

# GEELONG ART GALLERY (INCORPORATED) PURPOSES AND RULES

## **PART 1 – PRELIMINARY**

### **1. NAME**

The name of the incorporated Association is “The Geelong Art Gallery (Incorporated)” - (in these rules called “the Gallery”).

### **2. STATEMENT OF PURPOSES**

2.1. The Purposes of the Gallery are:-

- 2.1.1. to encourage and promote the appreciation of the arts;
- 2.1.2. to provide leadership in the arts and in the Geelong Region in all aspects of culture;
- 2.1.3. to provide facilities for the display, conservation, storage and research of the Geelong Art Gallery collection;
- 2.1.4. to promote community and visitor access to the Gallery and the arts;
- 2.1.5. to maintain the collection of the Gallery
- 2.1.6. to acquire by purchase lease or loan, or otherwise and maintain works of art which the Gallery considers will advance or benefit either directly or indirectly the interest of the Gallery in fulfilling its purposes.
- 2.1.7. to lease or loan or hire, works of art from the collection of the Gallery to other galleries or organisations as deemed appropriate
- 2.1.8. to operate a retail outlet or outlets within the Gallery including an art and gift shop and or a café/restaurant;
- 2.1.9. to hire and employ persons considered necessary for the purposes of the Gallery and to pay to them and to other persons in return for services rendered to the Association salaries wages gratuities and pensions;
- 2.1.10. to promote and hold either alone or jointly with any other association, gallery or persons arts related meetings and

competitions and to offer give or contribute towards prizes and awards;

- 2.1.11. to establish promote or assist in establishing or promoting and to subscribe to or become a member of any other association, gallery or club with similar purposes (in part at least) to the Gallery or the establishment or promotion of which may be beneficial to the Gallery provided that no subscription is paid to any such other club, gallery or association out of the funds of the Gallery except bona fide in furtherance of the objects of the Gallery;
- 2.1.12. to invest and deal with the moneys of the Gallery not immediately required upon such securities and in such manner as may from time to time be determined;
- 2.1.13. to guarantee the payment of money secured by or payable under in respect of art works, debentures, bonds, stock contracts, mortgages, charges, obligations and securities of any company or of any authority or of any persons whomsoever to further the Gallery's purposes;
- 2.1.14. to borrow or raise or give security for money by the issue of or upon bonds debentures stock bills of exchange promissory notes or other obligations or securities of the Gallery or by mortgage or charge upon all or any part of the property of the Gallery;
- 2.1.15. to do all such lawful things as are incidental or conducive to the attainment of the above purposes or any of them.

### **3. FINANCIAL YEAR**

3.1. The Financial year of the Gallery is each period of 12 months ending on 30 June.

### **4. INTERPRETATION**

4.1. In these Rules, unless the contrary intention appears:-

- "The Act" means the Associations Incorporation Reform Act 2012 ("the Act").

- “The Board” means the Board of Management of the Gallery (referred to as "the Board" in the Act).
- ‘Board member’ means a member of the Board elected or appointed under Rules 14 or 26.
- “The Director” means the person employed by the Board as the Principal Administrative Officer of the Gallery.
- “Disciplinary Appeal Meeting” means a meeting of the members of the Gallery convened under Rule 11.5.3
- “Disciplinary Sub-Committee” means the sub-committee appointed under Rule 11.2
- “General Meeting” means a general meeting of members convened in accordance with Part 4, and includes an annual general meeting and a special general meeting.
- "Grievance Procedure" means a process described in Rule 12.
- “Member” means a member of the Gallery.
- “Officer” means the President, Vice President, Secretary or Treasurer.
- “Ordinary Member of the Board” means a member of the Board who is not an officer-
- "Purposes" means the purposes set out in these rules.
- The Registrar” means the Registrar of Incorporated Associations.
- “The Regulations” means regulations under the Act. “
- “The Rules” means these Rules of the Gallery as they may be amended from time to time.
- “Special resolution” means a resolution that requires not less than three-quarters of the members present and voting at a general meeting, to vote in favour of the resolution.

4.2. Words or expressions contained in these Rules shall be interpreted in accordance with the provisions of the Interpretation of Legislation Act 1984 as amended.

## **PART 2 — POWERS OF GALLERY**

### **5. POWERS OF GALLERY**

5.1. Subject to the Act, the Gallery has power to do all things incidental or conducive to achieve its purposes.

5.2. Without limiting Rule 5.1 the Gallery may:-

5.2.1. acquire, hold and dispose of real or personal property;

5.2.2. open and operate accounts with financial institutions;

5.2.3. invest its money in any security in which trust monies may lawfully be invested;

5.2.4. raise and borrow money on any terms and in any manner as it thinks fit;

5.2.5. secure the repayment of money raised or borrowed, or the payment of a debt or liability;

5.2.6. appoint agents to transact business on its behalf;

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

5.3. The Gallery may only exercise its powers and use its income and assets (including any surplus) for its purposes or, in the event of winding up or deliberate cancellation of its registration, as described in Rule 39.

