



LANDSCAPING  
v i c t o r i a<sup>®</sup>

---

LANDSCAPING VICTORIA INCORPORATED

---

## **RULES**

ABN 41 356 208 034  
Reg. No. A 0023319L

## TABLE OF CONTENTS

<b>PART 1 - NAME AND PURPOSES .....</b>	<b>1</b>
1. NAME .....	1
2. PURPOSES .....	1
3. LEGAL CAPACITY AND POWERS .....	1
4. NOT FOR PROFIT .....	1
<b>PART 2 — MEMBERSHIP.....</b>	<b>2</b>
5. CATEGORIES OF MEMBERSHIP .....	2
6. ELIGIBILITY .....	2
7. APPLICATIONS .....	2
8. APPROVAL .....	3
9. ENTRANCE FEES AND SUBSCRIPTIONS.....	3
10. RIGHTS, OBLIGATIONS AND LIABILITY .....	3
11. DISCIPLINARY ACTION .....	4
11.2 DISCIPLINARY SUBCOMMITTEE.....	4
12. GRIEVANCE PROCEDURE .....	6
13. RESIGNATION .....	7
14. CESSATION .....	7
15. REGISTER OF MEMBERS .....	7
<b>PART 3 — MEMBERS’ MEETINGS .....</b>	<b>8</b>
16. ANNUAL MEMBERS’ MEETING .....	8
17. SPECIAL MEMBERS’ MEETINGS.....	8
18. NOTICE .....	8
19. PROXIES .....	9
20. USE OF TECHNOLOGY .....	9
21. QUORUM .....	9
22. CHAIRING MEMBERS’ MEETINGS .....	10
23. PARTICIPATION .....	10

24.	VOTING .....	10
25.	POLL .....	10
<b>PART 4 - THE BOARD .....</b>		<b>10</b>
26.	MEMBERSHIP .....	10
27.	ELECTION OF BOARD MEMBERS.....	10
28.	TERM OF OFFICE.....	11
29.	RESPONSIBILITY AND POWERS.....	12
30.	REGULATIONS.....	12
31.	DUTIES.....	13
32.	INDEMNITY .....	13
33.	ELECTION OF OFFICE BEARERS .....	13
34.	CHIEF EXECUTIVE OFFICER .....	13
35.	SECRETARY .....	14
<b>PART 5 - BOARD MEETINGS .....</b>		<b>14</b>
36.	CONVENING .....	14
37.	NOTICE .....	14
38.	USE OF TECHNOLOGY .....	14
39.	QUORUM .....	14
40.	CHAIRING BOARD MEETINGS.....	15
41.	VOTING .....	15
42.	CONFLICT OF INTEREST .....	15
43.	LEAVE OF ABSENCE.....	15
44.	RESOLUTIONS WITHOUT MEETING .....	16
<b>PART 6 — FINANCIAL AND LEGAL.....</b>		<b>16</b>
45.	SOURCES OF FUNDS .....	16
46.	FINANCIAL YEAR.....	16
47.	MANAGEMENT OF FUNDS.....	16
48.	AUDIT AND REVIEW OF ACCOUNTS .....	16
49.	MINUTES.....	17

<b>50.</b>	<b>RECORDS .....</b>	<b>17</b>
<b>51.</b>	<b>COMMON SEAL.....</b>	<b>18</b>
<b>52.</b>	<b>AMENDMENT OF RULES.....</b>	<b>18</b>
<b>53.</b>	<b>WINDING UP .....</b>	<b>18</b>
<b>54.</b>	<b>NOTICES .....</b>	<b>18</b>
<b>55.</b>	<b>INTERPRETATION.....</b>	<b>19</b>

## **PART 1 - NAME AND PURPOSES**

### **1. Name**

1.1 The name of the incorporated association is "Landscaping Victoria Incorporated".

### **2. Purposes**

2.1 The purposes of the association are:

- (a) To promote the interests of the Industry throughout Victoria; and
- (b) To render such support and assistance to its members as the Association may deem proper and advisable.

2.2 The Association envisages that it will achieve its purposes by:

- (a) securing for its members all the advantages of unity of action in any manner whatsoever;
- (b) promoting exhibitions relevant to the interests of the Association or its members;
- (c) promoting co-operation between members;
- (d) encouraging and preserving by every means, skill in the industry;
- (e) printing, publishing, issuing and circulating such periodicals, books, circulars, advertisements and other publications as may seem conducive to the interests of the Association and its members;
- (f) appointing, employing, engaging, removing or suspending such persons as the Board considers necessary or convenient for the purposes of the Association;
- (g) supporting, encouraging and maintaining a practical system of apprenticeship combined with technical education;
- (h) providing an authoritative and representative voice for landscape designers, contractors, builders, gardeners, horticulturalists, project managers, sub-contractors, suppliers and any other persons engaged in the industry on matters of common interest;
- (i) enhancing the reputation for skill, integrity and responsibility of the members of the Association through the establishment and maintenance of the Industry standards.

