this rule, an appointed Independent Director of the Association will be for a period of no more than one year;
 - (5) subject to any requirement for Directors to retire by rotation;
 - (6) unless this rule provides otherwise subject to all other rules relating to Directors; and
 - (7) on the termination of the appointment as an Independent Director by death, retirement, resignation or another way stops being a Director of the Association.
- (d) A Director may hold one, but not more than two, offices on the Board
- (e) The powers of the Board shall include the power to:
- (1) appoint up to two Independent Directors referred to in 9.1 ~~(4b)~~ (43) on a yearly basis;
 - (2) determine the special skills required of an Independent Director which may be varied by the Board, from time to time, or from appointment to appointment;
 - (3) appoint the Chairperson, the Vice-Chairperson, the Secretary and the Treasurer;
 - (4) appoint and terminate the appointment of the Chief Executive Officer;
 - (5) Determine any fees and charges levied by the Association in accordance with rule 17.
 - (6) If a casual vacancy within the meaning of rule 9.3 occurs, the Board may appoint a Member, with the same eligibility criteria, or the nominated representative under rule 5.8 of a Body Corporate who is a Member, to fill the vacancy on the

Commented [MT3]: This states the proposed new zone terminology for election of Directors

Commented [MT4]: This clarifies exactly when this clause is applicable. This clause establishes the staggering for future elections of zone representatives should the entire Board be dissolved

Commented [MT5]: This replaces the current two A Zone and two B Zone representatives with four Northern Zone representatives

Commented [MT6]: This aligns the terminology by replacing C zone with Southern Zone

Commented [MT7]: This rectifies the incorrect reference in the current Rules of Association

Board.

~~(f) Any Director whose position is declared vacant is eligible for re election to membership of the Board, subject to a maximum of three (3) consecutive terms.~~

Commented [MT8]: This removes the current limit on the number of consecutive terms a Director can serve

9.2 Election of Directors and filling casual vacancies on Board

- (a) Subject to rule 9.1, Directors must be elected to membership of the Board at or with effect from an Annual General Meeting in accordance with rule 9.1(a) or appointed under rules ~~9.1(e) (1) and (2)~~9.1(c) or ~~9.2(f) (1) and (2)~~ 9.2(i). The election of Directors at or with effect from an Annual General Meeting must be conducted by way of a ballot as follows:
- (1) at each Annual General Meeting ~~(except the Annual General Meeting immediately following the dissolution of the Board, in which case rule 9.1(a) applies)~~ one half of the positions must be declared vacant being the positions held by those elected Directors who have held office for the longest period;
 - (2) only Ordinary Members may vote on the election of Directors and an Ordinary Member may vote to elect a Director only in relation to the Zone or Zones in which the Ordinary Member holds Units of usual entitlement.
 - (3) An Ordinary Member who holds Units of usual entitlement on one MFL for more than one Zone may only vote for a Zone Representative for the Zone in which the Member holds the most Units of usual entitlement.
- (b) Subject to rule 9.1(a), a Director's term will be from his or her election at an Annual General Meeting until the second Annual General Meeting following the Annual General Meeting at which he or she was elected.
- (c) The Board shall decide a timetable for the election of Directors at the next Annual General Meeting including all or some the following procedures:
- (1) notice to all Members:
 - i. stating the vacancies on the Board to be filled at the Annual General Meeting and the Zone to which each vacancy relates;
 - ii. calling for nominations of Members for election to those vacancies;
 - iii. specifying the electronic or other means by which nominators must send nominations to the Board;
 - iv. specifying that only Ordinary Members holding a MFL with Units of usual entitlement in the relevant Zone may nominate Members for election as a Zone Representative on the Board for that Zone;
 - v. requiring nominees to notify the Board of their willingness to be nominated and to provide any biographical statements and statements of policies they wish to be distributed to Members;
 - vi. stating a closing date by which nominations must be received by the Board.
 - (2) Distribution of ballot forms to Ordinary Members together with:
 - i. biographical statements and statements of policies provided by nominees;
 - ii. a statement that each Ordinary Member is entitled to vote for the election of a Director as a Zone Representative only as provided in rule 9.2(a)(2) and (3); and
 - iii. notice of the closing date by which ballot forms must be received by the Board.
- (d) Ordinary Members must cast their ballot by returning their ballot forms to the Board by the closing date and by the electronic or other form specified by the Board and ballot forms received after that date or not in the electronic or other form specified by the Board shall be invalid.

