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**The Royal Western Australian Historical Society (Inc.)
trading as History West**

Constitution

Adopted: ???

ABN 43 607 110 473

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PART 1 — PRELIMINARY

1. Terms used

In these rules, unless the contrary intention appears —

ACNC means the Australian Charities and Not-for-profits Commission

Act means the *Associations Incorporation Act 2015 (WA)*;
In accordance with the Model Rules and in current Constitution

annual general meeting means the annual general meeting as defined under these rules;
In accordance with the Model Rules and in current Constitution

Affiliated Society means a member referred to in Rule 87 in these rules.
Special provision of the Society in accordance with current Constitution

Association means the incorporated association to which these rules apply and which is designated as the Society;
Added from the Model Rules

Auxiliary means the auxiliary which has been established by the Council of the Society in accordance with rule 86

body corporate means any body incorporated under Commonwealth or Western Australian corporations law or the *Associations Incorporation Act 2015 (WA)*;
Added from current Constitution.

books, of the Society, includes the following —

- (a) a register of members;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

Definition added from the Model Rules with the above slight modification.

by laws means by-laws made by the Society under these rules;
Definition added from the Model Rules

Chairperson of Council hereinafter referred to as 'the Chairperson', means Chairperson of Council referred to in Part 5, Division 5;
From current Constitution and is additional to the Secretary in the Model Rules

Commissioner means the person for the time being designated as the Commissioner under section 153 of the Act;
From Model Rules and current Constitution

committee means a committee appointed by the Council.
From the Model Rules with 'Committee' replacing 'Subcommittee'

Council means the management council of the Society referred to in Part 5, Division 5;
In current Constitution and replaces 'committee' in the Model Rules.

Council meeting means a meeting of the Council;
In current Constitution and replaces 'committee meeting' in the Model Rules.

Councillor means a member of the Council;
In current Constitution and replaces 'committee member' in the Model Rules.

Executive has the meaning given by Part 5B

Not defined and specifically described in the current Constitution. This omission should be corrected.

financial records includes —

- a. invoices, receipts, orders for the payment of money, bills of exchange, cheques, electronic fund transfer, promissory notes and vouchers; and
- b. documents of prime entry; and
- c. working papers and other documents needed to explain —
 - (i) the methods by which financial statements are prepared; and
 - (ii) adjustments to be made in preparing financial statements;

Added from Model Rules

financial report, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

Added from Model Rules

financial statements means the financial statements in relation to the Society required under Part 5 Division 3 of the Act;

Added from Model Rules

financial year, of the Society, has the meaning given in rule 3;

Added from Model Rules

general meeting, of the Society, means a meeting of the Society that all members are entitled to receive notice of and to attend as set out in Part 6;

From current Constitution and Model Rules

History West is the business and trading name of the Society;

member means a person (including a body corporate) who is a member of the Society in accordance with Part 3 of these rules;

From current Constitution and Model Rules

ordinary Council member means a Councillor member who is elected as an ordinary Councillor in accordance with Part 3, Division 3;

Added from Model Rules with 'Councillor' replacing 'Committee member'

ordinary resolution means a resolution other than a special resolution;

From current Constitution

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

From current Constitution

President means the Council member holding office as the President of the Society in accordance with these rules;

From current Constitution and replaces Chairperson in the Model Rules

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

Added from Model Rules

rules means these rules of the Society, as in force for the time being;

Added from Model Rules

Secretary means the Councillor holding office as the Secretary of the Society in accordance with these rules;

This office is a newly requested proposal for consideration by Council.

Society means the incorporated association to which these rules apply, namely The Royal Western Australian Historical Society (Inc.);

A specific definition is not in the current Constitution although it is referred to under the Name of the Association. It is added here for clarity.

special general meeting means a general meeting of the Society (other than the annual general meeting) convened in accordance with these rules;

From current Constitution and Model rules and amended in accordance with the latter.

special resolution means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;¹

From current Constitution and amended in accordance with the Model Rules

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

From Model Rules

tier 2 association means an incorporated association to which section 64(2) of the Act applies;

From Model Rules

tier 3 association means an incorporated association to which section 64(3) of the Act applies;

From Model Rules

Treasurer means the Councillor holding office as the Treasurer of the Society in accordance with these rules;

From current Constitution and Model Rules

Vice-Chairperson of Council, means the Vice-Chairperson of Council referred to in these rules;

From current Constitution. There is no provision for such an office bearer in the Model Rules.

Vice-President means a Vice-President referred to in accordance with these rules.

From current Constitution.

There is no provision for such an office bearer in the Model Rules.

2. Name and office

(1) The name of the Association to which these rules apply is The Royal Western Australian Historical Society (Inc.), which also carries on its activities under the name History West.

(2) The office of the Society is situated at Stirling House, 49 Broadway Nedlands Western Australia 6009, or such other place as the Council of the Society may determine.

This rule is not in the Model Rules

3. Financial year

The financial year of the Society commences on 1st July and ends on 30th June of the following year.

From the current Constitution and is in accordance with the Model Rules

¹ Requirements for special resolution (1) For the purposes of this Act, a resolution is a special resolution if it is passed — (a) at a general meeting of an incorporated association; and (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting. (2) A person is taken to cast a vote at a general meeting as mentioned in subsection (1) if the person has a right under the rules of the association to vote on the resolution and — (a) votes in person at the meeting; or (b) where proxies or postal votes are allowed by the rules of the association, votes on the resolution by proxy or postal vote. (3) Before the general meeting, written notice of — (a) the proposed special resolution; and (b) the time and place of the general meeting at which it is proposed to move the resolution, must be given, as required under the rules of the incorporated association, to each member of the association. (4) The notice must set out the wording of the proposed special resolution. (5) If notice is not given in accordance with subsections (3) and (4) the special resolution has no effect.

PART 2 — THE SOCIETY

4. Not-for-profit body

- (1) The Society is a not-for-profit incorporated association under the Act.
- (2) The property and income of the Society must be applied solely towards the promotion of the objects or purposes of the Society 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.
- (3) A payment may be made to a member out of the funds of the Society only if it is authorised under subrule (4).
- (4) A payment to a member out of the funds of the Society is authorised if it is —
 - a. the payment in good faith to the member as reasonable remuneration for any services provided to the Society, or for goods supplied to the Society, in the ordinary course of business; or
 - b. the payment of interest, on money borrowed by the Society from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
 - c. the payment of reasonable rent to the member for premises leased by the member to the Society; or
 - d. the reimbursement of reasonable expenses properly incurred by the member on behalf of the Society.

From the Model Rules

5. Object and functions of the Society

- (1) The object of the Society is to encourage the study, writing and enjoyment of the history of Western Australia in all its cultural diversity.
- (2) In order to achieve its object, the Society may establish structures and ensure resourcing to facilitate the following functions and activities:
 - a. collecting, classifying and preserving records, artefacts and oral histories;
 - b. maintaining a library of historical publications, documents, photographs and other images;
 - c. maintaining a museum, including the presentation of displays and exhibitions;
 - d. publishing, including a journal and a newsletter;
 - e. disseminating information to members and the wider community;
 - f. maintaining a retail outlet, particularly a bookshop;
 - g. arranging social events, including tours and visits to historical sites, for members and the wider community;
 - h. stimulating community interest and support;
 - i. encouraging the formation of historical societies throughout Western Australia having similar interests with a view to affiliation with the Society;
 - j. founding, subsidising or contributing to scholarships or prizes to promote this object;
 - k. conducting competitions to encourage the study of Western Australian history;
 - l. promoting the commemoration of historical events, personalities and places;
 - m. co-operating with the National Trust of Western Australia and any other bodies having aims similar to those of the Society; and
 - n. initiating projects and processes incidental to any of the above functions and activities.
- (3) The Society, in its policies, practices, structures and programs, is bound by the following cultural inclusion principles:
 - a. the Society shall reflect, promote and provide an environment which is free from all forms of discrimination, where all persons are treated with respect and, subject to restrictions which are imposed by the law, are free to express in writing or in speech a wide diversity of views ; and

- b. the Society shall encourage the presentation of histories which address the historical aspects of the impact of cultural, social, economic and environmental policies on Western Australians regardless of their race, colour, creed, religion, gender or political beliefs.
- (4) The Society shall develop and implement strategies to encourage Aboriginal and Torres Strait Islander individuals and groups to record their histories and preserve their built and movable heritage and in so doing fully embrace the principles of cultural inclusion.

From the current Constitution with the recommendation that the introductory sentence be amended as shown above.