### **3. Legal Capacity and Powers**

3.1 The association has the legal capacity of an incorporated body, as provided by section 29(2) of the Associations Act.

3.2 The association has power to do all things incidental or conducive to the attainment of its purposes, as provided by section 30 of the Associations Act.

3.3 The association may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for its purposes.

### **4. Not For Profit**

4.1 The association must not distribute any surplus, income or assets directly or indirectly to its members.

4.2 Rule 4.1 does not prevent the association from paying its members:

- (a) reimbursement for expenses properly incurred by them, and
- (b) for goods supplied and services provided by them,

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

## **PART 2 — MEMBERSHIP**

### **5. Categories of membership**

5.1 The categories of membership of the association are:

- (a) Full membership;
- (b) Life membership;
- (c) Student membership
- (d) Education membership, and
- (e) Honorary membership.

### **6. Eligibility**

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

6.2 The Board must determine the eligibility criteria for each category of membership.

6.3 The Board must make available the eligibility criteria for each category of membership upon request.

### **7. Applications**

7.1 Applications for membership must be:

- (a) in writing, or in the form determined by the Board, stating:
  - i. that the applicant wishes to become a member of the association;
  - ii. the category of membership the applicant is seeking admission into;
  - iii. that the applicant supports the purposes of the association; and
  - iv. that the applicant agrees to comply with:
    - (A) these rules;
    - (B) the Code of Ethics;
    - (C) the Dispute Resolution Policy, and
    - (D) the regulations of the association.
- (b) signed by the applicant;
- (c) accompanied by the entrance fee;
- (d) given to the Membership Officer; and
- (e) if the applicant is not an individual, the name of the individual that will be the authorised representative of the applicant upon admission to membership.

- 7.2 Upon receiving an application the Membership Officer must prepare an assessment report and make a recommendation to the Board in relation to the application.

## **8. Approval**

- 8.1 The Board may delegate membership approval to the Membership Officer.
- 8.2 The Membership Officer must consider the application in accordance with the Board approved Membership Assessment Procedure, which may be reviewed and amended by the Board from time to time.
- 8.3 The Membership Approval Policy will be implemented and managed by the Membership Officer.
- 8.4 The Membership Officer must, as soon as practicable ~~without delay~~, notify the applicant whether the application has been approved or rejected, and if the application has been approved, the amount of the annual subscription fee (of part thereof) payable by the applicant.
- 8.5 Where an application is rejected:
- (a) no reason need be given;
  - (b) the applicant may request, in writing within 30 days of receiving notice of the rejection, a review of the decision;
  - (c) the applicant may not re-apply for membership until the expiry of a 12-month period from the date of the decision to reject the application and in the case of a review under 8.5(b) the date of the final decision to reject the application.
- 8.6 If the Membership Officer approves the application,
- (a) the applicant becomes a member from the date of issuing approval notification to the applicant; and
  - (b) the name and address of the new member, and the date of becoming a member must be entered without delay in the register of members.
- 8.7 If the Membership Officer rejects an application, the association is under no obligation to refund the entrance fee to the applicant.

## **9. Entrance Fees and Subscriptions**

- 9.1 An entrance fee is payable by an applicant for full membership but is not payable by an applicant for Student, Education, life, or honorary membership.
- 9.2 Annual subscriptions are payable in advance but are not payable by student, life members, or honorary members.
- 9.3 The Board must by regulation set the amount of the entrance fee and annual subscription, which may be nil.
- 9.4 The amount of the entrance fee and annual subscription and the date for payment may vary according to criteria set by the Board in the regulations.
- 9.5 The voting and other rights of members who have not paid the annual subscription fee by the date for payment are suspended until the annual subscription is paid.

## **10. Rights, Obligations and Liability**

- 10.1 The rights of members include:
- (a) to receive notice of members' meetings under rule 18;
  - (b) to participate in members' meetings under rule 23;

- (c) to have access to the records of the association under rule 50.
- 10.2 The Board may grant any other rights to any membership category of members that it considers appropriate.
- 10.3 The rights of members are not transferable, and end when the member ceases to be a member in accordance with rule 14.
- 10.4 By becoming and remaining members, members agree to support the purposes of the association.
- 10.5 Members must at all times comply with these rules, the regulations, policies and the Code of Ethics.
- 10.6 It is the responsibility of a member, that is not an individual, to notify the association of the name of their authorised representative and upon receiving notice the association must enter that name on the Register of members within 28 days.
- 10.7 The association may rely on the name of the authorised person listed on the Register.
- 10.8 Under section 46 of the Associations Act, these rules are an enforceable contract between the association and each member.
- 10.9 Under section 52(1) of the Associations Act, members (including Board members) are not liable to contribute to the debts and liabilities of the association by reason only of their membership.

