



Waterside Residents' Association Inc.

PO Box 905, Mandurah WA 6210 | www.watersideresidents.asn.au | Secretary@watersideresidents.asn.au

RULES OF THE ASSOCIATION

To be adopted at the AGM on 29.09.2019

A. NAME

The name of the Association is WATERSIDE RESIDENTS' ASSOCIATION INC.

B. OBJECTS

The objects of the Association are: -

1. To represent the ratepayers in matters pertaining to the amenities, environment, safety and security of the Waterside estate.
2. To support and encourage the maintenance of standards throughout the Waterside estate.
3. To liaise and foster good working relations with Government, Local and Statutory Authorities, and other relevant bodies.

Commented [S1]: "Safety and security" are not specifically included in current Objects.

4. To promote a supportive, inclusive and vibrant community.

Commented [S2]: A new object.

C. GENERAL MEETING QUORUM

Any 30 members personally present (being members entitled to vote under these rules at a general meeting) will constitute a quorum for the conduct of business at a general meeting.

Commented [S3]: Changed from 20 to 30 as all rate payers are automatically members so the number of members will be greater.

D. COMMITTEE MEETING QUORUM

At least 4 of the current committee members must be present to agree the business of a committee meeting.

Commented [S4]: Currently the committee quorum is 50% of a minimum of 8 members and a maximum of 10 members, so 50% of 9 would be 4.5!!

E. FINANCIAL YEAR

The Association's financial year is the 12 month period commencing 1st July and ending 30th June of each year.

SECTION 1 - PELIMINARY

1. Terms used

In these rules, where gender specific words are mentioned, they are considered to mean either gender. Unless the contrary intention appears —

"Act" means the Associations Incorporation Act 2015;

"annual general meeting" is a "general meeting" convened annually that all members are entitled to attend;

"appointing member" is a member who may appoint in writing another member to attend and vote on behalf of the appointing member at a general meeting.

"Association" means the incorporated association known as Waterside Residents' Association Inc. to which these rules apply;

"books" of the Association, include the register of members, financial records, financial statements/reports, documents, certificates, minutes and any other record of information however compiled, recorded or stored;

"by-laws" means by-laws made by the Association;

"chairman" means the appointed manager of a meeting of the Association, which in most cases would be the president or vice-president;

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

"committee" means the management committee of the Association;

"committee meeting" means a meeting of the committee;

"committee member" means a member of the committee who must be a member of the Association;

"committee resolution" means a resolution passed by the committee members at a committee meeting, that may be reviewed or replaced from time to time;

"convene" means to call together a formal meeting;

“co-opted committee member” means a person co-opted to the committee by ordinary resolution of the committee but who does not have a vote on the committee;

“department” means the government department responsible for administering the Act;

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

“grievance procedure” means the procedures set out in this constitution;

“in writing” means by post, facsimile or electronic mail.

“member” means a ratepayer who by owning property in the agreed area covered by the Waterside Canal Estate precinct as determined by ordinary resolution of the committee, jointly or singularly has paid due residential rates that are levied annually by the City of Mandurah;

“ordinary committee member” means a committee member who is not an office holder of the Association;

“party to a dispute” includes a person who is party to the dispute and who ceases to be a member within 6 months before the dispute has come to that attention of each person party to the dispute;

“poll” means voting conducted in written form (as opposed to a show of hands);

“president” means the committee member holding office as the president of the Association;

“proxy” means a member who has been appointed by a member to vote on his behalf at any meeting of the Association;

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

“rules” means these rules of the Association, as in force for the time being;

“secretary” means the committee member holding office as the secretary of the Association;

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

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

“specified area rate” is a levy on ratepayers collected annually to pay for and provide a reserve for expenditure that is directly related to canal management and maintenance;

“subcommittee” means a subcommittee appointed by the committee;

“surplus property” means property remaining after the debts and liabilities of the Association have been settled, and 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;

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

“treasurer” means the committee member holding office as the treasurer of the Association.

2. Not-for-profit body

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

SECTION 2 - MEMBERSHIP

3. Membership

- (1) Membership is automatic to owners of property, in the boundary determined by committee resolution, who have paid residential rates to the City of Mandurah on one or more properties within the association's boundary during that financial year.
- (2) All members shall abide by these rules.
- (3) No member shall assign or transfer any of the rights, privileges or benefits of membership except by proxy.
- (4) A person ceases to be a member when they stop paying rates on a property in the defined boundary.
- (5) A member may opt out of automatic membership of the Association by giving written notice to the secretary.

