

# Victorian Local Governance Association (VLGA) Incorporated

Reg. No. A0032212V, ABN 25 401 385 085

## CONSTITUTION

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## PART 2 – NAME AND PURPOSES

### 2. Name

- 2.1 The name of the incorporated association is “Victorian Local Governance Association (VLGA) Incorporated” (in this constitution, “the VLGA”).
- 2.2 The name and registration number of the VLGA must appear in legible characters in all notices, advertisements and other official publications of the VLGA, and in all its business documents.

See section 23 of the Act\*.

### 3. Purposes

The purposes of the VLGA are:

- (1) to be a peak body for Councils\*;
- (2) to protect, advance and advocate for the importance of the role of effective local government;
- (3) to support and assist Councillors\* to do their job well;
- (4) to provide resources, information and education, and undertake projects to support good governance and leadership; and
- (5) to be a sustainable, focused and values driven organisation.

### 4. Legal Capacity and Powers

- 4.1 The VLGA has the legal capacity of an incorporated body.  
See section 29(2) of the Act\*.
- 4.2 The VLGA has power to do anything incidental or conducive to the attainment of its purposes.  
See section 30(d) of the Act\*.

- 4.3 The VLGA may only:
  - (a) exercise its powers; and
  - (b) use its income and assets (including any surplus);for its purposes.

### 5. Not For Profit Organisation

- 5.1 The VLGA must not distribute any surplus, income or assets directly or indirectly to its members.

See section 33 of the Act\*.

- 5.2 Clause 5.1 does not prevent the VLGA 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.

See section 4 of the Act\*.

## PART 3 – MEMBERSHIP

### 6. Categories

- 6.1 The VLGA has 2 categories of membership:

- (a) member Councils, and
- (b) associate members.

- 6.2 The Board may by regulation\* create subcategories of associate membership, including honorary members.

### 7. Eligibility

- 7.1 Any Council\* is eligible to be a member Council.
- 7.2 Any other person who supports the objects of the VLGA is eligible to be an associate member, except a Councillor\*.
- 7.3 In clause 7.2, “person” includes an individual, incorporated body or unincorporated body, and part of an incorporated or unincorporated body, subject to clause 7.4.

7.4 An unincorporated body, or part of an incorporated or unincorporated body may only become an associate member by nominating an individual or incorporated body to be an associate member on its behalf.

## **8. Applications**

- 8.1 Applications for membership must be in writing\*, stating that the applicant:
- (a) wishes to become a member Council or associate member of the VLGA;
  - (b) supports the purposes of the VLGA; and
  - (c) agrees to comply with the constitution and regulations\* of the VLGA.
- 8.2 Honorary members are not required to apply for associate membership.

## **9. Approval**

- 9.1 The Board must by resolution approve or reject applications for membership.
- 9.2 The VLGA must notify the applicant whether the application has been approved or rejected.
- 9.3 No reason need be given for the rejection of an application.
- 9.4 If the Board approves the application:
- (a) the applicant becomes a member from the date of the Board meeting;
  - (b) the subscription becomes due for payment; and
  - (c) the name and address of the member, category and any subcategory of membership, and date of becoming a member must be entered in the register of members.

## **10. Subscriptions**

- 10.1 The Board must by regulation\* set the subscription.
- 10.2 The amount of the subscription and the date for payment may vary according to criteria set by the Board in the regulation\*, including the category and any subcategory of membership.
- 10.3 All rights of members who have not paid the subscription by the date for payment are suspended until the subscription is paid.

10.4 Honorary members are not required to pay a subscription.

10.5 Except for the subscription, there are no entrance fees or other amounts to be paid in respect of membership of the VLGA.

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

- 11.1 The rights of member Councils include:
- (a) to submit items of business for consideration at general meetings under clause 20.3;
  - (b) to receive notice of general meetings under clause 20;
  - (c) to participate in general meetings under clause 25;
  - (d) to elect Board members under clause 28; and
  - (e) to have access to the records of the VLGA under clause 62.

See sections 53, 57, 60 and 61 of the Act\*.

11.2 The rights of associate members include:

- (a) to attend general meetings under clause 25.2; and
- (b) to have access to the records of the VLGA under clause 62.

See sections 53, 57 and 61(1)(a) of the Act\*.

11.3 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 14.

11.4 By becoming and remaining members, members agree to support the purposes of the VLGA.

11.5 Members must at all times comply with the constitution and regulations\*.

11.6 This constitution is an enforceable contract between the VLGA and each member.

See sections 46 and 67 of the Act\*.