## 11. Disciplinary Action

### 11.1 Grounds for taking disciplinary action

- (a) The association may take disciplinary action against a member in accordance with this Division if it is determined that the member—
  - i. has failed to comply with these rules; or
  - ii. refuses to support the purposes of the association; or
  - iii. has breached the Landscaping Victoria Code of Ethics; or
  - iv. has engaged in conduct prejudicial to the association

### 11.2 Disciplinary subcommittee

- (a) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Board must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.
- (b) The members of the disciplinary subcommittee—
  - i. may be Board members, members of the Association or anyone else; but
  - ii. must not be biased against, or in favour of, the member concerned.

### 11.3 Notice to member

- (a) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
  - i. stating that the association proposes to take disciplinary action against the member; and
  - ii. stating the grounds for the proposed disciplinary action; and



- iii. specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the disciplinary meeting); and
  - iv. advising the member that he or she may do one or both of the following—
    - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
    - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - v. setting out the member's appeal rights under rule 11.5.
- (b) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

#### 11.4 Decision of subcommittee

- (a) At the disciplinary meeting, the disciplinary subcommittee must—
  - i. give the member an opportunity to be heard; and
  - ii. consider any written statement submitted by the member.
- (b) After complying with sub-rule (1), the disciplinary subcommittee may—
  - i. take no further action against the member; or
  - ii. subject to sub-rule (3)—
    - (i) reprimand the member; or
    - (ii) suspend the membership rights of the member for a specified period; or
    - (iii) expel the member from the association.
- (c) The disciplinary subcommittee may not fine the member.
- (d) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

#### 11.5 Appeal rights

- (a) A person whose membership rights have been suspended or who has been expelled from the association under rule 11.4 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (b) The notice must be in writing and given—
  - i. to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - ii. to the Secretary not later than 48 hours after the vote.
- (c) If a person has given notice under sub-rule (b), a disciplinary appeal meeting must be convened by the Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (d) Notice of the disciplinary appeal meeting must be given to each member of the association who is entitled to vote as soon as practicable and must—
  - i. specify the date, time and place of the meeting; and
  - ii. state—

- (i) the name of the person against whom the disciplinary action has been taken; and
- (ii) the grounds for taking that action; and
- (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

#### 11.6 Conduct of disciplinary appeal meeting

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

## 12. Grievance Procedure

### 12.1 Application

- (a) The grievance procedure set out in this Division applies to disputes under these Rules between—
  - i. a member and another member;
  - ii. a member and the Board;
  - iii. a member and the association.
- (b) A member must not initiate a grievance procedure in relation to a matter that is the subject of a dispute under the Dispute Resolution Policy or a disciplinary procedure under rule 11, until that dispute has been resolved or the disciplinary procedure has been completed.

### 12.2 Parties must attempt to resolve the dispute

The parties to a dispute under this rule 15 must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### 12.3 Appointment of mediator

- (a) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 15.2, the parties must within 10 days—
  - i. notify the Board of the dispute; and
  - ii. agree to or request the appointment of a mediator; and
  - iii. attempt in good faith to settle the dispute by mediation.
- (b) The mediator must be—

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

#### 12.4 Mediation process

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

#### 12.5 Failure to resolve dispute by mediation

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

### 13. Resignation

- 13.1 members may resign in writing given to the Membership Officer
- 13.2 members whose subscriptions are more than 1 year in arrears are taken to have resigned.

### 14. Cessation

- 14.1 members cease to be members on resignation, expulsion, termination or death.
- 14.2 If a member ceases to be a member, the date of ceasing to be a member must be entered as soon as practicable in the register of members.

### 15. Register of members

- 15.1 The Board must ensure that a register is kept containing:
  - (a) the name of each member;
  - (b) if the member is not an individual, the name of the member's authorised representative;
  - (c) the address for notices last given by the member;
  - (d) the date of becoming a member; and
  - (e) in the case of former members — the date of ceasing to be a member.