6. Powers of the Society

The Society may do all things necessary or convenient for carrying out its object, and in particular, may:

- a. acquire, hold, purchase, lease, hire, deal with and dispose of any real or personal property;
- b. sell, manage, lease, exchange, hire, mortgage, charge, dispose of or deal otherwise with any assets of the Society;
- c. open, close and operate bank accounts;
- d. invest its money:
 - i. in any security in which trust moneys may be lawfully invested; or
 - ii. in any other manner authorised by the rules of the Society;
- e. borrow money upon such terms and conditions as the Society thinks fit;
- f. give such security for the discharge of liabilities incurred by the Society as the Society thinks fit;
- g. appoint agents to transact any business of the Society on its behalf;
- h. enter into any contract it considers necessary or desirable;
- i. act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or the rules of the Society;
- j. appoint a trustee or trustees personal or corporate to receive and hold any property on behalf of the Society and to allow any such property to remain in control of such trustee or trustees;
- k. provide, maintain, manage and carry on the principal office of the Society in the course of the undertaking of its object;
- l. construct, maintain and alter any houses, buildings or works necessary or convenient for the purposes of the Society;
- m. take such steps by personal or written appeals, public appeals, meetings or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Society or to any particular fund established by the Society;
- n. establish, either by itself or through another eligible body, a fund or funds designated by name or record of the Society, including funds that enable donors to obtain benefits under Australian taxation legislation, for a particular purpose or the attainment of a particular objective, and to seek contributions to such fund or funds by donations, allocation of part or the whole of incoming subscriptions, or otherwise according to the object of the Society;
- o. enter into arrangements which enable at law donors of artefacts, art works, photographs, or documents to obtain benefits under Australian taxation legislation;
- p. incur liability and undertake an obligation of or incidental to the object of the Society;
- q. engage and dismiss employees, contractors and advisers to support the Society in addressing its object and in accordance with agreed terms of engagement and dismissal or similar;
- r. may make by-laws as provided by these rules; and
- s. delegate a function or functions in accordance with these rules.

From the current Constitution with the addition of rule 6(r)&(s).

PART 3 — MEMBERS²,

Division 1 — Membership^{3,4}

7. Eligibility for membership⁵

- (1) The Society must comply with all legal and regulatory obligations that may apply to the Society under any other law when assessing eligibility of an applicant for membership.

Added: From Guidance Notes in Model Constitution

- (2) Membership of the Society is open to any individual or such incorporated body under the Act, body corporate, government agency or group as the Council shall determine from time-to-time subject to these rules and who or which agrees with the object of the Society.

From the current Constitution-Rule 5.1 and complies with the Model Rules

- (3) An individual who has not reached the age of 15 years is not eligible to apply for a class of membership that confers full voting rights.⁶

Added from the Model Rules. It gives the Society flexibility to create categories of membership of young people who are not eligible to vote.

- (4) Employees of the Society are not eligible for membership.

Relocated from Rule 5(9) of the current Constitution to be consistent with Model Rules that include 6(3) within this Rule.

8. Applying for membership

- (1) A person who wants to become a member must apply in writing to the Society.
- (2) The application must include a proposed member's details.
- (3) The application must be signed by the applicant.
- (4) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.

This follows the Model Rules. There is no equivalent in the current Constitution.

² Act Requirements - Membership - Under sections 4 and 17 of the Act an association must always have at least 6 members with full voting rights.

³ Guidance Note – Liability of Members - A member is only liable for their own outstanding membership fees (if any) payable under rule 12.

⁴ Act Requirements – Liabilities of the association - Under section 19 of the Act a member of the management Council, trustee or a member of the association is not liable in respect of the liabilities of the association. This does not apply to liabilities incurred by or on behalf of the association prior to incorporation.

⁵ Guidance Note – Eligibility for membership

- The by-laws may require members to hold specified educational, trade or professional qualifications.
- The association must comply with all legal and regulatory obligations that may apply to the association under any other law when assessing eligibility of an applicant for membership.

⁶ Guidance Note - Voting rights of Members

- Each ordinary member of the Association has one vote at a general meeting of the Association.
- Each ordinary member of the Association that is a body corporate has one vote at a general meeting of the Association.

9. Dealing with membership applications

- (1) The Council must consider each application for membership of the Society and decide whether to accept or reject the application.
- (2) Subject to subrule (3), the Council must consider applications in the order in which they are received by the Society.
- (3) The Council may delay its consideration of an application if the Council considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (4) The Council must not accept an application unless the applicant —
 - a. is eligible under these rules; and
 - b. has applied in accordance with these rules.
- (5) The Council may reject an application even if the applicant —
 - a. is eligible under these rules; and
 - b. has applied in accordance with these rules.
- (6) The Council must notify the applicant of the Council's decision to accept or reject the application as soon as practicable after making the decision.
- (7) If the Council rejects the application, the Council is not required to give the applicant its reasons for doing so.
- (8) The names of all new members shall be announced at the next general meeting, and also in one of the Society's publications distributed to members.

This Model Rule wholly replaces Subrules 5(5)–5(7) of the current Constitution for clarity save that (8) is taken from the current Constitution.

10. Becoming a member^{7,8}

- An applicant for membership of the Society becomes a member when —
- a. the Council accepts the application; and
 - b. the applicant pays any membership fees payable to the Society under these rules.

This Model Rule wholly replaces Subrule 5(8) of the Current Constitution for clarity.

11. Classes of membership

- (1) The Society consists of ordinary members and any associate members provided for under subrule (2).
From the Model Rules
- (2) The Society may have any class of membership and associate membership approved by resolution at a general meeting, including junior membership, senior membership and the categories of membership listed below.
From the Model Rules with the addition from the current Constitution as shown above.

⁷ Act requirement – Member to receive rules – section 36(1)(b) of the Act provides that the association must give each person who become a member of the association of copy of the rules in force at the time their membership commences.

⁸ Guidance note – Format of rules provided - It is acceptable for the association to provide a copy of the rules to new members by electronic transmission or providing the details for the website whether the rules may be downloaded. A hard copy must be provided if the member requests that the rules be provided in that manner.

- (3) There shall be the following categories of member:
- (a) persons approved by the Council as members, including:
 - (b) two persons in a household who apply for household membership whereby each such person shall have all the rights and privileges of an ordinary member except between them they will only receive one copy of any publication or communication made available to members;
 - (c) life members who are members who have chosen to become such by compounding their annual subscriptions by the payment of one sum which shall be twenty times the annual subscription at the time the member so chooses;
 - (d) a benefactor member who is a member having donated an amount determined by Council and confirmed by a general meeting of the Society as appropriate to entitle a member, or other person to become a benefactor member. A benefactor member shall enjoy all the privileges of an ordinary member;
 - (e) bodies corporate, government agencies or groups approved by the Council admitted as members;
 - (f) Honorary Life Members of the Society;
 - (g) Fellows of the Society;
 - (h) Affiliated societies;
 - (i) Concessional members;
 - (j) Corporate members.

From the current Constitution

- (4) An individual who has not reached the age of 15 years is only eligible to be an associate member.

From the Model Rules

- (5) A person can only be an ordinary member or belong to one class of associate membership.

From the Model Rules.

- (6) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Council.⁹

From the Model Rules

- (7) An associate member has the rights referred to in subrule (6) other than full voting rights.

From the Model Rules

- (8) The number of members of any category is not limited unless otherwise approved by resolution at a general meeting.

From the Model Rules

12. When membership ceases

- (1) A person ceases to be a member when any of the following takes place —
- a. for a member who is an individual, the individual dies;
 - b. non-payment by a member of his or her subscription within three months of the date fixed by the Council for subscriptions to be paid, unless the Council decides otherwise in accordance with these rules;
 - c. the person resigns from the Society in accordance with these rules;
 - d. the person is expelled from the Society in accordance with these rules;

⁹ *Guidance Note - Voting rights of Members*

- *Each ordinary member of the Association has one vote at a general meeting of the Association.*
- *Each ordinary member of the Association that is a body corporate has one vote at a general meeting of the Association.*

- e. the person ceases to be a member in accordance with these rules;
- f. for a member who is a body corporate, the body corporate is wound up.

From the Model Rules with the addition of Subrule (1)(f) as above from the current Constitution.

- (2) The Secretary must keep a record, for at least one year after a person ceases to be a member, of —
 - a. the date on which the person ceased to be a member; and
 - b. the reason why the person ceased to be a member.

From the Model Rules.

13. Resignation

- (1) A member may resign from membership of the Society by giving written notice of the resignation to the Secretary.
- (2) The resignation takes effect —
 - a. when the Secretary receives the notice; or
 - b. if a later time is stated in the notice, at that later time.
- (3) A person who has resigned from membership of the Society remains liable for any fees that are owed to the Society (the *owed amount*) at the time of resignation.
- (4) The owed amount may be recovered by the Society in a court of competent jurisdiction as a debt due to the Society.

From the Model Rules. No rule of this nature in the current Constitution.

14. Rights not transferable

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

From the Model Rules. No rule of this nature in the current Constitution.

Division 2 — Membership fees

15. Membership fees

- (1) The Council must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Society such determination shall be reported to the next convenient general meeting.