Commented [MT9]: This rectifies the incorrect reference in the current Rules of Association

Commented [MT10]: This explicitly states the one exception to when this clause applies and references the clause for when the exception applies

- (e) Except for appointees under rules ~~9.1(e)(1) and (2)~~ 9.1(e) or 9.2(i)(1) and (2), a person is not eligible for election to membership of the Board unless an Ordinary Member has nominated him or her for election in accordance with the directions for making nominations notified by the Board to members.
- (f) The Board may permit or require each or any of the procedures under rules 9.2(c) and (d) including a call for nominations, nominations made, biographical statements or statements of policies provided by nominees, the ballot form and other notifications, and the return of ballots to the Board, to be in any form including electronic or digital.
- (g) A person who is eligible for election, or re-election, under this rule may:
 - (1) nominate himself or herself for election or re-election if he or she is an Ordinary Member, or the nominated representative under rule 5.8 of a body corporate who is an Ordinary Member; and
 - (2) subject to rule 9.2(a), vote for himself or herself.
- (h) If the number of persons nominated for election to Membership of the Board in accordance with these rules does not exceed the number of vacancies in that membership to be filled:
 - (1) the Secretary must report accordingly to; and
 - (2) the Chairperson must declare those persons to be duly elected as Directors at the Annual General Meeting.
- (i) If a vacancy remains on the Board after the application of rule 9.2(h), or when a casual vacancy within the meaning of rule 9.3 occurs in the membership of the Board:
 - (1) the Board may appoint a Member who is duly qualified to fill that vacancy; and
 - (2) a person appointed under this rule will hold office until the expiration of the term of the position that they were appointed to as if they had been an elected Director.
- (j) The Board may delegate, in writing, to one or more sub-committees (consisting of such Members and/or nominated representatives under rule 5.8 of body corporate Members as the Board thinks fit) the exercise of such functions of the Board as are specified in the delegation, other than:
 - (1) the power of delegation; and
 - (2) a function which is a duty imposed on the Board by the Associations Act or any other law.
- (k) Any delegation under rule 9.2(j) may be subject to such conditions and limitations as to the exercise of that function, or as to time and circumstances as are specified in the written delegation, and the Board may continue to exercise any function delegated.
- (l) The Board may, in writing, revoke wholly or in part, any delegation under rule 9.2(j).

Commented [MT11]: This rectifies the incorrect reference in the current Rules of Association

9.3 Casual vacancy in Membership of Board

A casual vacancy occurs in the office of a Director and that office becomes vacant if the Director:

- (a) dies;
- (b) resigns by notice in writing delivered to the Chairperson, or if the Director is the Chairperson, to the Vice-Chairperson and that resignation is accepted by resolution of the Board;
- (c) is convicted of an offence under the Associations Act;
- (d) is permanently incapacitated by mental or physical ill-health;

- (e) is absent from:
 - (1) 3 consecutive Board Meetings; or
 - (2) 3 Board Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Board Meetings, of which meetings the Member received notice, and the Board has resolved to declare the office vacant;
- (f) ceases to be a Member; or
- (g) the subject of a resolution passed by a General Meeting terminating his or her appointment as a Director.

10. CHAIRPERSON AND VICE-CHAIRPERSON

- (a) Subject to this rule, the Chairperson must preside at all General Meetings and Board Meetings.
- (b) In the event of the absence from a General Meeting of:
 - (1) the Chairperson, the Vice-Chairperson; or
 - (2) both the Chairperson and the Vice-Chairperson, a Member elected by the other Members present at the General Meeting, must preside at the General Meeting.
- (c) In the event of the absence from a Board Meeting of:
 - (1) the Chairperson, the Vice-Chairperson; or
 - (2) both the Chairperson and the Vice-Chairperson, a Board Member elected by the other Board Members present at the Board Meeting, must preside at the Board Meeting.

11. SECRETARY

The Secretary must:

- (a) co-ordinate the correspondence of the Association;
- (b) keep full and correct minutes of the proceedings of the Board and of the Association;
- (c) comply on behalf of the Association with:
 - (1) section 53 of the Associations Act with respect to the register of Members, as referred to in rule 8.1;
 - (2) the Associations Act by keeping and maintaining, in an up to date condition, the rules of the Association and, upon the request of a Member of the Association, must make available those rules for the inspection of the Member and the Member may make a copy of, or take an extract from, the rules but will have no right to remove the rules for that purpose; and
 - (3) section 58 of the Associations Act by maintaining a record of:
 - i. the names and contact details of the persons who hold the offices of the Association provided for by these rules, including all offices held by the persons who constitute the Board; and
 - ii. the Secretary must, upon the request of a Member of the Association, make available the record for the inspection of the Member and the Member may make a copy of, or take an extract from, the record but will have no right to remove the record for that purpose.
- (d) unless the Members resolve otherwise at a General Meeting, have custody of all books, documents, records and registers of the Association, including those referred to in paragraph (c) but other than those required by rule 12 to be kept and maintained by, or

in the custody of, the Treasurer; and

- (e) perform such other duties as are imposed by the Association Act or these rules on the Secretary.