### **PART 3 — MEMBERS' MEETINGS**

#### **16. Annual Members' Meeting**

- 16.1 The Board must convene an annual members' meeting each year, to be held within 5 months of the end of a financial year.
- 16.2 The ordinary business of the annual members' meeting is:
- (a) to verify the minutes of:
    - i. the last annual members' meeting, and
    - ii. any special members' meetings since the last annual members' meeting;
  - (b) to consider the annual report of the Board on the activities of the association during its last financial year in accordance with Part 7 of the Act;
  - (c) to consider the financial statements and any accompanying audited accounts and auditor's report or report of a review; and
  - (d) to announce results of the Board elections conducted under rule 27.
- 16.3 The annual members' meeting may only consider other business of which notice has been given in accordance with rule 18.2(c).

#### **17. Special Members' Meetings**

- 17.1 The President and the Board may convene a special members' meeting.
- 17.2 The Board must convene a special members' meeting on the request in writing of at least 10 percent of members entitled to vote.
- 17.3 The request:
- (a) must state the business to be considered at the meeting, including any resolution to be proposed;
  - (b) may consist of multiple copies of the same document;
  - (c) must include the names, addresses and signatures of the members making the request; and
  - (d) must be given to the Secretary or a Board member.
- 17.4 If the Board does not arrange for the special members' meeting to be held within 6 weeks of the request being made, the members making the request (or any of them) may convene the special members' meeting.
- 17.5 A special members' meeting convened by members under rule 17.4:
- (a) must be held within 3 months of the original request having been made; and
  - (b) may only consider the business stated in the original request.
- 17.6 The association must reimburse all reasonable expenses incurred by the members convening a special members' meeting under rule 17.4.
- 17.7 Special members' meetings may only consider business of which notice has been given in accordance with rule 18.2(c).

#### **18. Notice**

- 18.1 At least 21 days notice in writing of members' meetings must be given to each member.
- 18.2 The notice must state:
- (a) the date, time and place (or places) of the meeting,

- (b) if the meeting is to be held at more than 1 place — the technology that will be used,
- (c) the general nature of each item of business to be considered, and
- (d) if a special resolution is to be proposed:
  - i. the proposed resolution, and
  - ii. that it is intended that the resolution be proposed as a special resolution.

18.3 The notice must include under rule 18.2(c) any business that any member has requested in writing be considered.

18.4 The notice must also include:

- (a) a statement that:
  - i. all members may appoint a proxy to attend, speak and vote instead of the member, and
  - ii. proxies must be members of the association, and
- (b) a copy of rule 19.

18.5 The notice may include a form of appointment for the purposes of rules 18.4 and 19, but members are not required to use the form.

18.6 Despite rule 18.1, the accidental omission to give notice of the meeting to a member or members, or the non-receipt by a member or members of notice of the meeting does not invalidate the meeting.

## **19. Proxies**

19.1 Members may only appoint other members as proxies but may do so for any members' meeting.

19.2 Appointments of proxies must be:

- (a) in writing, naming the member (or members, in order) appointed;
- (b) signed by the member making the appointment; and
- (c) given to the Chief Executive Officer no later than 24 hours before the meeting.

## **20. Use of Technology**

20.1 Members' meetings may be held at more than 1 place, provided that the technology used enables each member present at all places the meeting is held to clearly and simultaneously communicate with every other such member.

20.2 For the purposes of this Part, a member participating in a general meeting as permitted under 20.1 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **21. Quorum**

21.1 The quorum for consideration of the ordinary business of the annual members' meeting is the presence in person of at least 6 members entitled to vote.

21.2 The quorum for the consideration of all other business at members' meetings is the presence in person or by proxy of at either 6 members entitled to vote.

21.3 If a quorum is not present within 30 minutes from the time of the meeting of which notice has been given, the meeting must not proceed.

**22. Chairing Members' Meetings**

- 22.1 The President is entitled to chair members' meetings.
- 22.2 If the President is not present, or does not wish to chair the meeting, the Vice-President is entitled to chair.
- 22.3 If neither the President nor the Vice President is present, or if neither wishes to chair the meeting, the meeting must elect another member to chair.
- 22.4 The chair of the meeting has a casting vote.

**23. Participation**

- 23.1 All members are entitled to attend, speak, and propose resolutions at members' meetings, except those whose rights have been suspended under rule 9.5 or 11.4.
- 23.2 Full members and life members whose rights have not been suspended under rule 9.5 or 11.4 are entitled to vote at members' meetings. The remaining members under rule 5.1 do not have voting rights.

**24. Voting**

- 24.1 Each member entitled to vote under rule 23.2 has 1 vote.
- 24.2 Members entitled to vote under rule 23.2 may vote in person or by proxy.
- 24.3 Unless a poll is demanded:
  - (a) voting is by show of hands;
  - (b) votes by proxy are not counted; and
  - (c) the declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.