Complies with the Model Rules with the addition of the requirement to report the determination to a general meeting. Under the current Constitution the determination would be made by a general meeting but because the Model Rules vest the power to make the determination in the Council it does appear that the general meeting cannot anymore make the determination.

- (2) The fees determined under subrule (1) may be different for different classes of membership.

From the Model Rules

- (3) A member must pay the annual membership fee to the Treasurer, or another person authorised by the Council to accept payments, by the date (the *due date*) determined by the Council.

From the Model Rules. The current Constitution (subrule (7)(3) does not mention to whom the subscription is to be paid, otherwise this subrule is similar to that in the current Constitution.

- (4) If a member has not paid the annual membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.

From the current Constitution with the amendments to comply with the Model Rules.

- (5) If a person who has ceased to be a member under subrule (4) offers to pay the annual membership fee after the period referred to in that subrule has expired —
 - a. the Council may, at its discretion, accept that payment; and
 - b. if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.
- (6) In the case of proposed members if payment is received on or after May 1 then this payment will be applicable to the following financial year.

From the Model Rules. No subrule relating to this in the current Constitution although it is current practice.

Division 3 — Register of members

16. Register of members

- (1) The Secretary, or another person authorised by the Council, is responsible for the requirements imposed on the Society under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Society.

From the Model Rules with the amendment as shown above to take into account Society's current arrangements.

- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.

Information required under the Model Rules additional to that under the current Constitution

- (3) The register of members must be kept and maintained at the Society's headquarters, or at another place determined by the Council.

From the Model Rules but the amendments reflect the current Constitution.

- (4) A member who wishes to inspect the register of members must contact the Society's headquarters to make the necessary arrangements.

From the Model Rules and reflects the current Constitution.

- (5) If —
 - a. 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 but where it is in physical form shall not have a right to remove the register; or
 - b. a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the Council 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 Society.

From the Model Rules but the amendments reflect the current Constitution.

Part 4 — Disciplinary Action, Disputes and Mediation

Division 1 — Term used

17. Term used: member

In this Part —

member, in relation to a member who is expelled from the Society, includes former member.

From the Model Rules

Division 2 — Disciplinary action

18. Suspension or expulsion¹⁰

- (1) The Council may decide to suspend a member's membership or to expel a member from the Society if —
 - a. the member contravenes any of these rules; or
 - b. the member acts detrimentally to the interests of the Society.
- (2) The Secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the Council meeting at which the proposal is to be considered by the Council.
- (3) The notice given to the member must state —
 - a. when and where the Council 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 Council about the proposed suspension or expulsion;
- (4) At the Council meeting, the Council 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 Council about the proposed suspension or expulsion; and
 - 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 Society.
- (5) A decision of the Council to suspend the member's membership or to expel the member from the Society takes immediate effect.
- (6) The Council must give the member written notice of the Council's decision, and the reasons for the decision, within 7 days after the Council meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Society may, within 14 days after receiving notice of the Council's decision under subrule (6), give written notice to the Secretary requesting the appointment of a mediator in accordance with these rules.
- (8) If notice is given under subrule (7), the member who gives the notice and the Council are the parties to the mediation.

The rights of appeal that exist under the current Constitution seem now to be precluded by the provision in the Model Rules for mediation.

19. 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 Society.
- (2) When a member's membership is suspended, it must be recorded in the register of members —

¹⁰ *Guidance Note – Suspension or expulsion of a Member - Once the Council has decided to suspend or expel a member under rule 15(5) the member is immediately suspended or expelled.*

- 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, it must be recorded in the register of members that the member's membership is no longer suspended.

From the Model Rules

Division 3 — Resolving disputes

20. Terms used

In this Division —

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person —

- a. who is a party to the dispute; and
- b. who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

From the Model Rules

21. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes —

- a. between members; or
- b. between one or more members and the Society.

From the Model Rules

22. Parties attempt to resolve dispute

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.

From the Model Rules

23. How grievance procedure is started

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by these rules, 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.
- (2) Within 28 days after the Secretary is given the notice, a Council meeting must be convened to consider and determine the dispute.
- (3) The Secretary must give each party to the dispute written notice of the Council meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (4) The notice given to each party to the dispute must state —
 - a. when and where the Council 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 Council about the dispute.
- (5) If —
 - a. the dispute is between one or more members and the Society; 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 Council; and
 - ii. requests the appointment of a mediator in accordance with these rules ,
 the Council must not determine the dispute.

From the Model Rules

24. Determination of dispute by Council

- (1) At the Council meeting at which a dispute is to be considered and determined, the Council 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 Council about the dispute; and
 - b. give due consideration to any submissions so made; and
 - c. determine the dispute.
- (2) The Council must give each party to the dispute written notice of the Council's determination, and the reasons for the determination, within 7 days after the Council meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the Council's determination under subrule (1)(c), give written notice to the Secretary requesting the appointment of a mediator under these rules.
- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

From the Model Rules

Division 4 - Mediation

25. Application of Division

- (1) This Division (Pt 4, Div 4) applies if written notice has been given to the Secretary requesting the appointment of a mediator —
 - a. by a member under these rules or
 - b. by a party to a dispute under these rules.
- (2) If this Division (Pt 4, Div 4) applies, a mediator must be chosen or appointed in accordance with these rules.

From the Model Rules

26 Appointment of mediator

- (1) The mediator must be a person chosen —
 - a. if the appointment of a mediator was requested by a member and the Council under rule 15(7) — by agreement between the Member and the Council; or
 - b. if the appointment of a mediator was requested by a party to a dispute in accordance with these rules — by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the Council must appoint the mediator.
- (3) The person appointed as mediator by the Council must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
 - a. a member under rule in accordance with these rules; or
 - b. a party to a dispute in accordance with these rules; or
 - c. a party to a dispute in accordance with these rules and the dispute is between one or more members and the Society.
- (4) The person appointed as mediator by the Council may be a member or former member of the Society 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.

27. Mediation Process¹¹

- (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) subrule (3), each party to the dispute is a party to the mediation.

28. If mediation results in decision to suspend or expel being revoked

If —

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Society gives notice in accordance with these rules; and
- (b) 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 Council meeting or general meeting during the period of suspension or expulsion.

All rules in Division 4 follow the Model Rules

¹¹ Section 182(1) of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

PART 5 — COUNCIL

Division 1 — Powers of Council

29. Council

- (1) Subject to the Act, these rules, the by-laws (if any) and any resolution passed at a general meeting, the Council has power to do all things necessary or convenient to be done for the proper management of the affairs of the Society.
- (2) Without in any way limiting or affecting the general powers hereinbefore vested in the Council it shall have specifically conferred upon it the following powers:
- (3) To manage the business of the Society;
- (4) To formulate and develop the policy of the Society:
 - a. To control the finances of the Society and the expenditure of its funds for such purpose as the Council may think fit;
 - b. To engage, control and dismiss the employees of the Society;
 - c. To recommend to members at a general meeting membership fees and benefits for members;
 - d. To make calls upon members or any class thereof, provided that a member shall not in any year be so called upon to pay an amount exceeding an amount equal to the subscription payable by that member in that year;
 - e. To make by-laws not inconsistent with the Constitution and subject to confirmation by the next appropriate general meeting of the Society; and
 - f. All such administrative powers as may be necessary for carrying out the object of the Society in accordance with this Constitution.

In accordance with the Model Rules

Division 2 — Composition of Council

30. Council members

- (1) A person will only be eligible to be a Council member if the person is —
 - (a) an individual who has reached 18 years of age; and
 - (b) an ordinary member who at the time of election or appointment has been a financial member of the Society for at least one (1) year immediately preceding the date of election or appointment unless that person has been exempted from payment of annual fees under the provisions of these rules.
- (2) The Council members shall comprise —
 - a. a President elected annually at the annual general meeting;
 - b. two (2) Vice-presidents elected annually at the annual general meeting;
 - c. exofficio the Immediate Past-President if available and willing to serve;
 - d. a Secretary elected at the annual general meeting or failing the filling of this position, with the agreement of Council an individual appointed to the office;
 - e. a Treasurer elected at the annual general meeting, or failing the filling of this position, with the agreement of Council an individual appointed to the office;
 - f. ten (10) other persons elected at an annual general meeting for a two-year term, half of whom shall retire annually in rotation.

- g. being not more than three (3) members of the Society who have been co-opted to the Council to serve for the current year (who are included in the description “the ordinary Council members”);
- h. a representative of the Society’s Auxiliary elected annually by the Council;
- i. two (2) persons nominated by the Affiliated Societies Committee of Council, each of whom shall be a member of an affiliated society and a member of the Affiliated Societies Committee of Council. The appointment shall be for a term of one or two years so as to achieve, wherever possible, the object of having one nominated member retire each year. No nominated member(s) shall serve for more than two (2) consecutive years unless the Affiliated Societies Committee of Council is unable to find another person who is willing to accept nomination. The term of office of a nominated member commences on the date of the next Council meeting following the date of nomination, and terminates the day before the next Council meeting following nomination of his or her successor in the year of expiration of the member’s appointment.