### **6. NOT FOR PROFIT ORGANISATION**

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

6.2. Rule 6.1 does not prevent the Gallery from paying a member:-

6.2.1. reimbursement for expenses properly incurred by the member; or

6.2.2. for goods or services provided by the member—

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

#### **Note**

*Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.*

## **PART 3 — MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

### **7. APPLICATION FOR MEMBERSHIP OF THE GALLERY AND IMPLICATIONS OF MEMBERSHIP**

7.1. A person who or an organisation or corporation who supports the purposes of the Gallery shall be eligible to be a member of the Gallery and to maintain that membership, on payment of the annual subscription payable under these Rules.

7.2. An application for membership of the Gallery shall be:-

7.2.1. made in writing in the form set out in Appendix 1 or such other form as may be designated by the Board requiring the applicant to state that the applicant wishes to become a member of the Gallery, supports the purposes of the Gallery and agrees to comply with these rules, and

7.2.2. accompanied by an annual subscription, and

7.2.3. lodged with the Director of the Gallery.

7.3. Upon receipt of an application for membership and payment of the subscription payable under these Rules the Secretary shall cause the applicant's name and address, email and telephone numbers and, if an organisation or corporation, the name and contact details a person representing the organisation or corporation, to be entered in the Register of members and, upon the name being so entered, the applicant becomes a member of the Gallery, from the date the details are entered on the Register. The date of the details being entered in the Register must also be entered in the Register.

7.4. These rules constitute a contract between the Gallery and its members. Members have rights to fair treatment under these Rules and to expect the Board to adhere to these Rules and the Act. Members do not have liability for any debts of the Gallery or costs, charges or expenses of winding up the Gallery should that occur but members shall not, without Board approval, purport to commit the Gallery to legal obligations or liabilities.

7.5. A right, privilege or obligation conferred by reason of membership of the Gallery is not transferable.

7.6. Each Member's liability is prima facie limited to the joining and annual subscription fees of that member (if any).

7.7. Membership of the Gallery ceases on resignation expulsion or death of the Member.

7.8. A member is taken to have resigned if the member's annual subscription is more than 2 months in arrears after receiving a reminder notice to pay the annual subscription.

## **8. HONORARY LIFE MEMBERS**

8.1. The Board may elect a person who has made an outstanding contribution to the Gallery as an Honorary Life Member of the Gallery and such Honorary Life Members will have all the privileges of being a member of the Gallery for life without being required to pay any annual subscription fee.

## **9. ANNUAL SUBSCRIPTION**

9.1. The amount of the Annual Subscription shall be fixed by the Board.

9.2. A member's Annual subscription shall be due on the anniversary of the date when the membership commenced.

## **10. REGISTER OF MEMBERS AND MEMBER'S ACCESS TO DOCUMENTS**

10.1. The Secretary shall cause to be kept and maintained a register of members on which shall be entered the full name, address (including an email address if available) and date of entry of the name of each member.

10.2. A member may, subject to Rules 10.4, 10.5 and 10.6 inspect the rules of the Gallery, general meeting minutes, relevant documents (as defined in the Act) and the members' register at a reasonable time.

10.3. A member can write to the Secretary asking for copies of the relevant documents (with the exception of the members register). The Secretary can charge a reasonable fee for providing copies.

- 10.4. The Secretary can refuse a request to inspect or get copies of relevant documents, or provide only limited access, if the documents contain information regarding confidential, personal, employment related, commercially confidential or sensitive (including legal) matters, or if granting the request would breach a law or may cause damage or harm to the Gallery.
- 10.5. Members cannot inspect or get copies of Board meeting minutes or parts of the minutes, unless the Board specifically allows it.
- 10.6. Members can write to the Secretary to ask that the Secretary restrict access to their details on the members register if they have special circumstances. The Secretary will decide if there are special circumstances, and will write to the member outlining their decision on restricted access.

## **11. DISCIPLINE OF MEMBERS**

- 11.1. The Gallery has the power to expel or suspend a member from membership of the Gallery and to institute, in relation to a member, through the Board by resolution:
  - 11.1.1. a disciplinary action may be taken against a member (potentially resulting in suspension or expulsion of the member's membership) if it is determined the member may have:
    - 11.1.1.1. failed to comply with these Rules; or
    - 11.1.1.2. refused to support the purposes of the Gallery; or
    - 11.1.1.3. engaged in conduct prejudicial to the Gallery;
- 11.2. Disciplinary Sub-Committee
  - 11.2.1. 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.
  - 11.2.2. The members of the Disciplinary subcommittee—

- 11.2.2.1. may be Board members, members of the Gallery or anyone else; but
- 11.2.2.2. must not be biased against, or in favour of, the member concerned;
- 11.2.2.3. are subject to the rules of natural justice.

11.2.3. Where the member exercises the right of appeal to a General Meeting of the Gallery under these Rules, a decision of a disciplinary sub-committee does not take effect unless the General Meeting of the Gallery confirms the resolution.