**25. Poll**

- 25.1 In these rules "poll" means where votes are cast in writing.
- 25.2 Any member entitled to vote (including the chair of the meeting) may demand a poll before or immediately after the declaration of the result on a show of hands.
- 25.3 Votes by proxy are counted on a poll.
- 25.4 The poll must be taken as directed by the chair of the meeting.
- 25.5 A poll demanded on the election of the President must be taken immediately.
- 25.6 A poll demanded on any other question must be taken before the close of the meeting at a time determined by the chair of the meeting.

**PART 4 - THE BOARD****26. Membership**

- 26.1 The Board must determine the number of members comprising the Board, but the number must be no less than 6 and no greater than 10.
- 26.2 The Board must make a determination under rule 26.1 prior to notice being given to members of the annual members' meeting under rule 18.
- 26.3 The Board may not make a determination under rule 26.1 if it results in the expiration of the term of any Board member otherwise than in accordance with rule 28 ("Term of Office").

**27. Election of Board members**

- 27.1 Board may select up to 2 appointed Board members

- 27.2 All other Board members shall be elected to fill vacant positions on the Board by online vote.
- 27.3 At least 50% of the members of the Board must be members.
- 27.4 Calls for nomination will be sent to all members no less than 60 days from the date fixed for the annual members' meeting.
- 27.5 Nominations of candidates for election as Board members of the Association must be:
- (a) made in writing, signed by two (2) members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
  - (b) delivered to the Chief Executive Officer of the Association not less than 21 days before the date fixed for the holding of the annual members' meeting at which they will be announced.
- 27.6 If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated shall be deemed to be elected and further nominations will be called for.
- 27.7 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- 27.8 If the number of nominations exceeds the number of vacancies to be filled, a vote must be held.
- 27.9 Voting will be conducted by online poll or such other method as determined by the Board.
- 27.10 Voting will open not less than 21 days before the date fixed for the annual members' meeting.
- 27.11 All members with full voting rights will be notified when voting opens.
- 27.12 Voting will remain open until one business day before the date fixed for the annual members' meeting.
- 27.13 The results of the Board elections will be announced at the annual members' meeting.

## **28. Term of Office**

- 28.1 Subject to rules 28.2 to 28.5, Board members will have three (3) year terms and will hold office until the conclusion of the third annual members' meeting following their election.
- 28.2 Board members may be re-elected.
- 28.3 Board members may resign in writing given to the Secretary or a Board member.
- 28.4 Board members cease to be Board members if they:
- (a) are members of the association and cease to be members of the association under rule 11;
  - (b) fail to attend 2 consecutive Board meetings without leave of absence under rule 43;
  - (c) become bankrupt, or apply to take or take advantage of any law relating to bankrupt or insolvent debtors, or compound with their creditors, or make an assignment of their estate for the benefit of their creditors;
  - (d) become subject to a guardianship or administration order under the *Victorian Guardianship and Administration Act 1986*; or

- (e) cease to primarily reside in Victoria, Australia
- (f) are disqualified or prohibited from acting as a director under any relevant Australian law, including but not limited to the Corporations Act 2001 or the Australian Charities and Not-for-profits Commission Act 2012.
- (g) are found guilty of a relevant criminal offence, including an act that involves dishonesty, fraud, or theft; involves violence; relates to corporate governance; or other matters that could reasonably be seen to impact the member's ability to fulfil their duties or pose a significant risk to the reputation, operation, or interests of the association.

28.5 A members' meeting may by resolution passed by a simple majority:

- (a) remove any Board member; and
- (b) fill the resulting vacancy for the remainder of the term of office.

28.6 If there is a vacancy in its membership (including a vacancy in accordance with rule 28.5(a) not filled under rule 28.5(b)), the Board may, subject to rule 27.3 appoint an individual to fill the vacancy for the remainder of the term of office.

28.7 The Board may continue to act despite any vacancy in its membership.

28.8 Even if it is subsequently found that a person who has acted as a Board member was not properly elected or appointed, the validity of:

- (a) the acts of that person as a Board member, and
- (b) decisions of Board meetings

in which that person has participated is not affected.

## **29. Responsibility and Powers**

29.1 Subject to rule 29.5, the Board is responsible for the management of the association.

29.2 The Board may exercise all powers of the association on its behalf.

29.3 The Board may:

- (a) establish subcommittees with such membership and terms of reference as it considers appropriate, and
- (b) delegate its powers, to a sub-committee, as it deems appropriate,
- (c) delegate its responsibilities to an individual staff member, subject to the following conditions:
  - i. the delegation must be in writing and is subject to the conditions and limitations the Board considers appropriate
  - ii. the delegation must be accepted by the individual staff member
  - iii. the person to whom the delegation is made holds the necessary skills and expertise required to carry out the delegated responsibilities
- (d) the Board may revoke any delegation, wholly or in part, at any time.