From current Constitution 10(1)

(3) A person must not hold 2 or more of the offices mentioned in subrule (2) at the same time.

From the Model Rules

(4) The Council shall not include in its membership any persons excluded by the Act from being such.

From the Model Rules

31. Honorary officers^{12,13}

The Council may appoint honorary officers to positions as determined by Council.

From the current Constitution

Division 3 — Election of Council members and tenure of office

These rules follow the Model Rules and those substantially cover the essential elements for conducting Council elections. However, there are matters of detail in the current Constitution relating to matters such as the ordering of the ballot paper, posting of notices which are not replicated in the Model Rules. If it is thought necessary to continue those provisions we recommended they be

¹² Act Requirements – Persons who are not to be members of Council

- a. Under section 39 of the Act the following persons must not, without leave of the Commissioner, accept an appointment or act as a member of a management Council of an association:
 - a person who is, according to the Interpretation Act 1984 section 13D, a bankrupt or person whose affairs are under insolvency laws;
 - a person who has been convicted, within our outside the State, of-
 - an indictable offence in relation to the promotion, formation or management of a body corporate; or
 - an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or

an offence under Part 4 Division 3 or section 127 of the Act

¹³ Act Requirements - Duties of Council Members and Officers

Section 3 of the Act provides a definition of “officer”. The duties provisions will apply to Council members and to those persons who have the ability to influence the management Council but who do not hold a formal Council position

incorporated in a new by-law. Under the heading By-laws we have set out the current provisions (By-law 1).

32. How members become Council members

Subject to other provisions in this Constitution, a member becomes a Council member if the member —

- a. is elected to the Council at an annual general meeting; or otherwise appointed under these rules;
- b. is appointed to the Council by the Council to fill a casual vacancy under rule 38 or as a co-opted member of Council.

From Model Rules and is in accordance with the current Constitution

33. Nomination of Council members

- (1) At least 42 days before an annual general meeting, the Secretary must send written notice to all the members —
 - a. calling for nominations for election to the Council either as an officer or as an ordinary Council member; and
 - b. stating the date by which nominations must be received by the Secretary to comply with subrule (2).
- (2) A member who wishes to be considered for election to the Council at the annual general meeting must nominate for election by sending written notice of the nomination to the Secretary at least 28 days before the annual general meeting.
- (3) The written notice must include a nomination by another member.
- (4) A member may nominate for more than one specified position of office holder of the Society or to be an ordinary Council member but may hold only one position on the Council during any given term.
- (5) A member whose nomination does not comply with this rule is not eligible for election to the Council unless the member is nominated under rule 34(2) or 35(2)(b).

From the Model Rules with the additions to (4) from rule 11(2) of the current Constitution

34. Election of office holders

- (1) At an annual general meeting, a separate election must be held for each position of office holder of the Society.

In the current Constitution and complies with the Model Rules
- (2) If there is no nomination for a position, the chair of the meeting may call for nominations from the ordinary members at the meeting.
- (3) If only one member has nominated for a position, the chair of the meeting must declare the member elected to the position.
- (4) If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Council to decide who is to be elected to the position.
- (5) Each ordinary member present at the meeting may vote for one member who has nominated for the position.
- (6) A member who has nominated for the position may vote for himself or herself.
- (7) On the election of a President, that President of the Society may take over as the chair of an annual general meeting.

From the Model Rules

35. Election of ordinary Council members

- (1) At the annual general meeting, the Society must decide by resolution the number of ordinary Council members (if any) to hold office for the next year.
- (2) If the number of members nominating for the position of ordinary Council member is not greater than the number to be elected, the chairperson of the meeting —
 - (a) must declare each of those members to be elected to the position; and
 - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (3) If —
 - (a) the number of members nominating for the position of ordinary Council member is greater than the number to be elected; or
 - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,the ordinary members at the meeting must vote in accordance with procedures that have been determined by the Council to decide the members who are to be elected to the position of ordinary Council member.
- (4) A member who has nominated for the position of ordinary Council member may vote in accordance with that nomination.

From the Model Rules

36. Term of office¹⁴

- (1) The term of office of a Council member begins when the member —
 - (a) is elected at an annual general meeting or under subrule 37(3)(b); or
 - (b) is appointed to fill a casual vacancy under rule 39(1).
- (2) Subject to rule 37, a Council member holds office until the positions on the Council are declared vacant at the next annual general meeting.
- (3) Subject to this Constitution, a Council member may be re-elected.

From the Model Rules except for the addition in 36(3) because some officers have a limitation on their term which prevents re-election when the term is reached.

37. Resignation and removal from office

- (1) A Council member may resign from the Council by written notice given to the Secretary or, if the resigning member is the Secretary, given to the Chairperson.
- (2) The resignation takes effect —
 - a. when the notice is received by the Secretary or Chairperson; or
 - a. if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Society may by resolution —
 - a. remove a Council member from office; and
 - b. elect a member who is eligible under rule 30(1) to fill the vacant position.

¹⁴ *Guidance Note – Council members upon incorporation - The Council members appointed on incorporation of the association will hold office until the conclusion of the first annual general meeting of the association and will be eligible for re-election.*

- (4) A Council member who is the subject of a proposed resolution under subrule (3)(a) may make written representations (of a reasonable length) to the Secretary or Chairperson and may ask that the representations be provided to the members.
- (5) The Secretary may give a copy of the representations to each member or, if they are not so given, the Council member may require them to be read out at the general meeting at which the resolution is to be considered.

From the Model Rules

38. When membership of Council ceases¹⁵

- A person ceases to be a Council member if the person —
- a. dies or otherwise ceases to be a member; or
 - b. resigns from the Council or is removed from office **under rule 37**; or
 - c. becomes ineligible to accept an appointment or act as a Council member under section 39 of the Act;
 - d. becomes permanently unable to act as a Council member because of a mental or physical disability; or
 - e. fails to attend 3 consecutive Council meetings, of which the person has been given notice, without having notified the Council that the person will be unable to attend.

From the Model Rules

39 Filling casual vacancies

- (1) The Council may appoint a member who is eligible to fill a position on the Council that —
 - a. has become vacant under rule 37; or
 - b. was not filled by election at the most recent annual general meeting or under rule 37(3)(b).
- (2) If the position of Councillor becomes vacant, the Council 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 under Rule 46(2), the Council may continue to act despite any vacancy in its membership.
- (4) If there are fewer Council members than required for a quorum, the Council may act only for the purpose of —
 - (i) appointing Council members under this rule; or
 - (ii) convening a general meeting.

From the Model Rules (Compare with Rule 20 in current RWAHS Constitution)

40 Validity of acts

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

From the Model Rules except for the amendments above

¹⁵ Section 41 of the Act imposes requirements, arising when a person ceases to be a member of the management Council of an incorporated Society, that relate to returning documents and records.

Section 41 of the Act requires a person as soon as practicable after their membership ceases, to deliver to a member of the Council all of the relevant documents and records they hold pertaining to the management of the Society's affairs.

41 Payments to Council and committee members

- (1) In this rule —
Council member includes a member of the Council or committees;
Council meeting includes a meeting of the Council or committees.
- (2) A Council member is entitled to be paid out of the funds of the Society for any out-of-pocket expenses for travel and accommodation properly incurred —
 - a. in attending a Council meeting or
 - b. in attending a general meeting; or
 - c. otherwise in connection with the Society's business.
- (3) Payments under this rule can only occur if the payment is authorised by a resolution of the Society.

From the Model Rules but is a substantial change to the practices followed by the Society

Division 4 — Council meetings

42 Council meetings

- (1) The Council must meet at least 3 times in each calendar year on the dates and at the times and places determined by the Council.
- (2) The date, time and place of the first Council meeting must be determined by the Council members as soon as practicable after the annual general meeting at which the Council members are elected.
- (3) Special Council meetings may be convened by the President or any 2 Council members.

From the Model Rules

43. Notice of Council meetings

- (1) Notice of each Council meeting must be given to each Council member at least 48 hours before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (3) Unless subrule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if a majority of Council members at the meeting agree to treat that business as urgent.

From the Model Rules

44. Procedure and order of business

- (1) The Chairperson or, in the Chairperson's absence, the Vice-Chairperson must preside as chairperson of each Council meeting.

- (2) If the Chairperson and Vice-Chairperson are absent or are unwilling to act as chairperson of a meeting, the Council members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) The Council shall regulate its meetings and procedures as it sees fit.
- (4) The order of business at a Council meeting may be determined by the Council members at the meeting.
- (5) A member or other person who is not a Council member may attend a Council meeting if invited to do so by the Council.
- (6) A person invited under subrule (5) to attend a Council meeting —
 - a. has no right to any agenda, minutes or other document circulated at the meeting; and
 - b. must not comment about any matter discussed at the meeting unless invited by the Council to do so; and
 - c. cannot vote on any matter that is to be decided at the meeting.