### 11.3. Notice to Member

- 11.3.1. Before disciplinary action is taken against a member, the Secretary, or if the person subject to the disciplinary proceeding is the Secretary, then the Director, must cause that written notice is given to the member—
  - 11.3.1.1. stating that the Gallery proposes to take disciplinary action against the member; and
  - 11.3.1.2. stating the grounds for the proposed disciplinary action; and
  - 11.3.1.3. specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the *disciplinary meeting*); and
  - 11.3.1.4. advising the member that he or she may do one or both of the following—
    - 11.3.1.4.1. attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;

- 11.3.1.4.2. give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
- 11.3.1.5. setting out the member's appeal rights under rule 11.5.
- 11.3.2. 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 the Sub-Committee
  - 11.4.1. At the disciplinary meeting, the Disciplinary Sub-Committee must:
    - 11.4.1.1. give the member an opportunity to be heard;
    - 11.4.1.2. give due consideration to any written statement submitted by the member.
  - 11.4.2. After complying with sub-rule 11.4.1 the disciplinary sub-committee may:
    - 11.4.2.1. take no further action against the member; or
    - 11.4.2.2. subject to sub-rule 11.4.2.3:
      - 11.4.2.2.1. reprimand the member; or
      - 11.4.2.2.2. suspend the membership rights of the member for a specific period; or
      - 11.4.2.2.3. expel the member from the Gallery.
    - 11.4.2.3. The disciplinary Sub-Committee may not fine the member.
    - 11.4.2.4. Subject to rule 11.5, the suspension of membership rights or the expulsion of a member by the Disciplinary Sub-Committee

under this rule take effect immediately after the vote is passed.

## 11.5. Appeal Rights

11.5.1. A person whose membership rights have been suspended or who has been expelled from the Gallery under Rule 11.4 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.

11.5.2. The notice must be in writing and given:

11.5.2.1. to the Disciplinary Sub-Committee immediately after the vote to suspend or expel the person is taken; or

11.5.2.2. to the Secretary not later than 48 hours after the vote.

### **Note**

*The receipt of a notice pursuant to rule 11.5.2 has the effect of staying the decision to suspend or expel the member until the hearing of the appeal or the abandonment of the appeal.*

11.5.3. If a person has given notice under sub-rule 11.5.2, a Disciplinary Appeal Meeting must be convened by the Board as soon as practicable, but in any event not later than 28 days after the notice referred to in Rule 11.5.2 is received.

11.5.4. Notice of the Disciplinary Appeal Meeting must be given, in accordance with Rule 40, to each member of the Gallery who is entitled to vote as soon as practicable and must:

11.5.4.1. specify the date, time and place of the appeal meeting; and

11.5.4.2. state:

11.5.4.2.1. the name of the person against whom the disciplinary action has been taken; and

11.5.4.2.2. the grounds for taking that action; and

11.5.4.2.3. 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

11.6.1. At a Disciplinary Appeal Meeting:

11.6.1.1. no business other than the question of the appeal may be conducted; and

11.6.1.2. a member of the Board or a member of the Disciplinary Sub-Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and

11.6.1.3. the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.

11.6.2. After complying with sub-rule 11.6.1, 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.

11.6.3. The decision is upheld if not less than three-quarters of the members voting at the meeting vote in favour of upholding the decision.

11.6.4. In any other case, the resolution is revoked.

11.7. The decision made on appeal shall be final save and except as to any rights a party may have to bring the matter before a Court.

## **12. GRIEVANCE PROCEDURE**

- 12.1. The grievance procedures set out in Rule 12 applies to disputes between:
  - 12.1.1 members (including between Board members),
  - 12.1.2 a member and the Board,
  - 12.1.3 or a member and the Gallery.
- 12.2. A member must not initiate the grievance procedures set out in Rule 12 in relation to a matter that is the subject of a disciplinary procedure under these rules until the disciplinary procedures have been completed.
- 12.3. The parties to a dispute must attempt to resolve the dispute between themselves for at least 14 days from the date the dispute is known to all parties.
- 12.4. If the dispute is not between a member and the Board or the Gallery, the parties may endeavour to resolve the matter through the good offices of the President and or the Director.
- 12.5. If the dispute cannot be resolved by the processes set out in Rules 12.3 and 12.4, the parties must within 10 days of failing to resolve the dispute:
  - 12.5.1. notify the Board in writing of the dispute; and
  - 12.5.2. agree to or request the appointment of a mediator; and
  - 12.5.3. attempt in good faith to settle the dispute by mediation.
- 12.6. The mediator must be
  - 12.6.1 a person chosen by agreement between the parties; or
  - 12.6.2 in the absence of agreement:
    - 12.6.2.1 - if the dispute is between a member and another member and neither is also a member of the Board, a person appointed by the Board
    - 12.6.2.2 - if the dispute is between a member and a member of the Board or between a member and the Board or the Gallery a person appointed or employed by the Dispute Settlement Centre of Victoria.