11.7 Members and Board members are not liable to contribute to the debts and liabilities of the VLGA only because of their membership of the VLGA or the Board.

See section 52(1) of the Act\*.

## 12. Disciplinary Action

- 12.1 The Board may by resolution passed by an absolute majority\* reprimand, suspend or expel a member for:
- (a) failing to comply with the constitution or regulations\*; or
  - (b) conduct prejudicial to the VLGA.
- 12.2 The Board must not pass a resolution under clause 12.1 unless the member concerned has been:
- (a) informed of the grounds for the proposed disciplinary action; and
  - (b) given a reasonable opportunity to be heard.
- See section 54(3)(a) of the Act\*.
- 12.3 The Board:
- (a) may delegate its powers under this clause to a disciplinary committee appointed by the Board; and
  - (b) must do so if any Board member is biased against (or in favour of) the member concerned.
- See section 54(3)(b) of the Act\*.
- 12.4 The members of the disciplinary committee:
- (a) need not be Board members or associate members of the VLGA; but
  - (b) must not be biased against (or in favour of) the member concerned.
- See section 54(3)(b) of the Act\*.
- 12.5 Clauses 12.1 and 12.2 apply to the disciplinary committee in the same way as the Board.
- 12.6 The disciplinary procedure under this clause must be completed as soon as is reasonably practicable.
- See section 54(3)(c) of the Act\*.
- 12.7 The VLGA must not take disciplinary action under this clause against a member who is involved in the grievance procedure under clause 16 until the grievance procedure has been completed.
- Compare section 55(4) of the Act\*.
- 12.8 The VLGA may not fine members.

## 13. Resignation

- 13.1 Members may resign by writing\* to the VLGA.

- 13.2 For member Councils, the resignation:
- (a) does not take effect until 6 months after it is received by the VLGA; and
  - (b) may be withdrawn at any time before it takes effect.

## 14. Cessation

- 14.1 Members cease to be members on resignation, expulsion or ceasing to exist.
- 14.2 Associate members nominated to act on behalf of an unincorporated body, or part of an incorporated or unincorporated body under clause 7.4 who are not associate members in their own right also cease to be associate members when another associate member is nominated in their place.
- 14.3 If a member ceases to be a member:
- (a) the date of ceasing to be a member must be entered in the register of members; and
  - (b) the address, category and any subcategory of membership, and date of becoming a member of the former member must be removed from the register of members;
- within 14 days.
- See sections 56(3) and 56(4) of the Act\*.

## 15. Register of Members

- 15.1 The Board must ensure that a register is kept containing:
- (a) for current members:
    - (i) the name of the member,
    - (ii) the address for notices last given by the member,
    - (iii) the category and any subcategory of membership, and
    - (iv) the date of becoming a member; and
  - (b) for former members:
    - (i) the name of the member, and
    - (ii) the date of ceasing to be a member.
- See section 56 of the Act\*.
- 15.2 Members may inspect and obtain copies of the register in accordance with clause 62.
- See section 57 of the Act\*.

## **16. Grievance Procedure**

- 16.1 The grievance procedure in this clause applies to disputes under this constitution between:
- (a) a member and another member, and
  - (b) a member and the Board or the VLGA.
- 16.2 The parties must first attempt to resolve the dispute themselves.
- 16.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).
- 16.4 The conciliator:
- (a) must not have a personal interest in the dispute;
  - (b) must not be biased in favour of or against any party;  
See section 55(3)(b) of the Act\*.
  - (c) may be a representative\* or associate member; and
  - (d) if possible, must be appointed with the agreement of all parties.
- 16.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.  
See section 55(3)(a) of the Act\*.
- 16.6 The parties must in good faith attempt to resolve the dispute by conciliation.
- 16.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.
- 16.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.
- 16.9 A determination of a conciliator under clause 16.8 is binding on the parties and all members.
- 16.10 A party may appoint another person to act on its behalf in the grievance procedure.  
See section 55(2) of the Act\*.
- 16.11 A member who is the subject of a disciplinary procedure under clause 11 must not initiate the grievance procedure under this clause until the disciplinary procedure has been completed.  
See section 54(4) of the Act\*.

- 16.12 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

## **17. Representatives**

- 17.1 For the purposes of this constitution, the Councillors\* of a member Council are its representatives.
- 17.2 Whenever there is a change in the Councillors\* of a member Council, the member Council must notify the VLGA in writing\* of the names and addresses of its representatives.
- 17.3 Member Councils and their representatives are not entitled to vote under this constitution if the rights of the member Council have been suspended under clause 10.3 or 12.1.