From the Model Rules

45. Use of technology to be present at Council meetings

- (1) The presence of a Council member at a Council meeting need not be by attendance in person but may be by that Council member and each other Council member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a Council meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

From the Model Rules

46. Quorum for Council meetings

- (1) Subject to rule 39(4), no business is to be conducted at a Council meeting unless a quorum is present.
- (2) A quorum for a Council meeting shall be seven (7) Council members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Council meeting —
 - a. in the case of a special meeting — the meeting lapses; or
 - b. otherwise, the meeting is adjourned to the same time, day and place in the following week.

47. Disclosure of material interests¹⁶

¹⁶ **Act Requirements -Material Personal Interests of Council Members**

- Under section 42 of the Act a member of the Council who has a material personal interest in a matter being considered at a Council meeting must:
 - as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Council;
 - disclose the nature and extent of the interest at the next general meeting of the association
- Under section 42(3) of the Act this rule does not apply in respect of a material personal interest
 - (a) that exists only because the member-
 - is an employee of the incorporated association; or
 - is a member of a class of persons for whose benefit the association is established; or

- (1) A Council member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Council (except if that pecuniary interest exists only by virtue of the fact that the member of the Council is a member of a class of persons for whose benefit the Society is established), shall:
 - a. as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Council; and
 - b. not take part in any deliberations or decision of the Council with respect to that contract.
- (2) The chairperson shall cause every disclosure made under sub-rule 21(6) (a) by a member of the Council to be recorded in the minutes of the meeting of the Council at which it is made.

From the Model Rules with the addition to comply with the current Constitution

48. Voting at Council meetings

- (1) Each Council member present at a Council meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the Council members present at the Council meeting vote in favour of the motion.
- (3) If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (4) A vote may take place by the Council members present indicating their agreement or disagreement or by a show of hands, unless the Council decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

From the Model Rules

49. Minutes of Council meetings¹⁷

- (1) The Council must ensure that minutes are taken and kept of each Council meeting.
- (2) The minutes must record the following —
 - a. the names of the Council members present at the meeting;
 - b. the name of any person attending the meeting under rule 43(5);
 - c. the business considered at the meeting;
 - d. any motion on which a vote is taken at the meeting and the result of the vote.

(b) that the member has in common with all, or a substantial proportion of, the members of the Association.

- Under section 43 of the Act a member of the management Council who has a material personal interest in a matter being considered at a meeting of the management Council must not be present while the matter is being considered at the meeting or vote on the matter.

Under section 42(6) of the Act the association must record every disclosure made by a Council member of a material personal interest in the minutes of the Council meeting at which the disclosure is made.

If these model rules are adopted, the quorum for a Council meeting is as notified to the Commissioner under section 7(4)(d) or 29(5)(d) of the Act

¹⁷ Section 42(6) of the Act requires details relating to the disclosure of a Council member's material personal interest in a matter being considered at a Council meeting to be recorded in the minutes of the meeting.

- (3) The draft minutes shall be promptly sent to each member of the Council, which may be transmitted in electronic form.
- (4) The minutes of a Council meeting must be entered in the Society's minute book within 30 days after the meeting is held.
- (5) The Chairperson must ensure that the minutes of a Council meeting are reviewed and signed as correct by —
 - a. the Chairperson of the meeting; or
 - b. the Chairperson of the next Council meeting.
- (6) When the minutes of a Council meeting have been signed as correct they are, until the contrary is proved, evidence that —
 - a. the meeting to which the minutes relate was duly convened and held; and
 - b. the matters recorded as having taken place at the meeting took place as recorded; and
 - c. any appointment purportedly made at the meeting was validly made.

From the Model Rules

Division 5 — Chairperson of Council

50. Election of Chairperson and Vice-Chairperson

The Council may from time-to-time and at least annually at the time of the first Council in the financial year elect a member of Council to be its Chairperson and another such member to be a Vice-Chairperson.

51. Duties of Chairperson and Vice-Chairperson¹⁸

The Chairperson has the following duties —

- a. consulting with the President and other officers where necessary regarding the business of each Council and general meeting.
- b. chair all meetings of the Council if available to do so. If the Chairperson is not available, the Vice-Chairperson shall preside. If neither the Chairperson nor the Vice-Chairperson is available the members present shall appoint one of their members to chair that meeting of Council;
- c. liaise with the authorised person to execute the resolutions and business of the Council and Committees, and in so doing ensure that:
 - i. the correspondence of the Society is co-ordinated;
 - ii. the rules of the Society are kept and maintained in an up-to-date condition and shall make available those rules to each member;
 - iii. the Society shall keep and maintain a record of:-
 - (A) the names and residential or postal addresses of the persons who hold the offices of the Society provided for by these rules, including all offices held by the persons who constitute the Council and persons who are authorised to use the common seal of the Society under rule 36; and
 - (B) the names and residential or postal addresses of any persons who are appointed or act as trustees on behalf of the Society, and ensure that upon the request of a member of the Society, the record is made available for the inspection of the member and the member may make a copy of or take an extract from the record but shall not have a right to remove the record;
 - (iv) unless the members resolve otherwise at a general meeting, ensure that all books, documents, records and registers of the Society, including those referred to in paragraph (c) of sub-rule 16(1) (other than those required by rule 17 to be securely kept and maintained by the Treasurer) are securely kept by a member or member of the paid staff delegated with the responsibility;
- (d) co-operate with the President Vice-Presidents and Secretary in the best interests of the Society;

¹⁸ Act Requirements - Duties of Council Members and Officers

Section 3 of the Act provides a definition of “officer”. The duties provisions will apply to Council members and to those persons who have the ability to influence the management Council but who do not hold a formal Council position

- Under section 44 of the Act an officer of an association must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise if that person-
 - (a) were an officer of the association in the association’s circumstances; and
 - (b) occupied the office held by, and had the same responsibilities within the association as, the officer.
- Under section 45 of the Act an officer of an association must exercise his or her powers and discharge his or her duties-
 - (a) in good faith in the best interests of the Association; and
 - (b) for a proper purpose.
- Under section 46 an officer of an association must not improperly use his or her position to-
 - (a) gain an advantage for the officer or another person; or
 - (b) cause detriment to the Association.
- Under section 47 a person who obtains information because the person is, or has been, an officer of an association must not improperly use the information to-
 - (a) gain an advantage for the person or another person; orcause detriment to the Association.

- (e) co-operate with the Treasurer and employees in managing the financial affairs of the Society;
- (f) act where required as signatory with others to documents, letters and cheques in the name of the Society;
- (g) ensure that the Society complies with relevant Commonwealth and State legislation, including industrial and health and safety legislation;
- (h) ensure that employees operate in accordance with Council-approved duty statements and are appropriately supervised;
- (i) table a report summarising the work of Committees and highlights of the year at the annual general meeting of the Society;
- (j) be ex officio a member of all Committees;
- (k) perform other duties as are imposed by these rules on the Chairperson.

Subrules (a) to (c) follow the Model Rules and (d) to (k) come from the current Constitution.

Division 6 —

Committees and subsidiary offices

From the Model Rules except that in this Division “committees” replaces “subcommittees” in accordance with the Society’s current practice

52. Committees and subsidiary offices

- (1) To help the Council in the conduct of the Society’s business, the Council may, in writing, do either or both of the following —
 - a. appoint one or more committees;
 - b. create one or more subsidiary offices and appoint people to those offices.
- (2) A committee may consist of the number of people, whether or not members, that the Council considers appropriate.
- (3) A person may be appointed to a subsidiary office whether or not the person is a member.
- (4) Subject to any directions given by the Council —
 - a. a committee may meet and conduct business as it considers appropriate; and
 - b. the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.
- (5) The number of members required to constitute a quorum at any meeting of any committee shall be not less than half the members of such committee unless otherwise determined by the Council.

From the Model Rules except (5) from Rule 19(5) of the current Constitution.

53 Delegation to committees and holders of subsidiary offices

- (1) In this rule —

non-delegable duty means a duty imposed on the Council by the Act or another written law.
- (2) The Council may, in writing, delegate to a committee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Council other than —
 - (a) the power to delegate; and
 - (b) a non-delegable duty.

- (3) A power or duty, the exercise or performance of which has been delegated to a committee or the holder of a subsidiary office under this rule, may be exercised or performed by the committee or holder in accordance with the terms of the delegation.
- (4) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Council specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the Council from exercising or performing at any time the power or duty delegated.
- (6) Any act or thing done by a committee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Council.
- (7) The Council may, in writing, amend or revoke the delegation.