29.4 A members' meeting may by resolution direct the Board on any matter within its powers.

## **30. Regulations**

30.1 The Board may by resolution make regulations and policies to give effect to these rules.



30.2 Members must at all times comply with the regulations and policies as if they formed part of these rules.

### **31. Duties**

31.1 Officers must not make improper use of:

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

so as:

- (c) to gain an advantage for himself or herself or any other person; or
- (d) to cause detriment to the association.

31.2 Officers must exercise their powers and discharge their duties with reasonable care and diligence.

31.3 Officers must exercise their powers and discharge their duties:

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

### **32. Indemnity**

The association indemnifies Board members against any liability incurred in good faith by them on behalf of the association in the course of performing their duties.

### **33. Election of Office Bearers**

33.1 The Office Bearers of the Association are:

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

33.2 Subject to rule 33.6, the Office Bearers of the Association shall be elected by the Board from amongst the eligible Board members.

33.3 An individual is not eligible for election to the position of President if that individual is not a full member or the authorised representative of a full member.

33.4 The election of Office Bearers must be conducted in a manner determined by the Chair.

33.5 Subject to rule 33.6 and 33.7, each Office Bearer shall hold office for a one (1) year term and will then resign.

33.6 Office Bearers may be re-elected and if they are re-elected as a Board member for a further term, they are again eligible for re-election as an Office Bearer after 12 months.

33.7 An office bearer shall not hold office if he or she ceases to be a Board member under rule 28.4 or 28.5

### **34. Chief Executive Officer**

34.1 The Board may appoint a Chief Executive Officer on such remuneration and conditions of employment that the Board thinks appropriate.

34.2 The Chief Executive Officer:

- (a) is accountable to the Board;

- (b) may act on the instructions of any Office Bearer;
- (c) may exercise any power delegated to the Chief Executive Officer by the Board under rule **Error! Reference source not found.**;
- (d) subject to a decision of the Board to the contrary, is entitled to receive notice of Board meetings under rule 37 and may be present at all Board meetings but may not exercise a vote on any issue;

### **35. Secretary**

- 35.1 The Secretary must perform any duty or function required under the Associations Act to be performed by the secretary of an incorporated association.
- 35.2 Under section 74 of the Associations Act, the Secretary must notify the Registrar within 14 days of appointment.
- 35.3 Under section 73 of the Associations Act, the Board must fill any vacancy in the position of Secretary within 14 days.

## **PART 5 - BOARD MEETINGS**

### **36. Convening**

- 36.1 The President or any 4 Board members may convene a Board meeting.
- 36.2 Ordinary Board meetings must be held at least 4 times each year.
- 36.3 At its first meeting after the annual members' meeting each year the Board:
  - (a) must by resolution set the dates, times and places of ordinary Board meetings until the next annual members' meeting; and
  - (b) if there is a vacancy, elect Office Bearers in accordance with rule 33 ("Election of Office Bearers").
- 36.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

### **37. Notice**

- 37.1 Each Board member must be given at least 7 days notice in writing of Board meetings, subject to rule 37.4.
- 37.2 Notice may be given of more than 1 Board meeting at the same time.
- 37.3 The notice must state the date, time and place (or places) of the meeting but need not include the business to be considered.
- 37.4 In cases of urgency a meeting may be held without the notice required by rule 37.1, provided that as much notice as practicable is given to each Board member by the quickest practicable means.

### **38. Use of Technology**

- 38.1 Board meetings may be held at more than 1 place, provided that the technology used enables each Board member present at all places the meeting is held to clearly and simultaneously communicate with every other such Board member.
- 38.2 Without limiting rules 38.1, Board meetings may be convened and held by telephone.

### **39. Quorum**

- 39.1 The quorum for Board meetings is the presence in person of at least 50% of Board members plus one Board member.

39.2 If a quorum of the Board cannot be formed because there are vacancies in its membership:

- (a) any member of the association may convene a special members' meeting; and
- (b) the special members' meeting may fill the vacancies.

#### **40. Chairing Board Meetings**

40.1 The President is entitled to chair Board meetings.

40.2 If the President is not present, or does not wish to chair the meeting, the Vice-President is entitled to chair.

40.3 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the Board must elect another Board member to chair.

40.4 The chair of the meeting has a casting vote.

#### **41. Voting**

41.1 Each Board member has 1 vote at Board meetings.

41.2 There is no voting by proxy at Board meetings.

41.3 A motion is carried if a majority of Board members present at the meeting vote in favour of the motion.

- (a) Sub-rule 41.3 does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Board.
- (b) If votes are divided equally on a question, the Chair of the meeting has a second or casting vote.