12. TREASURER

The Treasurer:

- (a) is responsible for the receipt of all monies paid to, or received on behalf of, the Association;
- (b) must pay all monies referred to in paragraph (a) into such account or accounts of the Association as the Board may from time to time direct;
- (c) shall make payments from the funds of the Association with the authority of a General Meeting, or of the Board, and in so doing ensure that all cheques are signed by himself, or herself, and at least one other authorized Director, or by any two others as are authorized by the Board;
- (d) must comply on behalf of the Association with Part 5 of the Associations Act with respect to the accounting records of the Association by:
 - (1) keeping such accounting records that correctly record and explain the financial transactions and financial position of the Association;
 - (2) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be prepared from time to time;
 - (3) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be conveniently and properly audited; and
 - (4) submitting to Members at each Annual General Meeting of the Association, accounts of the Association showing the financial position of the Association at the end of the immediately preceding Financial Year.
- (e) whenever directed to do so by the Chairperson, shall submit to the Board a report, balance sheet or financial statement in accordance with that direction;
- (f) unless the Members resolve otherwise at a General Meeting, shall have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in paragraphs (d) and (e); and
- (g) shall perform such other duties as are imposed by these rules on the Treasurer.

13. CHIEF EXECUTIVE OFFICER

- (a) The Board may appoint a person to the position of Chief Executive Officer for the period and on the terms (including as to remuneration) the Board sees fit.
- (b) The Board will use its best endeavours to ensure the Chief Executive Officer:
 - (1) declares any interests he or she has in the WCRLF in their application for appointment as Chief Executive Officer and keeps such declaration of interests up to date at all times; and
 - (2) complies with Division 2 of Part 4 of the Associations Act in respect of any matter in which he or she has a direct, or indirect, pecuniary interest as referred to in that Part, as if the Chief Executive Officer is a Director.
- (c) The Board may delegate, in writing, to the Chief Executive Officer the exercise of such functions of the Board as are specified in the delegation other than:

- (1) the power of delegation; and
 - (2) a function which is a duty imposed on the Board by the Act or any other law.
- (d) Any delegation under rule 13(c) may be subject to such conditions and limitations as to the exercise of that function, or as to time and circumstances as are specified in the written delegation, and the Board may continue to exercise any function delegated.
 - (e) The Board may, in writing, revoke wholly or in part any delegation under rule 13(c).
 - (f) The Chief Executive Officer shall not, at any time, be eligible to vote at any Board Meeting and shall be disqualified from being appointed as a Director, but may attend Board Meetings at the discretion of the Board.
 - (g) The Board has the power to appoint and terminate the Chief Executive Officer at any time and on such terms as it determines.

14. PROCEEDINGS OF BOARD

14.1 Frequency of meetings

Subject to agreement or variation of a majority of the Board, the Board must meet together for the dispatch of business of the Association not less than once each 3 months.

14.2 Convening of meetings

The Chairperson, or at least half the Members of the Board, may at any time convene a meeting of the Board.

14.3 Quorum

At a Board Meeting at least ~~five (5) Members~~ **four (4) elected Directors** must be present to constitute a quorum. Proxies held by Director/s will not constitute Director/s for the purpose of being present for the meeting.

Commented [MT12]: This changes quorum to require at least half (4) of the eight (8) elected Directors (who must be an Ordinary Member or Associate Member) to be present in person to constitute a Board meeting. The current rule could be interpreted to allow two (2) Independent Directors and only three (3) elected Directors to make quorum.

14.4 Proxies at Board meetings

A Director (in this rule called “the appointing Director”) may appoint in writing another Director to be the proxy of the appointing Member Director and to attend, and vote on behalf of the appointing Member Director at any Board meeting.

14.5 Voting

Each Director has a deliberative vote on all matters before the Board whether or not relating to the Zone which they represent. The Board will endeavor to determine all resolutions by consensus. In the case of resolutions for which the Chairperson calls for a vote, such resolutions shall be decided by a simple majority. Tied voting leads to the resolution lapsing.