## **PART 4 – GENERAL MEETINGS**

### **18. Annual General Meeting**

- 18.1 The Board must convene\* an annual general meeting each year.  
See section 63(1) of the Act\*.
- 18.2 The annual general meeting must be held within 5 months after the end of the VLGA’s financial year under clause 55.  
See section 63(4) of the Act\*.
- 18.3 At the annual general meeting, the Board must submit:
- (a) the financial statements for the last financial year prepared in accordance with clause 58, and
  - (b) the accompanying audit report made in accordance with clause 59.  
See sections 94, 97 and 100 of the Act\*.
- 18.4 The ordinary business of the annual general meeting is:
- (a) to verify the minutes of:
    - (i) the last annual general meeting, and
    - (ii) any special general meetings since the last annual general meeting;
  - (b) to consider the annual report of the Board on the activities of the VLGA during its last financial year; and

(c) to consider the financial statements and accompanying audit report.

18.5 The annual general meeting may only consider other business of which notice has been given in accordance with clause 20.2(c).

18.6 At, or as soon as practicable after, the conclusion of the annual general meeting, a Board member must certify in the form approved by the Registrar\* that:

- (a) the Board member attended the annual general meeting; and
- (b) the financial statements were submitted to the annual general meeting.

See sections 94(3), 97(3) and 100(3) of the Act\*.

18.7 The Secretary must lodge with the Registrar\*:

- (a) an annual statement in the form approved by the Registrar\*,
- (b) the financial statements and accompanying audit report, and
- (c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,

within 1 month after the annual general meeting.

See section 102 of the Act\*.

## 19. Special General Meetings

19.1 The Board may by resolution convene\* a special general meeting whenever it considers appropriate.

19.2 The Board must convene\* a special general meeting if requested in writing\* by at least 25% of member Councils entitled to vote.

19.3 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; and
- (c) must include a copy of the resolution of each member Council authorising the making of the request.

19.4 If the Board does not arrange for the special general meeting to be held within 6 weeks of the request being made, the member Councils making the request (or any of them) may convene\* the special general meeting.

19.5 A special general meeting convened by member Councils under clause 19.4:

- (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.

19.6 Special general meetings may only consider business of which notice has been given in accordance with clause 20.2(c).

## 20. Notice

20.1 At least 21 days notice in writing\* of general meetings must be given to:

- (a) each member Council entitled to vote, and
- (b) the representatives\* of each member Council entitled to vote.

Compare section 60 of the Act\*.

20.2 The notice must state:

- (a) the date, time and place (or places) of the meeting,  
See section 60(a) of the Act\*.
- (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 in full, and
  - (ii) the intention to propose the resolution as a special resolution\*.

See section 64(3) of the Act\*.

20.3 The notice must include under clause 20.2(c) any item of business that any member Council has requested in writing\* be considered at least 28 days before the notice is sent.

20.4 The notice must also include:

- (a) a statement that the Councillors\* of a member Council are its representatives\*, and entitled to attend, and speak and vote at general meetings on its behalf; and
- (b) a statement that:
  - (i) all representatives\* may appoint a proxy to attend, speak and vote instead of the representative\* in accordance with clause 21, and
  - (ii) the proxy must be a representative\* of the same member Council.

20.5 If there is a proxy form prescribed under clause 21.3, the notice must also include a copy of the proxy form.

20.6 Despite clause 20.1, the accidental omission to give notice of the meeting to a member or representative\*, or the non-receipt by a member or representative\* of notice of the meeting does not invalidate the meeting.

## **21. Proxies**

21.1 A representative\* may appoint any other representative\* of the same member Council as their proxy.

21.2 Appointments of proxies must be:

- (a) in writing\*, naming the representative\* (or representatives\*, in order) appointed;
- (b) signed by the representative\* making the appointment; and
- (c) sent to the VLGA or given to the chair of the meeting before the commencement of the meeting.

21.3 The Board may by regulation\* prescribe a proxy form for the purposes of this clause, in which case appointments of proxies must be in the prescribed form.

## **22. Use of Technology**

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

See section 62 of the Act\*.

## **23. Quorum**

23.1 The quorum for the consideration of the ordinary business of the annual general meeting is the presence in person of at least 1 representative\* of at least 10 member Councils entitled to vote.