#### **42. Conflict of Interest**

42.1 Officers who have a material personal interest in a matter that is being considered at a Board meeting must:

- (a) disclose the nature and extent of their interest:
  - i. to the Board as soon as they become aware of the interest; and
  - ii. in the statement submitted to the next annual general meeting under section 80(2) of the Associations Act and rule 16.2; and
- (b) not be present while the matter is being considered at the meeting; and
- (c) not vote on the matter.

42.2 Rule 42.1 does not apply to material personal interests that:

- (a) exist only because the Officer is a member of a class of persons for whose benefit the association is established; or
- (b) the Officer has in common with all or a substantial proportion of the members of the association.

42.3 Rule 42.1 does not apply to material personal interests that exist only because the Officer is an employee of the association.

#### **43. Leave of Absence**

43.1 The Board may by resolution grant Board members leave of absence from Board meetings for up to 3 months.

43.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board member concerned to seek leave of absence in advance.

#### **44. Resolutions without Meeting**

44.1 A resolution agreed to in writing by all Board members has the same effect as a resolution passed at a Board meeting.

44.2 In rule 44.1 "all Board members" does not include those Board members who:

- (a) would be prohibited by rule 42.1(c) from voting on the matter at a Board meeting; or
- (b) have leave of absence from Board meetings under rule 43.

### **PART 6 — FINANCIAL AND LEGAL**

#### **45. Sources of Funds**

The funds of the association may be derived from subscriptions, donations, fund-raising activities, grants, interest and any other sources as the Board sees fit.

#### **46. Financial Year**

The financial year of the association is from 1 July to 30 June.

#### **47. Management of Funds**

47.1 The Board is responsible for the management of the funds of the association.

47.2 The association must keep financial records that—

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

47.3 The association must retain the financial records and associated certificate in the prescribed form for 7 years after the transactions covered by the records are completed.

47.4 The Treasurer must keep in his or her custody, or under his or her control—

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

47.2 All Financial commitments, whether actual or by agreement, must be made in adherence to the Board approved Financial Management Policy, which may be reviewed and amended by the Board from time to time.

47.3 The Financial Management Policy will be implemented and managed by the Finance Officer.

47.4 The Board may nominate a list of individuals authorised to act as bank or payment signatories.

#### **48. Audit and Review of Accounts**

The Association's accounts must be prepared and audited or reviewed as required by the Associations Act.

## 49. Minutes

- 49.1 The Board must ensure that minutes are taken and kept of all members' meetings and Board meetings (including resolutions without meeting).
- 49.2 The minutes of annual members' meetings must include a copy of:
- (a) the financial statements submitted to members in accordance with rule 16.2(c), and
  - (b) any audited accounts and auditor's report or report of a review accompanying the financial statements in accordance with rule 16.2(c).
- 49.3 The minutes of special members' meetings must include a copy of any financial statement submitted to the meeting.
- 49.4 Members may inspect and obtain copies of minutes in accordance with rule 50.

## 50. Records

- 50.1 The Chief Executive Officer must provide for the safe keeping of the records of the association.
- 50.2 The Chief Executive Officer must on request make copies of these rules and the regulations available to members and applicants for membership without charge.
- 50.3 The Executive Officer must within 7 days of request make copies of:
- (a) the register of members,
  - (b) the minutes of members' meetings, available to members without charge, and
  - (c) subject to 51.4, the financial records, books, securities and any other relevant document of the Association, including minutes of Board meetings.
- 50.4 Under section 88 of the Associations Act, a person, who is no longer entitled to custody of records of the association must return them to the Chief Executive Officer within 28 days.
- 50.5 The Board may refuse to permit a member to inspect records of the association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.
- 50.6 The Board must on request make copies of these rules available to members and applicants for membership free of charge.
- 50.7 Subject to sub-rule 51.4, a member may make a copy of any of the other records of the association referred to in this rule and the association may charge a reasonable fee for provision of a copy of such a record.
- 50.8 For the purposes of this rule-
- relevant documents, the records and other documents, however compiled, recorded or stored, that relate to incorporation and management of the association and includes the following-
- (a) its membership records;
  - (b) its financial statements;
  - (c) Its financial records;
  - (d) Records and documents relating to transactions, dealings, business or property of the association.

**51. Common Seal**

- 51.1 Rules 51.2 - 51.5 only apply if the association has a common seal.
- 51.2 A document may only be sealed with the common seal if authorised by resolution of the Board.
- 51.3 The sealing must be witnessed by the signatures of at least 2 Board members nominated by the Board by regulation or resolution.
- 51.4 The Board may nominate a list of individuals or positions to be signatories for the purpose of rule 51.3.
- 51.5 The Board must provide for the safe keeping of the common seal.