14.6 Board Meetings and Transactions outside Board Meetings

The Board may meet together in person or by telephone or any other contemporaneous electronic communication as they think fit. A Director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.

14.7 Circular Resolutions

- (a) The Chairperson or Chief Executive Officer may cause to be sent a written copy of a resolution to be proposed to all members of the Board notwithstanding that no meeting of the Board has been convened to consider the proposed resolution.
- (b) Subject to paragraph (c) a copy of the resolution in writing proposed under paragraph (a) which has been signed in one or more counterparts by each member of the Board who has voted within five days of receiving a copy of the proposed resolution shall be as valid and effectual as if it had been passed at a meeting of the Board members duly convened and constituted.
- (c) If within the five day period any member of the Board advises the Chairperson or the Chief Executive Officer that he or she objects to the resolution being passed as a circular resolution under this Rule, then the resolution shall not be passed as a circular resolution and the Chairperson or the Executive Officer shall cause a meeting of the Board to be convened to consider the proposed resolution.
- (d) Every circular resolution passed under this Rule shall be placed in the minute book of the Board.

14.8 Pecuniary interest

A Director must comply with sections 21 and 22 of the Associations Act in respect of any matter in which he or she has a direct or indirect pecuniary interest as referred to in those sections.

14.9 Expenses

The Association must reimburse a Director for expenses properly incurred by him or her in connection with the business of the Association and his or her duties as a Director as determined by the Board.

14.10 Indemnity

The Association must indemnify a Director from and against any claim, action, suit, demand, cost, damage, expense and other liability which that Director may suffer or incur in the proper discharge of his or her duties as a Director, except where the claim, action, suit, demand, cost, damage, expense and other liability arises from the Director's own negligence, breach of duty, or willful act or default.

15. GENERAL MEETINGS

15.1 Convening of meetings

The Board:

- (a) may at any time convene a Special General Meeting **in person or by any contemporaneous electronic communication as they think fit. A Member participating in a meeting by electronic communication is to be taken to be present in person at the meeting;**
- (b) must convene Annual General Meetings within the time limits provided for the holding of such meetings by section 50 of the Associations Act; and
- (c) must, within 20 Business Days of receiving a written request from voting Members who represent not less than 5% of the voting Members, convene a Special General Meeting for the purpose specified in that request.

Commented [MT13]: This provides the Board with the option of convening a SGM remotely using technology (eg Zoom videoconferencing) to conduct necessary business involving the Membership where face to face meetings are not possible (eg COVID restrictions/lockdown). The same authority already exists for Board meetings under rule 14.6

15.2 Request for meeting

- (a) The voting Members making a request referred to in rule 15.1 must state in that

signed application the reasons for the request.

- (b) If a Special General Meeting is not convened within the relevant period of 20 Business Days referred to in rule 15.1(c), the Members who made the request concerned, may themselves, convene a Special General Meeting as if they were the Board.
- (c) When a Special General Meeting is convened under rule 15.2(b), the Association must pay the reasonable expenses (notice to Members and venue hire only) of convening and holding the Special General Meeting.

15.3 Notice of meeting

- (a) Subject to rule 15.3(c), and subject to section 52 of the Associations Act the Secretary must give to all Members not less than:
 - (1) 14 days notice of a Special General Meeting; and
 - (2) 14 days notice of an Annual General Meeting; and
 - (3) 21 days notice of a meeting at which a special resolution is proposed to be moved.
- (b) A notice given under rule 15.3(a) must specify:
 - (1) when and where the General Meeting concerned is to be held; and
 - (2) particulars of the business to be transacted at the General Meeting concerned (including any motions to be moved at the meeting) and of the order in which that business is to be transacted; and
 - (3) be given as provided in rule 6.1
- (c) Any notice given in accordance with rule 15.3(a), takes effect from the time it is received and is taken to be received:
 - (1) if sent by email to the email address of the Member (provided by that Member), on the Business Day following the day on which the email was sent;
 - (2) if posted on the Association's website on the Business day following the posting; or
 - (3) if posted on other electronic medium on the day following the posting