Commented [S5]: This simplifies membership, negates the collection of subscriptions, and includes everyone in our defined community.

4. Membership fees

The committee may decide at any time if a membership fee is to be charged to members and set the level of that fee.

Commented [S6]: An Annual General Meeting is required to confirm fees (refer to paragraph 21). As membership is now to be automatic to all rate payers, no membership fee will be required. However, a small administration fee for the running of the Association is proposed to be included in the City of Mandurah rates and paid to the Association committee.

5. Register of members

- (1) The secretary, or another person authorised by the committee, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.
- (3) If a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or makes a written request under section 56(1) of the Act to be provided with a copy of the register of members, the committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

SECTION 3 - COMMITTEE

6. Committee

- (1) The committee members consist of:
 - (a) 4 officers: president, vice-president, secretary, treasurer;
 - (b) At least 1, and up to 6, elected ordinary committee members;
 - (c) Up to 4 co-opted committee members.
- (2) A person must not hold more than one office mentioned in sub-rule (1a) at the same time.
- (3) A member becomes a committee member if the member is:
 - (a) elected to the committee at a general meeting; or
 - (b) co-opted to the committee by the committee to fill a casual vacancy under Rule 38 of the Act.
- (4) The committee must meet at least 3 times in each year on the dates and at the times and places determined by the committee.
- (5) Committee meetings may be convened by the president or any 2 committee members.

Commented [S7]: Currently the committee must have at least 8 overall members. The new ruling will reduce the minimum total number of committee members required to 5, which will make it easier for a functioning committee to be formed.

- (6) Notice of each committee meeting must be given to each committee member at least 48 hours before the time of the meeting and must state the date, time and place of the meeting and must describe the general nature of the business to be conducted.
- (7) Each committee member has a deliberate vote.
- (8) A motion arising at a committee meeting shall be decided by a majority of votes, but, if there is an equality of votes, the member chairing the committee meeting shall have a casting vote in addition to his deliberate vote.
- (9) At a committee meeting a majority of extant committee members constitutes a quorum.
- (10) In the absence of a quorum, business may be discussed and proposed, but not agreed.
- (11) If the following committee meeting does not reach a quorum within 30 minutes after the commencement time, and at least 4 committee members are present at the meeting, then those members present are taken to constitute a quorum.
- (12) Subject to these rules, the procedure and order of business to be followed at a committee meeting shall be determined by the committee members present at the committee meeting.

7. President

- (1) It is the duty of the president to consult with the secretary regarding the business to be conducted at each committee meeting and general meeting.
- 2) The president has the powers and duties relating to convening and presiding at committee meetings and presiding at general meetings provided for in these rules.
- (3) When the president is not available those duties are to be delegated to the vice-president, the secretary or an elected member of the committee.

8. Secretary

The secretary has the following duties —

- (a) dealing with the Association's correspondence;
- (b) consulting with the president regarding the business to be conducted at each committee meeting and general meeting;
- (c) preparing the notices required for meetings and for the business to be conducted at meetings;
- (d) unless another member is authorised by the committee to do so, maintaining on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (e) maintaining on behalf of the Association an up-to-date copy of these rules, as required under section 35(1) of the Act;
- (f) unless another member is authorised by the committee to do so, maintaining on behalf of the Association a record of committee members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
- (g) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (h) maintaining full and accurate minutes of committee meetings and general meetings;
- (i) carrying out any other duty given to the secretary under these rules or by the committee.

9. Treasurer

The treasurer has the following duties —

- (a) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (b) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the committee;
- (c) ensuring that any payments to be made by the Association that have been authorised by the committee or at a general meeting are made on time;
- (d) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (e) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (f) Coordinating the preparation of the Tier 1 Association's financial statements before their submission to the Association's annual general meeting;
- (g) providing any assistance required by any auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
- (h) carrying out any other duty given to the treasurer under these rules or by the committee.

10. Nomination of committee members

- (1) At least 28 days before an annual general meeting, the secretary must send written notice to all the members calling for nominations for election to the committee.
- (2) A member who wishes to be considered for election to the committee at the annual general meeting must nominate for election by providing written notice of the nomination to the secretary before the start of the election at the annual general meeting.
- (3) The written notice must include a statement by another member in support of the nomination.