From Model Rules with the exception of amendments above.to reflect current Society practice

PART 5A — OFFICERS AND THEIR DUTIES

54 Officers

The Society shall have the following Officers all of whom shall be members of the Council:

- I. A President
- II. Two Vice-Presidents
- III. A Secretary
- IV. A Treasurer,

the duties of each of whom are as set out in the following rules .

From the Model Rules with retention of "A Secretary". This office is not in the current Constitution.

55. President and Vice-Presidents

- (1) A President may be elected to the office of President provided that no President shall hold that office for more than three (3) years consecutively and shall not again be eligible for office for two (2) years.

From Clause 11(3) of current Constitution.

- (2) Subject to this rule, the President shall have the following duties and responsibilities which, where appropriate, shall be shared by the Vice-Presidents:
 - a. to promote the Object of the Society as set out in this Constitution;
 - b. to attend all meetings of the Council if available;
 - c. to preside at all general meetings of the Society;
 - d. to represent the Society and speak for the Society in a responsible manner accountable to the Council;
 - e. to promote goodwill and friendly co-operation with people and organisations which have similar aims and objectives;
 - f. to sign documents in the name of the Society and act with others as a signatory to letters and cheques in the name of the Society;
 - g. to deliver the President's report at the annual general meeting incorporating appropriate philosophy, policies and aims for the future of the Society; and
 - h. to be an ex officio member of all committees.
 - i. to preside at the State History Conference of Affiliated Societies.

SubRule 55(2) repeats the provisions in the Society's current Constitution.

56 Secretary

The Secretary has the following duties —

- a. Dealing with the Council's correspondence;
- b. Preparing and settling the agenda for each Council Executive 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 Council to do so, maintaining on behalf of the Society 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 Society 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 Council to do so, maintaining on behalf of the Society a record of Council members and other persons authorised to act on behalf of the Society, as required under section 58(2) of the Act;
- g. Ensuring the safe custody of the books of the Society, other than the financial records, financial statements and financial reports, as applicable to the Society;
- h. Maintaining full and accurate minutes of Council meetings and general meetings;
- i. Carrying out any other duty given to the Secretary under these rules or by the Council.

Follows Model Rules

57. Treasurer

The Treasurer has the following duties —

- a. ensuring that any amounts payable to the Society are collected and issuing receipts for those amounts, and for grants, donations and the like, in the Society's name;
- b. ensuring that any amounts paid to the Society are credited to the appropriate account of the Society, as directed by the Council;
- c. ensuring that any payments to be made by the Society that have been authorised by the Council or at a general meeting are made on time and in so doing ensure that all cheques are signed and all electronic or other payments are made in accordance with any requirements set by the Council;
- d. submitting a Budget, Income and Expenditure report, Balance Sheet and other reports if required, to meetings of the Council and the Society's annual general meeting;
- e. making new investments or amend existing investments in accordance with the Council's current approved investment policy and as resolved by Council;
- f. ensuring that the Society complies with the relevant requirements of Part 5 of the Act in respect of the accounting records of the Society;
- g. ensuring the safe custody of the Society's securities, financial records, financial statements and financial reports be these in printed or electronic form;
- h. ensuring secure custody of all User IDs, Logins, Passwords etc applicable to the Society's securities, bank accounts, accounting records, etc;
- i. if the Society is a tier 1 association, coordinating the preparation of the Society's financial statements before their submission to the Society's annual general meeting;
- j. Coordinating the preparation of the Society's financial report before its submission to the Society's annual general meeting;
- k. providing any assistance required by an auditor or reviewer conducting an audit or review of the Society's financial statements or financial report under Part 5 Division 5 of the Act;
- l. prepare and submit on time the Annual Information Statement (AIS) to the ACNC for each reporting period;
- m. carrying out any other duty given to the Treasurer under these rules or by the Council.

From the Model Rules cf. current Constitution

Part 5B — EXECUTIVE

58. Composition of the Executive

- (1) The Society shall have an Executive, the members of which shall be as follows:
 - a. the Chairperson, who shall chair meetings at which he or she is present;
 - b. the Vice-Chairperson;
 - c. the President;
 - d. the two Vice-Presidents;
 - e. the Secretary; and
 - f. the Treasurer.
- (2) In the absence of the Chairperson, the Vice-Chairperson, and failing that the next most senior Executive member present shall act as chairperson.
- (3) The Executive shall have the power to co-opt to its membership not more than three other members of the Society as required.
- (4) Co-opted members of the Executive shall be entitled to vote.
- (5) The Chairperson shall be entitled to vote and shall also have a casting vote in the Executive.
- (6) The powers, duties and responsibilities of the Executive shall be as follows:
 - a. to oversee the day to day administration of the Society;
 - b. to make policy recommendations to Council;
 - c. to implement Council policies; and
 - d. act upon other decisions of Council.

From current Constitution Rule 18.with the addition of "the Secretary"

PART 6 — GENERAL MEETINGS OF THE SOCIETY

59A Annual general meeting¹⁹

- (1) The Council must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Society's financial year, the Secretary must apply to the Commissioner for permission under section (3)(b) of the Act within 4 months after the end of the financial year.
- (3) 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 President's annual report as provided for in Rule 55(2)(g).
 - (ii) the Council's annual report on the Society's activities during the preceding financial year; and
 - (iii) if the Society is a tier 1 association, the financial statements of the Society for the preceding financial year presented under Part 5 of the Act; and
 - (iv) if the Society is a tier 2 association or a tier 3 association, the financial report of the Society for the preceding financial year presented under Part 5 of the Act;
 - (v) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
 - c. to elect the office holders of the Society and other Council members;

¹⁹ Unless the Commissioner allows otherwise, under section 50(3) of the Act the annual general meeting must be held within 6 months after the end of the Association's financial year. If it is the first annual general meeting, section 50(2) of the Act provides that it may be held at any time within 18 months after incorporation.

- d. if applicable, to appoint or remove a reviewer or auditor of the Society in accordance with the Act;
- e. to confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by members.

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

From the Model Rules

59B Monthly general meetings

- (3) Council may convene general meetings for such months of the year as it wishes to do so
- (4) The purpose of such monthly general meetings shall be usually to hear a paper on a topic of historic interest, to inform members of other developments in the Society's program and to allow members to raise matters in relation to the Society.
- (5) Council shall cause notice to be given to members of each proposed monthly general meeting by publication of relevant information in *History West*.

60 Special general meetings²⁰

- (1) The Council may convene a special general meeting.
- (2) The Council 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 subrule (3)(a).
- (5) If the Council 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 subrule (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 Society must reimburse any reasonable expenses incurred by the members convening a special general meeting under these rules.

From the Model Rules, cf. current Constitution Rule 22

61. Notice of general meetings²¹

²⁰ Section 51(1) of the Act states that a resolution is a special resolution if it is passed —

- (a) at a general meeting of an incorporated association; and
- (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.

²¹ *Act requirements – Notice to be given to reviewer or auditor – For Tier 2 and 3 associations – under section 86 of the Act a reviewer or auditor of an incorporated association is entitled to receive all notices of and other communications relating to any general meetings of the association that a member is entitled to receive.*

- (1) The Secretary or, in the case of a special general meeting convened under these rules, 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; and
 - b. indicate the general nature of each item of business to be considered at the meeting; and
 - c. if the meeting is the annual general meeting, include the names of the members who have nominated for election to the Council under these rules; and
 - d. if a special resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution; and
 - (iii) comply with rule 60(7).

From the Model Rules, cf. current Constitution Rule 22

62. Proxies

- (1) Subject to subrule (2), an ordinary member may appoint an individual who is an ordinary member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) An ordinary 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.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (6) If the Council has approved a form for the appointment of a proxy, the member may use that form or any other form —
 - a. that clearly identifies the person appointed as the member's proxy; and
 - b. that has been signed by the member.
- (7) Notice of a general meeting given to an ordinary member under these rules must —
 - a. state that the member may appoint an individual who is an ordinary member as a proxy for the meeting; and
 - b. include a copy of any form that the Council has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the Secretary before the commencement of the general meeting for which the proxy is appointed.
- (9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Society not later than 24 hours before the commencement of the meeting.

From the Model Rules, cf. current Constitution Rule 26

63. Use of technology to be present at general meetings

- (1) The presence of a member at a general meeting need not be by attendance in person but may be by that member and each other member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a general meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

From the Model Rules

64. Presiding member and quorum for general meetings²²

- (1) The President or, in the President's absence, a Vice-President must preside as chairperson of each general meeting.
- (2) If the President and each Vice-President are absent or are unwilling to act as Chair of a general meeting, the members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present.
- (4) At all general meetings of the Society, except where otherwise provided by thirty (30) members present in person, and eligible to vote, shall constitute a quorum.

From current Constitution Rule 23(1).

- (5) 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.
- (6) If —
 - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (5)(b); and
 - (b) at least 2 ordinary members are present at the meeting,those members present are taken to constitute a quorum.