**52. Amendment of Rules**

- 52.1 Under section 50 of the Associations Act:
  - (a) these rules may only be amended by special resolution;
  - (b) an amendment to these rules does not take effect until it has been approved by the Registrar; and
  - (c) the Secretary must apply to the Registrar for approval of the amendment within 28 days after the special resolution was passed.

**53. Winding Up**

- 53.1 The association may be wound up or cancelled voluntarily by special resolution in accordance with Part 10 of the Associations Act.

- 53.2 If the association is:

- (a) wound up voluntarily or otherwise; or
- (b) its incorporation is cancelled;

the surplus assets of the association must not be distributed to any member.

The surplus assets must be given to a body that:

- (c) has similar purposes to the association; and
- (d) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the association;

subject to rule 53.3.

- 53.3 If the association is wound up or cancelled voluntarily, the body to which its surplus assets are to be given must be decided by special resolution.

**54. Notices**

- 54.1 Members must give the association their address for notices, and any change in that address.
- 54.2 The address for notices may include an email address and a fax number.
- 54.3 The association must enter any change in the address of a member in the register of members.
- 54.4 Notice may be given to a member by sending it to the address last given by the member.
- 54.5 In these rules a period of notice of a meeting expressed in days:
  - (a) does not include the day on which notice is given; but

(b) includes the day on which the meeting is held.

54.6 Notices sent by prepaid post are taken to have been given on the second day after posting that is not a Saturday, Sunday or public holiday at that address.

54.7 Notices sent by email or fax are taken to have been given on the first day after sending that is not a Saturday, Sunday or public holiday at that address.

54.8 In this rule "member" includes a Board member.

## 55. Interpretation

55.1 In these rules, unless the contrary intention appears:

- (a) "the association" means the association named in rule 1.1.
- (b) "the Associations Act" means the *Associations Incorporation Reform Act 2012* (Vic).
- (c) "Membership Officer" means a person appointed to manage membership application assessment.
- (d) "Membership Committee" means the person/s appointed to oversee membership activities.
- (e) "assessment report" means a report prepared by the Executive Officer for the purpose of assisting the Board to assess the suitability of an applicant for membership of the association.
- (f) "Membership Approval Policy" means the policy document governing the approval of membership applications, as adopted and amended from time to time by the Board.
- (g) "authorised representative" means the individual nominated by a member that is a body corporate to exercise the rights of the member in the Association.
- (h) "Code of Ethics" means any Code of Ethics that may be in effect and made available to members via the website or other means.
- (i) "convene" means call and arrange to hold, and includes setting the date, time and place of the meeting.
- (j) "disciplinary meeting" means a meeting convened in accordance with rule 11.
- (k) "Dispute Resolution Policy" means any Dispute Resolution Policy that may be in effect and made available to members via the website or other means.
- (l) "Industry" means the Landscape Industry and includes any trade, industry, business, undertaking, work, service, handicraft, employment or occupation concerned with or the building, making, planning, designing, alteration or maintenance of landscapes in residential, public, commercial or other settings and includes the supply of materials and services directly or indirectly related to any of the above mentioned.
- (m) "person" means any natural person or body corporate.
- (n) "member" means a person admitted to membership of the association in accordance with these rules.
- (o) "members' meeting" means a general meeting of members convened in accordance with these rules.

- (p) "Finance Officer" means the Chief Finance Officer or other person appointed by the Board to oversee the financial operations of the association.
- (q) "Office Bearer" means a Board member elected to the position of President, Vice-President, Secretary or Treasurer under rule 33.
- (r) "Officer" means a Board member, Secretary and any staff member of the association who makes or participates in making decisions that affect the whole, or a substantial part, of the operations of the association.
- (s) "policy" means policies of the association made under rule 30.
- (t) "the Registrar" means the Registrar of Incorporated Associations under the Associations Act.
- (u) "regulations" means regulations of the association made under rule 30, and "regulation" has a corresponding meaning.
- (v) "special resolution" means, subject at all times to the Associations Act, a resolution which is passed by not less than three-quarters of all members who are entitled to vote and do so vote in person or by proxy at a general meeting of the Association of which not less than 21 days notice in writing specifying both the resolution and the intention to propose the resolution as a special resolution, was given in accordance with these Rules.
- (w) "Financial Management Policy" means the policy document outlining the financial management practices and procedures, as adopted and amended from time to time by the Board.
- (x) "in writing" includes emails and documents sent electronically.

55.2 The headings form part of these rules.

55.3 The Board is responsible for the interpretation of these rules and the regulations.