Commented [S8]: Currently signed nominations must be received by the secretary at least 14 days before the date of the AGM.

11. Election of committee members

- (1) Members who are eligible for election may nominate or second themselves for election, and vote for themselves.
- (2) At the start of the election process all positions are declared vacant and the secretary will read out the nominations received.
- (3) If the number of persons nominated for election to membership of the committee does not exceed the number of vacancies to be filled, they shall all be declared elected.
- (4) If fewer than 10 nominations have been received then the secretary will ask if there are any other nominations.
- (5) If more than 10 nominations have been received, then a person who is not seeking election will be appointed to conduct a poll.

12. Term of office

- (1) The term of office of a committee member begins when the member —
 - (a) is elected at an annual general meeting; or
 - (b) is co-opted to fill a casual vacancy.

(2) Committee members hold office until the positions on the committee are declared vacant at the next annual general meeting.

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

13. Resignation and removal from office

(1) A committee member may resign from the committee by written notice given to the president or secretary.

(2) The resignation takes effect —

(a) when the notice is received by the secretary or president; or

(b) if a later time is stated in the notice, at the later time.

(3) At a general meeting, the Association may by resolution —

(a) remove a committee member from office; and

(b) elect a member who is eligible to fill the vacant position.

(4) A committee member who is the subject of a proposed resolution under sub-rule (3)(a) may make written representations (of a reasonable length) to the secretary or president and may ask that the representations be provided to the members.

(5) The secretary or president may give a copy of the representations to each member or, if they are not so given, the committee member may require them to be read out at the general meeting at which the resolution is to be considered.

14. When membership of committee ceases

(1) A person ceases to be a committee member if the person —

(a) dies or otherwise ceases to be a member; or

(b) resigns from the committee or is removed from office at a general meeting; or

(c) becomes ineligible to accept an appointment or act as a committee member under section 39 of the Act;

(d) becomes permanently unable to act as a committee member because of a mental or physical disability; or

(e) fails to attend 3 consecutive committee meetings, of which the person has been given notice, without having notified the committee that the person will be unable to attend.

(2) When a person ceases to be a member of the committee, section 41 of the Act requires that person to, as soon as practicable after their membership ceases, deliver to a member of the committee all of the relevant documents and records they hold pertaining to the management of the association's affairs.

15. Filling casual vacancies

(1) The committee may appoint a member to fill a position on the committee that has become vacant, or was not filled by election at the most recent annual general meeting.

(2) If the position of secretary becomes vacant, the committee must appoint a member who is eligible to fill the position within 14 days after the vacancy arises.

(3) Subject to the requirement for a quorum, the committee may continue to act despite any vacancy in its membership.

(4) If there are fewer committee members than required for a quorum, the committee may act only for the purpose of —

- (a) appointing committee members under this rule; or
- (b) convening a general meeting.

16. Sub-Committees

- (1) The committee may appoint a sub-committee to discuss a matter
- (2) A sub-committee may consist of non-members as the committee deems appropriate
- (3) The sub-committee has no rights and must report back to the committee for approvals

17. Validity of acts

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

18. Payments to committee members

A committee member is entitled to be paid out of the funds of the Association for out-of-pocket expenses in connection with the Association's business, as authorised by the committee.

SECTION 4 – GENERAL MEETINGS

19. Presiding member and quorum for general meetings

- (1) The president or, in the president's absence, the vice president must chair each general meeting.
- (2) If the president and vice president are absent or are unwilling to chair a general meeting, the committee members at the meeting must choose one of them to chair the meeting.
- (3) In the absence of a quorum, business may be discussed and proposed, but not agreed.
- (4) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting —
 - (a) in the case of a special general meeting — the meeting lapses; or
 - (b) in the case of the annual general meeting — the meeting is adjourned to —
 - (i) the same time and day in the following week; and
 - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (5) If -
 - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under sub-rule (4)(b); and
 - (b) at least 5 ordinary members are present at the meeting, then those members present are taken to constitute a quorum.

20. Voting at general meetings

(1) Each ratable property, to a maximum of 2 votes per ratable property, is entitled to a deliberate vote on any motion at a general meeting either in person or by proxy.