- 12.7. A mediator appointed by the Board may be a member or former member or any other person but in any case must not be a person who has a personal interest in the dispute or is biased in favour of or against any party.
- 12.8. The mediator in conducting the mediation must
  - 12.7.1 give each party the opportunity to be heard
  - 12.7.2 .allow due consideration by all parties of any written statement submitted by any other party.
  - 12.7.3 ensure that natural justice is accorded to the parties throughout the mediation process.
- 12.8 The mediator must not determine the dispute.
- 12.9 If the mediation process fails to resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **PART 4—GENERAL MEETINGS OF THE GALLERY**

### **13. ANNUAL GENERAL MEETING**

- 13.1. The Board must convene an Annual General Meeting of the Gallery within 5 months of the end of each financial year.
- 13.2. The Board shall:
  - 13.2.1. determine the date time and place of the Annual General Meeting of the Gallery; and
  - 13.2.2. give at least 28 days' Notice to all members, such notice to be given in compliance with Rule 40.
- 13.3. The ordinary business of the Annual General Meeting shall be:-
  - 13.3.1. to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
  - 13.3.2. to receive and consider:
    - 13.3.2.1. the annual report of the Gallery and a report from the President and the Director on the activities of the Gallery during the previous financial year; and
    - 13.3.2.2. the financial statements of the Gallery for the preceding financial year submitted by the Board in accordance with Part 7 of the Act;
    - 13.3.2.3. any audited accounts and auditor's reports or report of a review accompanying the financial statements that are required under the Act, or by decision of the Gallery.
  - 13.3.3. to elect members to replace retiring members of the Board;
  - 13.3.4. to appoint an Auditor in accordance with the Act.
- 13.4. In addition to the ordinary business referred to in Rule 13.3 an item of special business, notice of which has been given in accordance with these Rules and, in the case of special business requiring a special resolution, the Act, may be considered at the Annual General Meeting.

- 13.5. At the Annual General Meeting the chair shall be taken by the President or Vice-President or in their absence by a member of the Board appointed by those present at such meeting.

#### **14. ELECTION OF MEMBERS OF THE BOARD**

- 14.1. At the Annual General Meeting after the receipt of the reports and financial statements the Chair must indicate the number of vacancies on the Board and, if necessary, hold elections for those vacancies in accordance with these Rules.
- 14.2. A person nominated for a vacancy on the Board shall be a member of the Gallery but not a member who is employed as staff of the Gallery:
- 14.3. Nominations for all vacancies on the Board shall be
- 14.3.1. in writing, signed by 2 members of the Gallery who are not employed as staff of the Gallery;
  - 14.3.2. accompanied by the written consent of the candidate which may be an endorsement on the nomination form; and
  - 14.3.3. be lodged with the Secretary not less than 7 days prior to the date fixed for the holding of the Annual General Meeting.
- 14.4. If the number of persons nominated to be elected to the Board is equal to or less than the number of vacancies on the Board, the persons nominated shall be deemed to have been elected and the Chair of the meeting must declare the person(s) elected.
- 14.5. If the number of persons nominated exceeds the number of vacancies on the Board a ballot must be held in accordance with the Rules.
- 14.6. If a ballot is required for the election for a position, the Chairperson of the meeting, if up for election, must appoint a member to act as returning officer to conduct the ballot. If the Chairperson is not up for election, the Chairperson can act as returning officer. The

returning officer must not be a person nominated for a vacancy on the Board.

- 14.7. Each candidate may appoint a person at the meeting to act as a scrutineer.
- 14.8. Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- 14.9. The election must be by secret ballot.
- 14.10. The returning officer must give a blank piece of paper to each member present in person.
- 14.11. If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- 14.12. If the ballot is for more than one position:-
  - 14.12.1. the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
  - 14.12.2. the voter must not write the names of more candidates than the number of positions to be filled.
- 14.13. Ballot papers that do not comply with sub rules 14.11 or 14.12. are not to be counted.
- 14.14. Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- 14.15. The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- 14.16. If the returning officer is unable to declare the result of an election under sub rule 14.14 because two or more candidates received the same number of votes, the returning officer must:-
  - 14.16.1. conduct a further election for the position in accordance with sub rules 14.6 to 14.13 to decide which of those candidates is to be elected and if after that further election the returning officer is still unable to declare a result under sub rule 14.15 because two or more candidates still have the same number of votes then the

returning officer must decide which of the candidates with the same number of votes is to be elected by lot.

*Examples The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.*

## **15. SPECIAL GENERAL MEETING**

- 15.1. All general meetings other than the Annual General Meeting shall be called Special General Meetings.
- 15.2. The Board:-
  - 15.2.1. may, whenever it thinks fit, and with a minimum notice period of 21 days if a special resolution is to be considered, convene a special general meeting of the Gallery;
  - 15.2.2. shall, on the requisition in writing of members representing not less than 5% of the total number of members convene a special General Meeting of the Gallery.
- 15.3. The requisition for a special General Meeting shall state the object of the meeting and shall be signed by the members making the requisition and be sent to the Secretary at the address of the Gallery and may consist of several documents in a like form, each signed by one or more of the members making the requisition.
- 15.4. A Special General Meeting convened by members in pursuance of these Rules shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Board and all reasonable expenses incurred in convening the meeting shall be refunded by the Gallery to the persons incurring the expenses.