15.4 Quorum

- (a) At a General Meeting, Ordinary Members present in person or by proxy who represent not less than 5% of the total Ordinary Members constitute a quorum; an Ordinary Member who is present in person or by proxy who holds multiple Ordinary Memberships under rule 5.2(b) is counted as one Member for each Ordinary Membership held for the purposes of determining a quorum.
- (b) If within 30 minutes after the time specified for the holding of a General Meeting in a notice given under rule 15.3(a) or (c);
 - (1) as a result of a request or notice referred to in rule 15.1(c) or as a result of action taken under rule 15.2(b) a quorum is not present, the General Meeting lapses; or
 - (2) otherwise than as a result of a request, notice or action referred to in paragraph (1), the General Meeting stands adjourned to the same time on the same day in the following week and to the same venue.
- (c) If within 30 minutes of the time appointed by 15.4(b)(2) for the resumption of an adjourned General Meeting a quorum is not present, the Members who are present in person or by proxy may proceed with the business of that General Meeting as if a quorum were present.

15.5 Adjournment

- (a) The Chairperson may, with the consent of a General Meeting at which a quorum is present, and must, if so directed by such a General Meeting, adjourn that General Meeting from time to time and from place to place.
- (b) There must not be transacted at an adjourned General Meeting any business, other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.
- (c) When a General Meeting is adjourned for a period of 20 Business Days or more, the Secretary must give notice under rule 15.3 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.

15.6 Passing of resolutions

At a General Meeting:

- (d) an Ordinary Resolution put to the vote will be decided by a simple majority of votes of Members present in person or by proxy taken in such manner as the Chairperson directs, subject to rules 15.8 and 15.9.
- (e) a Special Resolution put to the vote will be decided in accordance with section 51(1) of the Associations Act and also in accordance with rule 15.9 will be decided by no less than three fourths majority of Ordinary Members present and voting in person or by proxy.
- (f) a declaration by the Chairperson that a resolution has been passed on a show of hands as an Ordinary Resolution will be conclusive evidence of that fact unless, during the General Meeting at which the resolution is submitted, a poll is demanded in accordance with rule 15.8.

15.7 Proxy and representative

- (a) A Member (**Appointing Member**) may appoint a representative who is a natural person to be the proxy of the appointing Member, and to attend and vote on behalf of the appointing Member, at any General Meeting. The appointment shall be in writing and signed by the appointing Member and the Appointing Member shall be taken to be present at the General Meeting.
- (b) A Member which is a body corporate may appoint in writing a natural person to represent it at a particular General Meeting or at all General Meetings and the Member shall be taken to be personally present at the General Meeting or General Meetings.
- (c) The appointment made under rule 15.7(b) must be made by a resolution of the Board, or other governing body, of the corporation concerned and a copy of which resolution is lodged with the Secretary.
- (d) A Member who holds more than one Ordinary Membership under rule 5.2 (b) may appoint a proxy or representative under rule 15.7 (b) for each Ordinary Membership to exercise all the rights of the Member including voting rights of the Member under these rules.

15.8 Poll

- (a) At a General Meeting, a poll may be demanded by the Chairperson or by any voting Member present in person or by proxy and, if so demanded, must be taken in such manner as the Chairperson directs.

- (b) If a poll is demanded and taken under rule 15.8(a), a declaration by the Chairperson of the result of the poll is conclusive evidence of the matter so declared.
- (c) On a show of hands each Ordinary Member present has one vote for each Ordinary Membership held by the Member and for avoidance of doubt a Member holding more than one Ordinary Membership under rule 5.2(b) has one vote for each such Ordinary Membership.
- (d) A poll demanded under rule 15.8(a) must be taken immediately on that demand being made.

15.9 Voting rights

- (a) At any General Meeting a resolution by the vote of the meeting shall be decided on a show of hands of Ordinary Members unless a poll is demanded under rule 15.8(a).
- (b) In the case of equality in the votes, whether on a show of hands or on a poll, the question is determined in the negative.
- (c) On a show of hands each Ordinary Member present has one vote for each Ordinary Membership held by the Member and for avoidance of doubt a Member holding more than one Ordinary Membership under rule 5.2(b) has one vote for each such Ordinary Membership.
- (d) On a poll, each Ordinary Member present has one vote for each Ordinary Membership held by the Member and for avoidance of doubt a Member holding more than one Ordinary Membership under rule 5.2(b) has one vote for each such Ordinary Membership. The voting entitlement set out in the Register of Members maintained by the Secretary and the Register shall be as provided in this rule and shall be conclusive proof of that voting entitlement.
- (e) In the case of joint voting Members, if more than one of the joint voting Members purports to vote then only the vote of the voting Member whose name appears first in the register of Members counts.