(2) A member (in this rule called “the appointing member”) may appoint in writing another member to be the proxy of the appointing member and to vote on behalf of the appointing member at the general meeting.

(3) A copy of the proxy authorisation document detailing which proposals can be voted upon must be signed by the appointing member and given to the secretary before the commencement of the general meeting.

(4) A motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion, unless it is a special resolution which must be passed by a majority of no less than three-quarters of the vote.

(5) If votes are divided equally on a motion, the person chairing the meeting has a second or casting vote.

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

Commented [MH9]: Currently each paid up member has a single vote, the new ruling will allow a vote for each member, to a maximum of 2 votes per ratable property.

21. Annual general meeting

(1) The committee must determine the date, time and place of the annual general meeting to be held in each calendar year within 5 months of the end of the financial year;

(2) The ordinary business of the annual general meeting is as follows —

(a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed;

(b) to receive and consider —

i. the committee’s annual report on the Association’s activities during the preceding financial year;

ii. the financial statements of the Tier 1 Association for the preceding financial year presented under Part 5 of the Act.

(c) to elect the committee members;

(d) to confirm or vary the fees (if any) to be paid by members.

(3) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

22. Special general meetings

(1) The committee may convene a special general meeting.

(2) The committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.

(3) The members requiring a special general meeting to be convened must —

(a) make the requirement by written notice given to the secretary; and

(b) state in the notice the business to be considered at the meeting; and

(c) each sign the notice.

(4) The special general meeting must be convened within 28 days after notice is given under sub-rule (3)(a).

(5) If the committee does not convene a special general meeting within that 28 day period, the members making the requirement (or any of them) may convene the special general meeting.

(6) A special general meeting convened by members under sub-rule (5) —

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

23. Notice of general meetings

- (1) The secretary or, in the case of a special general meeting convened under rule 21(5), the members convening the meeting, must give to each member —
- (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting;
 - or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must —
- (a) specify the date, time and place of the meeting;
 - (b) indicate the general nature of each item of business to be considered at the meeting, and if a special resolution is proposed, it must be stated as such and described as required by section 51(4) of the Act.
 - (c) be served on a member personally or sent by post, fax or email to a member at the address of the member appearing in the Register of Members kept and maintained under the Act.

24. Proxies

- (1) A member may appoint an individual who is also a member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) A member may be appointed the proxy for not more than 5 other members.
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (1) A document appointing a proxy must be given to the secretary before the commencement of the general meeting for which the proxy is appointed.

SECTION 5 – GENERAL MATTERS

25. Use of technology at committee meetings

- (1) The attendance of a member at a meeting need not be attendance in person and can be in attendance electronically by way of simultaneous contact by phone or other instantaneous communication.
- (2) A member who participates in a meeting under sub-rule (1) is taken to be present at the meeting and if voting is taken to have voted in person.

26. Finance

- (1) The funds of the Association may be derived from sources approved by the committee.

Commented [S10]: This is a new rule which is not covered in the current constitution, and reflects the increasing role of communication technologies.

- (2) The Association must have a bank account in the name of the Association from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (3) Subject to any restrictions imposed at a general meeting, the committee may approve expenditure on behalf of the Association.
- (4) All expenditure must be signed by 2 committee members.
- (5) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.
- (6) For each financial year, the committee must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.

27. Distribution of surplus property on cancellation of incorporation or winding up

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

28. Alteration of rules

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

29. By-laws

The Association may, by resolution at a general meeting, make, amend or revoke by-laws.

30. Executing documents and common seal

- (1) If the Association has a common seal —
 - (a) the name of the Association must appear in legible characters on the common seal; and
 - (b) a document may only be sealed with the common seal by the authority of the committee and in the presence of 2 committee members, and each of them is to sign the document to attest that the document was sealed in their presence.
- (2) The Association may execute a document without using a common seal if the document is signed by 2 committee members.
- (3) The secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept in the custody of the secretary or another committee member authorised by the committee.

31. Custody of books and securities

- (1) The books, the record of committee members and any securities of the Association must be kept in the secretary's custody or under the secretary's control, except as otherwise decided by the committee.
- (2) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the treasurer's custody or under the treasurer's control, except as otherwise decided by the committee.

(3) The books of the Association must be retained for at least 7 years.