## **16. GENERAL MEETINGS NOTICE**

- 16.1. The Secretary of the Gallery (or, in the case of a special general meeting convened under Rule 15.2.2 the members convening the meeting), must give to each member of the Gallery—in accordance with Rule 40

- 16.1.1. at least 21 days' notice of the holding of a general meeting if a special resolution is to be proposed at the meeting, or
- 16.1.2. at least 14 days' notice of a general meeting in any other case.
- 16.2. The notice must:-
  - 16.2.1. specify the date, time and place of the meeting; and
  - 16.2.2. indicate the general nature of each item of business to be considered at the meeting; and
  - 16.2.3. specify electronic modes, and other means which are available for members to access to participate in the meeting, and
  - 16.2.4. if a special resolution is to be proposed:-
    - 16.2.4.1. state in full the proposed resolution; and
    - 16.2.4.2. state the intention to propose the resolution as a special resolution.
- 16.3. A member desiring to bring any business before a meeting may give notice of that business in writing to the secretary, who shall include that business in the notice calling the next general meeting after the receipt of the notice.
- 16.4. No business other than that set out in the notice convening the meeting shall be transacted at the meeting.

## **17. USE OF TECHNOLOGY**

- 17.1. A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- 17.2. For the purposes of this Part, a member participating in a general meeting as permitted under sub rule 17.1 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **18. QUORUM AT GENERAL MEETINGS**

- 18.1. No business shall be conducted at a general meeting unless a quorum of members entitled under these rules to vote is present.
- 18.2. The quorum for a general meeting is the presence (physically, or as allowed by Rule 17) of 15 of the members entitled to vote.
- 18.3. If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:-
  - 18.3.1. In the case of a meeting convened by, or at the request of members under Rule 15.2.2 — the meeting must be dissolved.

**Note**

*If a meeting convened by, or at the request of, members is dissolved under this sub rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at second special meeting, the members must make a new request under Rule 15.2.2.*

- 18.3.2. In any other case:-
    - 18.3.2.1. the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - 18.3.2.2. notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- 18.4. If a quorum of 15 members, is not present within 30 minutes after the time to which the second general meeting has been called, the meeting must be dissolved, and the business taken as having been dealt with.

## **19. ADJOURNMENT OF A GENERAL MEETING**

- 19.1. The Chair of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or to another place.
- 19.2. Without limiting sub rule 19.1, a meeting may be adjourned:-

- 19.2.1. if there is insufficient time to deal with the business at hand; or
- 19.2.2. to give the members more time to consider an item of business.

**Example**

*The members may wish to have more time to examine the financial statements submitted by the Board at an annual general meeting.*

- 19.3. No business shall be conducted at an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 19.4. 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 Rule 40.

## **20. VOTING AT A GENERAL MEETING**

- 20.1. On any question arising at a general meeting:-
  - 20.1.1. subject to sub-rule 20.3 each member who is entitled to vote has one vote; and
  - 20.1.2. members may vote personally; and
  - 20.1.3. except in the case of a special resolution, the question must be decided on a majority of votes.
- 20.2. If votes are divided equally on a question, the Chair of the meeting has a second or casting vote, save for any vote to elect a person to the Board
- 20.3. If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.

## **21. SPECIAL RESOLUTIONS**

- 21.1. A special resolution is passed if not less than three quarters of the members voting at a general meeting vote in favour of the resolution.

- 21.2. In addition to certain matters specified in the Act, a special resolution is required:-
- 21.2.1. to remove a Board member from office;
  - 21.2.2. to alter these Rules, including changing the name; or any of the purposes of the Gallery.

## **22. DETERMINING WHETHER RESOLUTION CARRIED**

- 22.1. Subject to subsection 22.2, the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been:-
- 22.1.1. carried; or
  - 22.1.2. carried unanimously; or
  - 22.1.3. carried by a particular majority; or
  - 22.1.4. lost;
- and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- 22.2. If a poll (where votes are cast in writing) is demanded by three or more members on any question:-
- 22.2.1. the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
  - 22.2.2. the Chairperson must declare the result of the resolution on the basis of the poll.
- 22.3. A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- 22.4. A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson and

the resolution of the poll shall be deemed to be a resolution of the meeting on that question.

### **23. MINUTES OF A GENERAL MEETING**

- 23.1. The Board must ensure that minutes are taken and kept of each general meeting.
- 23.2. The minutes must record the names of the people present, business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 23.3. In addition, the minutes of each annual general meeting must include:-
  - 23.3.1. the names of all persons attending the meeting; and
  - 23.3.2. the financial statements submitted to the members in accordance with Rule 13.3.2.2 and
  - 23.3.3. the certificate signed by two Board members certifying that the financial statements give a true and fair view of the financial position and performance of: the Gallery;
  - 23.3.4. any accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act, or by Trust Deed, or by decision of the Gallery.

## **PART 5 – THE BOARD AND ITS COMMITTEES OR GALLERY SUB-GROUPS**

### **24. THE BOARD**

24.1. The Gallery shall be managed by a Board of nine<sup>^</sup> persons all of whom shall be members of the Gallery and in addition any person nominated under Rule 24.3.