For all except Subrule (4) and providing for President to preside at general meetings, this rule is from the Model Rules

65. Adjournment of general meeting

- (1) The person presiding at a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned —
 - (a) if there is insufficient time to deal with the business at hand; or

²² If these model rules are adopted, the quorum for a general meeting is as notified to the Commissioner under section 7(4)(c) or 29(5)(c) of the Act.

- (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with these rules.

Follows Model Rules except for reference to President rather than Chairperson

66. Voting at general meeting

- (1) On any question arising at a general meeting —
 - a. subject to subrule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under subrule (2); and
 - b. ordinary members may vote personally or by proxy.
- (2) An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.
- (3) A copy of the document by which the appointment is made must be given to the Secretary before any general meeting to which the appointment applies.
 - a. The appointment has effect until —the end of any general meeting to which the appointment applies; or
 - b. the appointment is revoked by the body corporate and written notice of the revocation is given to the Secretary.
- (4) Except in the case of a special resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.
- (5) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (6) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.
- (7) For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under subrule (2) above, the ordinary member —
 - a. must have been an ordinary member at the time notice of the meeting was given under these rules; and
 - b. must have paid any fee or other money payable to the Society by the member.

Follows Model Rules.

67. When special resolutions are required²³

- (1) A special resolution is required if it is proposed at a general meeting —
 - a. to affiliate the Society with another body; or
 - b. to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (2) Subrule (1) does not limit the matters in relation to which a special resolution may be proposed.

From the Model Rules

68. Determining whether resolution carried

- (1) In this rule —

poll means the process of voting in relation to a matter that is conducted in writing.
- (2) Subject to subrule (4), the person presiding at a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
 - a. carried; or
 - b. carried unanimously; or
 - c. carried by a particular majority; or
 - d. lost.
- (3) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the person presiding at the] the meeting or by at least 3 other ordinary members present in person or by proxy —
 - a. the poll must be taken at the meeting in the manner determined by the person presiding at the meeting
 - b. the person presiding at the meeting must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the person to preside at the meeting or on a question of an adjournment, the poll must be taken immediately.
- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson person presiding”.
- (7) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

Follows the Model Rules with substitution of “person presiding” for “chairperson”.

²³ Under the Act, a special resolution is required if an incorporated association proposes to do any of the following—

- (a) to adopt these model rules (section 29(1));
- (b) to alter its rules, including changing the name of the association (section 30(1));
- (c) to decide to apply for registration or incorporation as a prescribed body corporate (section 93(1));
- (d) to approve the terms of an amalgamation with one or more other incorporated associations (section 102(4));
- (e) to be wound up voluntarily (section 121(2)) or by the Supreme Court (section 124(a) and Schedule 4 item 9);
- (f) to cancel its incorporation (section 129).

69. Minutes of general meeting

- (1) The Secretary, or a person authorised by the Council from time to time, must take and keep minutes of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must record —
 - (a) the names of the ordinary members attending the meeting; and
 - (b) any proxy forms given to the chairperson of the meeting under these rules; and
 - (c) the financial statements or financial report presented at the meeting, as required by these rules; and
 - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 50(3)(b)(iv).
- (4) The minutes of a general meeting must be entered in the Society's minute book within 30 days after the meeting is held.
- (5) The President must ensure that the minutes of a general meeting are reviewed and signed as correct by —
 - (a) the person presiding at the meeting; or
 - (b) person presiding the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that —
 - (a) the meeting to which the minutes relate was duly convened and held; and
 - (b) the matters recorded as having taken place at the meeting took place as recorded; and
 - (c) any election or appointment purportedly made at the meeting was validly made.

From the Model Rules with the exception of the amendments to (5)a and 5(b)

PART 7 — FINANCIAL MATTERS

70. Source of funds

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

From the Model Rules

71. Control of funds

- (1) The Society must open an account in the name of the Society with a financial institution from which all expenditure of the Society is made and into which all funds received by the Society are deposited.
- (2) Subject to any restrictions imposed at a general meeting, the Council may approve expenditure on behalf of the Society.
- (3) The Council may authorise the treasurer to expend funds on behalf of the Society up to a specified limit without requiring approval from the Council for each item on which the funds are expended.

- (4) All cheques, drafts, bills of exchange, promissory notes, electronic payments and other negotiable instruments of the Society must be signed by —
 - a. 2 Council members; or
 - b. one Council member and a person authorised by the Council.
- (5) All funds of the Society must be deposited into the Society’s account within 5 working days after their receipt.

Follows the Model Rules except with reference to “electronic payments”

72. Financial statements and financial reports²⁴

- (1) For each financial year, the Council must ensure that the requirements imposed on the Society under Part 5 of the Act relating to the financial statements or financial report of the Society are met.
- (2) Without limiting subrule (1), those requirements include —
 - a. if the Society is a tier 1 association, the preparation of the financial statements; and
 - b. if the Society is a tier 2 association or tier 3 association, the preparation of the financial report; and
 - c. if required, the review or auditing of the financial statements or financial report, as applicable; and
 - d. the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
 - e. if required, the presentation to the annual general meeting of the copy of the report of the review or auditor’s report, as applicable, on the financial statements or financial report.

Follows Model Rules

PART 8 — GENERAL MATTERS

73. By-laws²⁵

- (1) The Society may, by resolution at a general meeting, make, amend or revoke by-laws.
- (2) By-laws may —
 - a. provide for the rights and obligations that apply to any classes of associate membership approved under these rules; and
 - b. impose restrictions on the Council’s powers, including the power to dispose of the Society’s assets; and
 - c. impose requirements relating to the financial reporting and financial accountability of the Society and the auditing of the Society’s accounts; and

²⁴

1. Under section 66 of the Act, an incorporated association must keep financial records that: -
 - (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared in accordance with Part 5 Division 3 of the Act.
2. Under section 67 of the Act, an incorporated association must retain its financial records for at least 7 years after the transactions covered by the records are completed.

²⁵ Guidance Note – Status of By-laws - A by-law must be consistent with the Act, the regulations and these rules. The rules of an association bind the association and the members as an enforceable contract between them. By-laws may not have that status. Therefore, the use of by-laws should be reserved for more procedural or administrative matters.

- d. provide for any other matter the Society considers necessary or convenient to be dealt with in the by-laws.
- (3) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
 - (4) Without limiting subrule (3), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Society that are additional to, and do not restrict, a requirement imposed on the Society under Part 5 of the Act.
 - (5) At the request of a member, the Society must make a copy of the by-laws available for inspection by the member.

Follows Model Rules

74. Executing documents and common seal

- (1) The Society may execute a document without using a common seal if the document is signed by —
 - (a) 2 Council members; or
 - (b) one Council member and a person authorised by the Council.
- (2) If the Society has a common seal —
 - a. the name of the Society 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 Council and in the presence of —
 - (i) 2 Council members; or
 - (ii) one Council member and a person authorised by the Council,and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) The Secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept at the Society in safe custody of the Secretary at the Society in or another Council member authorised by the Council and at the Society at in safe custody.

Follows Model Rules. Note reference to "Secretary"

75. Giving notices to members

- (1) In this rule —
recorded means recorded in the register of members.
- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and —
 - a. delivered by hand to the recorded address of the member; or
 - b. sent by prepaid post to the recorded postal address of the member; or
 - c. sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

Follows Model Rules.

76. Custody of financial records

- (1) Subject to subrule (2), the financial records and any securities of the Society must be kept at the Society in safe custody at the Society.

- (2) The financial records and securities, as applicable, the financial statements or financial reports of the Society, together with User IDs, Log Ins, Passwords, and the like must be kept in the Treasurer’s custody or under the Treasurer’s control at the Society in safe custody
- (3) Subrules (1) and (2) have effect except as otherwise decided by the Council.
- (4) The books of the Society must be retained in printed and/or electronic form for at least 7 years.

Follows Model Rules except with reference to “Treasurer”

77. Record of office holders²⁶

The record of Council members and other persons authorised to act on behalf of the Society that is required to be maintained under section 58(2) of the Act must be kept in the Secretary’s custody or under the Secretary’s control at the Society in safe custody.

Follows Model Rules. Note reference to “Secretary” is in accordance with the Model Rules

78. Inspection of records and documents²⁷

- (1) Subrule (2) applies to a member who wants to inspect —
 - a. the register of members under section 54(1) of the Act; or
 - b. the record of the names and addresses of Council members, and other persons authorised to act on behalf of the Society, under section 58(3) of the Act; or
 - c. any other record or document of the Society.
- (2) The member must contact the Secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the member wants to inspect a document that records the minutes of a Council meeting, the right to inspect that document is subject to any decision the Council has made about minutes of Council meetings generally, or the minutes of a specific Council meeting, being available for inspection by members.

²⁶ Under section 58 of the Act an association must maintain a record of —

- the names and addresses of the persons who are members of its management Council; or hold other offices of the association provided for by its rules;
- the name and address of any person who is authorised to use the common seal of the association (if it has a common seal); and
- the name and address of any person who is appointed or acts as trustee on behalf of the association.