32. Inspection of records and documents

- (1) A member may contact the secretary to inspect, at any reasonable time and without charge, the books, register of members, records of office holders, securities and other assets of the Association.
- (2) The member may make a copy of or take an extract from a record or document referred to in subrule (1) but does not have a right to remove the record or document for that purpose.
- (3) The secretary will safeguard the privacy of members' email addresses and any other personal or private information.
- (4) The member must not use or disclose information in a record or document referred to in sub-rule (1) except for a purpose –
- (a) that is directly connected with the affairs of the Association
 - (b) that is related to complying with a requirement of the Act

33. Publication by committee members of statements about Association business prohibited

A committee member must not publish or otherwise share any statement about the business conducted by the Association at a general meeting or committee meeting unless –

- (a) the committee member has been authorised to do so at a committee meeting; and
- (b) the authority given to the committee member has been recorded in the minutes of the committee meeting at which it was given.

SECTION 6 – DISCIPLINARY ACTION

34. Suspension or expulsion

- (1) The committee may decide to suspend a member's membership or to expel a member from the Association if –
- (a) the member contravenes any of these rules; or
 - (b) the member acts detrimentally to the interests of the Association.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the committee meeting at which the proposal is to be considered by the committee.
- (3) The notice given to the member must state –
- (a) when and where the committee meeting is to be held; and
 - (b) the grounds on which the proposed suspension or expulsion is based; and
 - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion;
- (4) At the committee meeting, the committee must –
- (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and

Commented [S11]: Not included in current constitution.

Commented [S12]: Not included in current constitution.

(b) give due consideration to any submissions so made; and

(c) decide —

(i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or

(ii) whether or not to expel the member from the Association.

(5) A decision of the committee to suspend the member's membership or to expel the member from the Association takes immediate effect.

(6) The committee must give the member written notice of the committee's decision, and the reasons for the decision, within 7 days after the committee meeting at which the decision is made.

(7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Committee's decision under sub-rule (6), give written notice to the secretary requesting the appointment of a mediator.

(8) If notice is given under sub-rule (7), the member who gives the notice and the committee are the parties to the mediation.

35. Consequences of suspension

(1) During the period a member's membership is suspended, the member —

(a) loses any rights (including voting rights) arising as a result of membership; and

(b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.

(2) When a member's membership is suspended, the secretary must record in the register of members —

(a) that the member's membership is suspended; and

(b) the date on which the suspension takes effect; and

(c) the period of the suspension.

(3) When the period of the suspension ends, the secretary must record in the register of members that the member's membership is no longer suspended.

36. Resolving disputes

(1) The grievance procedure applies to disputes between members, or between one or more members and the Association.

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

(3) If the parties to a dispute are unable to resolve the dispute between themselves within 14 days, any party to the dispute may start the grievance procedure by giving written notice to the secretary of —

(a) the parties to the dispute; and

(b) the matters that are the subject of the dispute.

(4) Within 28 days after the secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.

(5) The secretary must give each party to the dispute written notice of the committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

(6) The notice given to each party to the dispute must state —

(a) when and where the committee meeting is to be held; and

(b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute.

(7) If —

- (a) the dispute is between one or more members and the Association; and
- (b) any party to the dispute gives written notice to the secretary stating that the party —
 - (i) does not agree to the dispute being determined by the committee; and
 - (ii) requests the appointment of a mediator, the committee must not determine the dispute.

37. Determination of dispute by committee

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

38. Mediation

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator by an individual member or by a party.
- (2) If this Division applies, a mediator must be chosen or appointed.
- (3) The mediator must be a person chosen by agreement between -
 - (a) the Member and the committee if the appointment of a mediator was requested by an individual member; or
 - (b) the parties to the dispute if the appointment of a mediator was requested by a party to a dispute.
- (4) If there is no agreement in the chosen mediator, then the committee must appoint the mediator.
- (5) The person appointed as mediator by the committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre.
- (6) The person appointed as mediator by the committee may be a member or former member of the Association but must not —
 - (a) have a personal interest in the matter that is the subject of the mediation; or
 - (b) be biased in favour of or against any party to the mediation.

39. Mediation process

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must —
 - (a) give each party to the mediation every opportunity to be heard; and

(b) allow each party to the mediation to give due consideration to any written statement given by another party; and

(c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.

(4) The mediator cannot determine the matter that is the subject of the mediation.

(5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.

(6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

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