24.1.1. Until such time as the number of members under Rule 24.1 is reduced to nine by not filling any casual vacancy the Board may lawfully comprise not more than twelve members.

(<sup>^</sup>Motion adopted at the AGM 2018)

24.1.2. Subject to these Rules and the provisions of the Act, each person elected onto the Board other than the member nominated under Rule 24.3 shall hold office as a Board Member for a term of three years.

24.1.3. No member of the Board is eligible to hold office as a member of the Board for more than three consecutive full terms. A member of the Board who has been a member of the Board for three consecutive full terms is not eligible for re-election until 12 months after that member's tenure on the Board has finished.

24.2. Prior to the first Annual General Meeting of the Gallery after the adoption of these Rules members of the Board will draw lots which will have the effect of allocating as Group One 1 ordinary member, the Secretary and the two Vice President/s as being deemed to have served their first 3 year term, Group Two 3 ordinary members and the Treasurer, and Group Three, 3 ordinary members and the President. Accordingly at the first Annual General Meeting after the adoption of these Rules those in Group One will retire and be eligible for re-election. This will be deemed the commencement of their first full term. At the Second Annual General Meeting after the adoption of these Rules those in Group Two will retire and be eligible for re-election. This will be deemed the commencement of

their first full term At the third Annual General Meeting after the adoption of these Rules those in Group three will retire and be eligible for re-election. This will be deemed the commencement of their first full term

- 24.3. In addition to the persons elected to the Board in accordance with Rule 14, the City of Greater Geelong shall be entitled to appoint a person nominated by it, to the Board, for such period as it sees fit not exceeding 3 years and that person is eligible for re-appointment.

## **25. OFFICERS**

- 25.1. The Board shall have the following officers
- 25.1.1. a President;
  - 25.1.2. a Vice-President;
  - 25.1.3. a Secretary;
  - 25.1.4. a Treasurer.
- 25.2. Subject to these Rules and the provisions of the Act each person elected as an officer shall hold that office for a term of three years, with the exception of a casual vacancy appointment when the position will be held for the balance of the three year term in accordance with the following election rotation:
- 25.2.1 Year 1 Vice President & Secretary
  - 25.2.2 Year 2 Treasurer
  - 25.2.3 Year 3 President
- 25.3. The election for officers shall take place as the first order of business at the first meeting of the Board after the Annual General Meeting (AGM) which will be held not earlier than 7 days after the AGM notwithstanding that in accordance with Rule 26.3 the office of Secretary must not be vacant for more than 14 days.
- 25.4 In the case of a casual vacancy the election will be held no earlier than seven days from the vacancy occurring.

- 25.5 The Board shall appoint an independent returning officer who shall not be a member of the Board nor a member of the Gallery staff and shall not have been a member of the Board in the past six years
- 25.6. At the AGM the returning officer will advise which positions are vacant and will call for nominations for the vacant offices. If there is an intention for an existing officer to accept nomination for another office, then their office will be declared vacant.
- 25.7 Any member of the Board, following the AGM, may nominate any other member for election to any of the four offices, excluding the member nominated by the City of Greater Geelong in accordance with Rule 24.5 who may nominate and vote but may not hold an office.
- 25.7.1 A person may be nominated for more than one office but having been elected to an office their name will be removed from the nominations for any subsequent office
- 25.7.2 Nominations shall be accompanied by the signature of the nominee agreeing to the nomination.
- 25.7.3 Nominations shall be required to be in the hands of the returning officer by 5 pm five days prior to the election.
- 25.7.4 All members of the Board will be advised of the nominations by email on the day following the closure of nominations
- 25.8 Appointments must proceed in order of whichever of the following are vacant commencing with President, Vice President, Secretary and then Treasurer;
- 25.9 If there is only one nomination for a vacant office then that person is deemed elected and the returning officer must declare the person elected to that office.

- 25.10. If there is more than one nomination for an office the returning officer must hold a ballot which must comply as far as is practical with the rules for elections at an AGM as set out in Rule 14 above.
- 25.11 The returning officer must declare the person elected to each office prior to the voting for the next vacancy.

## **26. VACANCIES ON THE BOARD**

- 26.1. A vacancy occurs on the Board at any time when a Board member:
- 26.1.1. resigns in writing to the Board or the Secretary;
  - 26.1.2. is removal by a special resolution of members of the Gallery;
  - 26.1.3. becomes insolvent (as the term is used in the Corporations Act 2001);
  - 26.1.4. becomes a represented person (under the Guardianship and Administration Act 1986); or
  - 26.1.5. dies; or
  - 26.1.6. in the case of the Secretary, leaves Australia intending no longer to reside in Australia.
- 26.2. The Board may appoint any member of the Gallery to fill a vacancy, and the person appointed to fill the vacancy will subject to these rules and the Act remain a member of the Board for the remaining period of time in the term of the Board member replaced.
- 26.3. A vacancy in the position of Secretary must be filled within 14 days of the office of Secretary becoming vacant and notification given to the Registrar under the Act.
- 26.4. If any member of the Board is absent from three consecutive meetings of the Board without leave of absence the Board may declare vacant the position of that member who shall thereupon cease to be a member of the Board and may be replaced pursuant to Rule 26.2;
- 26.5. Leave of absence may be granted to a Board member for reasons of ill-health, employment commitments or other good reason, at the

discretion of the Board and each member of the Board shall be entitled to one absence from a Board meeting for the purpose of annual leave.