16. MINUTES OF MEETINGS

16.1 Proper minutes

The Secretary must cause proper minutes of all proceedings of all General Meetings and Board Meetings to be taken and accepted as true and correct at the next meeting.

16.2 Responsibilities of Chairperson

The Chairperson must ensure that the minutes taken at a General Meeting or Board Meeting, under rule 16.1, are checked and signed as correct by the Chairperson of the General Meeting or Board Meeting to which those minutes relate, or by the Chairperson of the next succeeding General Meeting or Board Meeting, as the case requires.

16.3 Minutes prima facie evidence

When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:

- (a) the General Meeting or Board Meeting to which they relate (in this rule called **the meeting**) was duly convened and held;
- (b) all proceedings recorded as having taken place at the meeting did in fact take place at the

meeting; and

- (c) all appointments or elections purporting to have been made at the meeting have been validly made.

17. COMMON SEAL OF ASSOCIATION

- (a) The Association may have a Common Seal that shall be kept in the custody of the Secretary and shall not be used without the authority of the Board. Any two Directors or a Director and the Secretary shall witness the affixing of the Seal and the use of the Seal shall be recorded in the Minute Book.
- (b) The Association may execute a document without using a common seal if the document is signed by:
 - (1) 2 Directors; or
 - (2) one Director and a person authorised by the Board; or
 - (3) in the manner authorised by the Board by the Chief Executive Officer or other person duly authorised by the Board.

18. ANNUAL SUBSCRIPTION

18.1 Notice of annual subscription

Before, or as soon as practicable after the commencement of each Financial Year, the Board will give each Member notice in writing of the annual subscription (if any) payable by the Member (**Contribution Notice**). In the case of a nil (\$0) subscription there is no requirement to send a notice to Members.

18.2 Payment

A Member must pay to the Association the annual subscription in the amount specified in the Contribution Notice at the time the Board specifies.

18.3 Other charges

The Board may at any time, from time to time, set and levy a fee or charge to Members in addition to the annual subscription by sending to Members a notice specifying the fee or charge payable. A Member must pay the fee or charge in respect of the amount determined under this rule to the Association at the time the Board specifies.

19. RULES OF ASSOCIATION

- (a) The Association may alter or rescind these rules, or make rules additional to these rules, as per rule 15.6.
- (b) These rules bind every Member and the Association to the same extent as if every Member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

20. INSPECTION OF RECORDS ETC. OF ASSOCIATION

A Member may, at any reasonable time during business hours, inspect at the office of the Association without charge, the books, documents, records and securities of the Association.

21. DISPUTES AND MEDIATION

- (a) The dispute procedure set out in this rule applies to disputes under these rules between:
 - (1) a Member and another Member; or
 - (2) a Member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and if possible, resolve the dispute within 10 Business Days of one party to the dispute giving written notice to the other that a dispute has arisen (**Dispute Notice**).
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must within 20 Business Days of the giving of a Dispute Notice, hold a meeting in the presence of a mediator.
- (d) The mediator must be a person chosen by agreement between the parties, or in the absence of agreement:
 - (1) in the case of a dispute between a Member and another Member, a person appointed by the Board;
 - (2) in the case of a dispute between a Member and the Association, a person who is a mediator appointed by the Supreme Court of Western Australia.

The mediator may be a Member of the Association but cannot be a Member who is a party to the dispute.
- (e) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (f) In conducting the mediation, the mediator must:
 - (1) give the parties to the mediation process every opportunity to be heard;
 - (2) allow due consideration by all parties of any written statement submitted by any party; and
 - (3) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (g) The mediator must not determine the dispute.
- (h) The mediation must be confidential and without prejudice.
- (i) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Associations Act or otherwise at law.
- (j) The cost of mediation is to be shared by both parties or as otherwise agreed by the parties.

22. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF ASSOCIATION

- (a) If upon the cancellation of the incorporation or the winding up of the Association there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same must not be paid to or distributed among the Members, or former Members.
- (b) On the voluntary cancellation of the incorporation or the winding up of the Association

under Division 1 of Part 10 of the Associations Act, surplus property must be distributed as determined by a distribution plan approved by special resolution of the Association and approved by the Commissioner and in any other case as provided by the Associations Act.

- (c) In this rule, surplus property, in relation to the Association, means property remaining after satisfaction of:
 - (1) the debts and liabilities of the Association; and
 - (2) the costs, charges and expenses of winding up or cancelling the incorporation of the Association but does not include books relating to the management of the Association.