Under section 58 of the Act the association must, upon the request of a member of the association, make available the record for the inspection of the member. The member may make a copy of or take an extract from the record but does not have a right to remove the record for that purpose.

²⁷ Section 58 of the Act —

- (a) sets out the details of the record that an incorporated association must maintain of the committee members and certain others; and
- (b) provides for members to inspect, make a copy of or take an extract from the record; and
- (c) prohibits a person from disclosing information in the record except for authorised purposes.

- (5) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.²⁸
- (6) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose —
- (a) that is directly connected with the affairs of the Association; or
 - (b) that is related to complying with a requirement of the Act.²⁹

Follows Model Rule: cf. Rule 37 of the current Constitution.

79. Publication by Council members of statements about Society business prohibited

A Council member must not publish, or cause to be published, any statement about the business conducted by the Society at a general meeting or Council meeting unless —

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

Follows Model Rules

80. Distribution of surplus property on cancellation of incorporation or winding up^{30,31}

- (1) In this rule —

surplus property, in relation to the Society, means property remaining after satisfaction of —

²⁸ Sections 54(2) and 58(4) of the Act provide for the making of copies of, or the taking of extracts from, the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

²⁹ Sections 57(1) and 58(5) of the Act impose restrictions on the use or disclosure of information in the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

³⁰ Section 24(1) of the Act sets out a provision that is implied in these rules describing the entities to which the surplus property of an incorporated association may be distributed on the cancellation of the incorporation or the winding up of the association. Part 9 of the Act deals with the winding up of incorporated associations, and Part 10 of the Act deals with the cancellation of the incorporation of incorporated associations.

³¹ *Act Requirements – Distribution of surplus property*

Under section 24(1) of the Act surplus property can only be distributed to one or more of the following —

- *an incorporated association;*
- *a company limited by guarantee that is registered as mentioned in the Corporations Act section 150;*
- *a company holding a licence that continues in force under the Corporations Act section 151;*
- *a body corporate that at the time of the distribution is the holder of a licence under the Charitable Collections Act 1946;*
- *a body corporate that —*
 - *is a member or former member of the incorporated association; and*
 - *at the time of the distribution of surplus property, has rules that prevent the distribution of property to its members;*
- *a trustee for a body corporate referred to in paragraph (e);*
a co-operative registered under the Co-operatives Act 2009 that, at the time of the distribution of surplus property, is a non-distributing co-operative as defined in that Act.

- a. the debts and liabilities of the Society; and
- b. the costs, charges and expenses of winding up or cancelling the incorporation of the Society,

but does not include books relating to the management of the Society.

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

Subrules (1) and (2) follow Model Rules.

- (3) If, upon the winding up of the Society or revocation of its endorsement as a 'deductible gift recipient' under section 30-125 of the Commonwealth *Income Tax Assessment Act, 1997*, there remains in a gift deductible fund after satisfaction of all its debts and liabilities any deductible contributions and any money received in respect of such gifts and contributions, the same shall not be paid or distributed among the members, but shall be given or transferred to a gift deductible fund of an another association incorporated under the Act which has a similar object and to which income tax deductible gifts can be made as approved by the Commissioner of Taxation and which Society shall be determined by resolution of the members.

Taken from 42(3) of current Constitution

81. Alteration of rules^{32, 33}

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

Follows Model Rules and replaces Rule 35 of current Constitution.

PART 9 - HONOURS

82. Patronage

- (1) The Society shall prior to each annual general meeting invite:
His or Her Excellency The Governor of Western Australia as Patron;
the Premier of Western Australia and the Leader of the Opposition of the Western Australian Parliament at the time to be Vice-Patrons; and one other person to be a Vice-Patron
and if the invitations are accepted confirm the appointments at the annual general meeting.

Clarifies eligibility to be Vice-Patrons under 27(1) (b) of the current Constitution. Not part of the Model Rules but in accordance with the current Constitution

³² Section 31 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to change the name of the association.

Section 33 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to alter the objects or purposes of the association or the manner in which surplus property of the association must be distributed or dealt with if the association is wound up or its incorporation is cancelled.

³³ Guidance Note – Alteration of Rules. Amendments to the rules do not take effect until required documents are lodged with the Commissioner, even if the amendments do not require the approval of the Commissioner under section 31 or section 33. The required documents must be lodged within one month after the special resolution is passed.

- (2) If either the Premier or Leader of the Opposition declines the invitation or if both of them decline, the Society may invite another person or persons whom the Society considers fit for appointment to be Vice-Patrons.

Clarifies the persons being referred to

- (3) Patrons and Vice-Patrons shall have all the rights of ordinary members without payment of fees.

Follows current constitution, Rule 27

83. Fellowship award

- (1) The Council may by special resolution at an annual general meeting recommend the conferring of a Fellowship of the Society upon any member of not less than ten (10) years standing for distinguished research in the field of Western Australian historiography or other work of outstanding value to the Society and the wider community.
- (2) The number of Fellows of the Society extant at any one time shall not exceed twelve (12).
- (3) Every Fellow of the Society shall receive a certificate under the seal of the Society, stating the date and purpose for which the honour of the Fellowship was so conferred and shall be in all respects treated as an Honorary Life Member of the Society and shall be entitled to use the post-nominal letters FRWAHS.

Follows current constitution, Rule 28

84. Honorary Life Membership

The Council may by special resolution at an annual general meeting recommend the election as an Honorary Life Member of any member of not less than ten (10) years standing who has rendered exceptional service in furthering the object of the Society. An Honorary Life Member shall receive a certificate under the seal of the Society stating the date and purpose for which the honour was so conferred, be exempt from the payment of fees and contributions, and shall have all the rights and privileges of ordinary members.

Follows current constitution, Rule 29

85 Award of Merit

- (1) The Council may bestow an Award of Merit upon any member of not less than five (5) years standing in recognition for special services rendered to the Society in one or more areas of its committee programs.
- (2) Every member recognised by an Award of Merit shall receive a certificate under the Seal of the Society, stating the date and purpose for which the honour of the Award was so conferred.

Follows current constitution, Rule 30

PART 10. - RELATED BODIES

86. The Royal Western Australian Historical Society Inc. Auxiliary

- (1) The Council may establish a Royal Western Australian Historical Society Inc. (RWAHS) Auxiliary for the purpose of furthering the object of the Society.
- (2) The RWAHS Auxiliary shall manage its own affairs including finance subject to the control of the Council in accordance with by-laws made by the Council after consultation with the Auxiliary.
- (3) All property acquired by the RWAHS Auxiliary shall be vested in the Society.

Follows the current Constitution. Subrule (3) was required by the Department of Commerce

87. Affiliated societies

- (1) A body corporate, government agency or group having an object similar to or in accordance with the object of the Society may apply to the Council to become affiliated with the Society.
- (2) The Council may in its absolute discretion and without giving any reason accept or reject any application referred to in sub-rule 33(1).
- (3) If the Council accepts the application the body corporate, government agency or group shall become an ordinary member of the Society and on payment of the appropriate membership fee shall receive a Certificate of Affiliation and shall have the voting and other rights of an ordinary member of the Society and may be represented at meetings of the Society. ~~[Delete: in accordance with sub-rules 25(2) to 25(4)].~~
- (4) The Society may hold an annual State History Conference of Affiliated Societies on a date and at a place decided upon by the previous Conference or, failing that, by the Council.
- (5) Each affiliated society shall forward an annual report to the Society in the form and manner of report as adopted by the annual State History Conference of Affiliated Societies.
- (6) If a State History Conference of Affiliated Societies is to be held outside the Perth metropolitan area the Society shall endeavour to give to its members twelve (12) months' notice of the time and place of that conference.
- (7) Each affiliated society shall have one vote only at the annual State History Conference of Affiliated Societies but may be represented by two delegates either of whom may exercise that vote.

Follows Rule 33 of the current Constitution

PART 11 – STANDARDS OF CONDUCT

88. Rules of conduct

From time-to-time the Council, after such consultation as it considers appropriate, may make and adopt standards of conduct, engagement and/or behaviour applicable to the work of the Society, its affiliates and/or members, including non-member volunteers.

This is a new addition for discussion.

88. Acquisition and management of Museum and Library items

- (1) The Museum Committee or Library Committee shall receive all materials acquired for the Museum and Library collections consistent with Council policies, supervise their safe-keeping, accessioning, cataloguing and disposition in accordance with the Society's policies and within the limits of the Society's resources adhere to requirements of museum or library collections best practice.
- (2) The Museum Committee and the Library Committee [~~Delete: being bound by these rules~~] shall make recommendations to Council [~~in accordance with sub-rule 19(4)(c) and Council policies~~] as to the disposal of items in the Society's Museum and Library collections.

Follows Clause 32 of current Constitution apart from deletions.