## **27. POWERS OF THE BOARD**

- 27.1. Board shall have power to:
  - 27.1.1. appoint such officers employees and/or agents on such salary or other remuneration as considered necessary or advisable;
  - 27.1.2. acquire, hold and dispose of real or personal property;
  - 27.1.3. invest the Gallery's money in any security in which Trust moneys are lawfully invested;
  - 27.1.4. raise and borrow money on any terms and in any manner as it thinks fit;
  - 27.1.5. secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - 27.1.6. appoint agents to transact business on its behalf;
  - 27.1.7. authorize or ratify use of Gallery funds or Trusts funds under the control of the Gallery for the Purposes or for the benefit of the objects in the Trust funds;
  - 27.1.8. manage through the Director, the day to day operations of the Gallery; and
  - 27.1.9. pass resolutions determining particular action be taken to further the Purposes and compliance with the Act and Regulations.

## **28. SUB-COMMITTEES**

- 28.1. The Board may establish sub-committees of the Board which may be:
  - 28.1.1. for a fixed term and task; or
  - 28.1.2. until the Board determines the sub-committee is no longer required.

- 28.2. The President shall appoint the members of a sub-committee established pursuant to Rule 28.1.
- 28.3. Members of a sub committee appointed by the Board:-
  - 28.3.1. shall include members of the Board and the President, in an ex-officio capacity;
  - 28.3.2. may include other persons and the Director or staff of the Gallery in an ex-officio capacity.

The Board shall approve a Charter for each subcommittee.

## **29. GALLERY SUPPORT GROUPS**

- 29.1. The Board may authorise the establishment of Support Groups to carry on and promote the Gallery's objects and purposes.
- 29.2. Each Support Group shall carry on its affairs subject to:
  - 29.2.1. these Rules;
  - 29.2.2. all resolutions of the Board; and
  - 29.2.3. the Act.
- 29.3. Each Support Group shall be managed by a Committee comprised of members of the Gallery.
- 29.4. The Committee of each Support Group shall keep minutes of all meetings and maintain books of account.

## **30. BOARD MEETINGS**

- 30.1. At any meeting of the Board one half of the members of the Board (including within that count, the City of Greater Geelong representative on the Board) shall form a quorum.
- 30.2. Meetings of the Board shall generally occur monthly but need not be held monthly.
- 30.3. Notice shall be given to Board members of any Special Meeting specifying the general nature of the business to be transacted.
- 30.4. At meetings of the Board:
  - 30.4.1. the President or in the absence of the President, the Vice-President shall preside; or
  - 30.4.2. if the President and the Vice-President are absent, such one of the remaining members of the Board as may be

chosen by the members present shall preside.

- 30.5. Questions arising at a meeting of the Board or of any sub-committee appointed by the Board shall be determined on a show of hands or, if demanded by a member, by a poll taken in such manner as the person presiding at the meeting may determine.
- 30.6. Each Board member present at a meeting of the Board (including the person presiding at the meeting) is entitled to one vote and, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote, save for the case when the Board is voting to elect an office bearer
- 30.7. The Secretary shall give written notice of each Board meeting to each Board member in accordance with these Rules.
- 30.8. Subject to the requirements of these Rules as to a quorum at meetings the Board may act notwithstanding any vacancy on the Board.
- 30.9. The Secretary shall keep a record of the number of Board meetings attended by each Board member during the financial year.

### **31. BOARD MEMBERS AND THEIR DUTIES**

- 31.1. As soon as practicable after being elected or appointed to the Board, each Board member must become familiar with these Rules and the Act.
- 31.2. The Board is collectively responsible for ensuring that the Gallery complies with the Act and that individual members of the Board comply with these Rules.
- 31.3. Board members must exercise their powers and discharge their duties with reasonable care and diligence.
- 31.4. Board members must exercise their powers and discharge their duties:-
  - 31.4.1. in good faith in the best interests of the Gallery; and
  - 31.4.2. for a proper purpose.
- 31.5. Board members and former Board members must not make improper use of:-
  - 31.5.1. their position; or

- 31.5.2. information acquired by virtue of holding their position;
- 31.5.3. so as to gain an advantage for themselves or any other person or to cause detriment to the Board or the Gallery.
- 31.6. In addition to any duties imposed by these Rules, a Board member must perform any other duties imposed from time to time by resolution at a General Meeting.
- 31.7. Board Members must abide by any Board Protocols adopted by the Board and the failure to do so may be grounds for the initiation of disciplinary proceedings under these Rules.

### **32. PRESIDENT AND VICE-PRESIDENT**

- 32.1. Subject to Sub rule 33.2, the President or, in the President's absence, the Vice-President shall be the Chairperson for any General Meeting and for any Board Meetings.
- 32.2. If the President and the Vice-President is absent, or are unable to preside, the Chairperson of the meeting must be:
  - 32.2.1. in the case of a General Meeting – a member elected by the other members present; or
  - 32.2.2. in the case of a Board meeting – a Board member elected by the other Board members present.

### **33. SECRETARY**

- 33.1 The Secretary must perform any duty or function required under the Act to be performed by the Secretary of an incorporated association.

***Example***

*Under the Act, the Secretary of an incorporated Gallery is responsible for lodging documents of the association with the registrar*

- 33.2 The Secretary must:-
  - 33.2.1 maintain the Register of members in accordance with Rule 10; and
  - 33.2.2 keep custody of the common seal (if any) of the Gallery and, except for the financial records all books, documents and securities of the Gallery; and
  - 33.2.3 subject to the Act and these Rules, provide members

with access to the Register of members in accordance with these Rules, the minutes of General Meetings and other books and documents; and

33.2.4 perform any other duty or function imposed on the Secretary by these Rules.

33.3 The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

#### **34. TREASURER**

34.1. The Treasurer must cause to be done the following:

34.1.1. Receipt of all moneys paid to or received by the Gallery and issue receipts for those moneys in the name of the Gallery; and

34.1.2. make any payments authorised by the Board or by a General Meeting of the Gallery from the Gallery's funds.

34.2. The Treasurer must:-

34.2.1. ensure that the financial records of the Gallery are kept in accordance with the Act; and

34.2.2. co-ordinate the preparation of the financial statements of the Gallery and their certification by the Board prior to their submission to the Annual General Meeting of the Gallery; and

34.2.3. on behalf of the Gallery ensure that all proper Gallery and relevant records are separately kept relating to the exercise by the Gallery of its powers as Trustee under any Trust Deed.

34.3. The Treasurer must ensure that at least one other Board member has uninhibited access to the accounts and financial records of the Gallery to enable them to remain familiar with the Gallery finances.

34.4. With the approval of the Board, the Treasurer may cause to be maintained a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

34.5. The Treasurer may approve the purchase of essential items or

services between Board meetings:-

34.5.1. with the approval of at least two Board members and these Rules; and

such approval may be obtained via electronic media.

**35. ALTERATION OF RULES AND STATEMENT OF PURPOSES** These Rules and the Statement of Purposes of the Gallery shall not be altered except in accordance with a special resolution or special resolutions under the Act.

35.2. A Special Resolution is passed if not less than three quarters of the members voting at a General Meeting vote in favour of the resolution.

**Note**

*In addition to certain matters specified in the Act, a Special Resolution is required:*

- to remove a Board member from office;
- to alter these Rules, including changing the name or any of the Purposes of the Gallery.

**36. COMMON SEAL**

36.1. The Common Seal of the Gallery shall be kept in the custody of the Secretary.

36.2. The Common Seal shall not be affixed to any instrument except by the authority of the Board and the affixing of the Common Seal shall be attested by the signatures either of two members of the Board or one member of the Board and of the Secretary.

**37. CUSTODY OF BOOKS, DOCUMENTS AND SECURITIES**

37.1. Except as otherwise provided in these Rules, all Gallery books, documents and securities shall be kept by the Secretary at the Gallery.

37.2. Financial records must be kept and stored for 7 years, and in accordance with any other applicable laws.

37.3. The Gallery shall maintain a record of:

37.3.1. any donations to the Gallery of works of art during the Financial year with the names of donors.

37.3.2. subscriptions to the Gallery during the Financial year with

the names of subscribers.

### **38. SOURCE OF FUNDS**

- 38.1. The funds of the Gallery shall be derived from subscriptions as provided in these Rules, Government grants, donations, proceeds of activities, events, and income derived from business conducted under a trading name and such other sources as the Board determines from time to time

### **39. DISPOSITION OF ASSETS**

- 39.1. In the event of the winding up or the cancellation of the incorporation of the Gallery, the assets of the Gallery shall be disposed of in accordance with the provisions of the Act provided that any money or property whatsoever which remains after satisfaction of all debts and liabilities of the Gallery shall not be paid to or distributed among the members of the Gallery but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Gallery and is a fund, authority or institution approved by the Commissioner of Taxation as a fund, authority or institution referred to in paragraph 78(1)(a) of the Income Tax Assessment Act 1936.

### **40. NOTICES**

- 40.1. A notice may be given by or on behalf of the Gallery upon any member either personally or by sending it by post to the member at the address shown in the Register of members, or by sending it to the email address shown on the Register
- 40.2. Where a document is properly addressed, prepaid and posted to a person as a letter, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.
- 40.3. Where an email including an email with attachments is properly addressed, and sent to a person as an email the email and any

attachments shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the email was sent.

## **VERSION CONTROL**

Version	Amendment	Approval and date
1. Original document MKS-233316-5-24- V2:EV		
2.	Rule 9.2	Updated post AGM 2016
3.	Rule 24.1.1 para 3 Rule 24.2, and rule 26	Updated post AGM 2018
4.	Rule 25	Updated proposed to AGM 2019