23.2 The quorum for the consideration of a proposed resolution (including a special resolution) recommended by the Board is the presence in person of at least 1 representative\* of at least 25% of member Councils entitled to vote.

23.3 The quorum for the consideration of all other business at general meetings is the presence in person of at least 1 representative\* of at least 50% of member Councils entitled to vote.

23.4 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.

## **24. Chairing**

24.1 The President is entitled to chair general meetings.

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

24.3 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the meeting must elect another representative\* to chair.

24.4 The chair of the meeting does not have a casting vote.

## **25. Participation**

25.1 All representatives\* of member Councils are entitled to attend, and speak and vote at general meetings, except those member Councils whose rights have been suspended under clause 10.3 or 12.1.

See section 61 of the Act\*.

25.2 Associate members are entitled to attend general meetings, but not speak or vote.

See section 61(1)(a) of the Act\*.

## **26. Voting**

26.1 Member Councils exercise their votes through their representatives\*.

- 26.2 Each representative\* has 1 vote, subject to clause 17.3.
- 26.3 A representative\* may vote in person or by proxy.
- 26.4 Voting is by show of hands, unless a count is demanded.  
Compare section 65(2) of the Act\*.
- 26.5 Any representative\* entitled to vote (including the chair of the meeting) may demand a count before or immediately after the declaration of the result on a show of hands.  
Compare section 65(3) of the Act\*.
- 26.6 If a count is demanded, the votes of each representative\* must be counted, as directed by the chair of the meeting.
- 26.7 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.
- 26.8 The declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.  
Compare section 65(1) of the Act\*.

## **PART 5 – THE BOARD**

### **27. Membership**

The Board has:

- (a) 6 elected Board members – 2 elected each year under clause 28, with staggered 3 year terms; and
- (b) up to 3 co-opted Board members – appointed under clause 30.

### **28. Election**

- 28.1 Only individuals who are:
- (a) a representative\* of a member Council entitled to vote at the close of nominations; and
  - (b) not an employee of the VLGA;
- are eligible to be elected as Board members.
- 28.2 An elected Board member who has held office for 9 years in total is not eligible to be re-elected without a break of at least 3 years.
- 28.3 Before 1 May each year, the Board must appoint a returning officer to conduct the election.

- 28.4 Before 15 May each year, the returning officer must call for nominations by notice in writing\* to:
- (a) each member Council entitled to vote, and
  - (b) the representatives\* of each member Council entitled to vote.
- 28.5 The Board may by regulation\* prescribe a nomination form for the purposes of this clause, in which case:
- (a) nominations must be in the prescribed form; and
  - (b) the call for nominations must include a copy of the nomination form.
- 28.6 Nominations must be received by the returning officer no later than 5.00 pm on the last day before 1 June that is not a Saturday, Sunday or public holiday at the address of the returning officer.
- 28.7 Either the original nomination must be received, or a copy received electronically in accordance with the regulations\*.
- 28.8 The Board must by regulation\* provide for candidate statements and photographs to be submitted before the close of nominations and published to members and representatives\* before the ballot opens.
- 28.9 If the number of nominations received is 2 or fewer, the returning officer must declare those candidates elected.
- 28.10 If the number of nominations received is more than 2, a ballot must be held in accordance with clause 29.

### **29. Ballot**

- 29.1 The ballot must be a secret ballot.
- 29.2 The ballot may be conducted online, or by any other means approved by the Board by regulation\*.
- 29.3 Notice in writing\* of the ballot must be given to:
- (a) each member Council entitled to vote, and
  - (b) the representatives\* of each member Council entitled to vote;
- before the ballot opens.
- 29.4 The ballot must remain open for at least 2 weeks.



- 29.5 Each representative\* has 1 vote, subject to clause 17.3.
- 29.6 The voting system is optional preferential proportional representation.
- 29.7 The returning officer must declare the 2 candidates elected no later than 30 June.

### 30. Co-option

- 30.1 The Board may:
- (a) at its first meeting after 30 June each year, and
  - (b) at any subsequent meeting,
- co-opt up to 3 additional Board members.
- 30.2 Only individuals who:
- (a) have relevant experience and expertise; and
  - (b) are not employees of the VLGA;
- are eligible to be co-opted.
- 30.3 The Board may by resolution decide when the term of office of a co-opted Board member is to begin and end.
- 30.4 Before co-opting Board members, the VLGA may call for expressions of interest, by advertisement or otherwise.

### 31. Term of Office

- 31.1 Elected Board members hold office:
- (a) from 1 July in the year of election,
  - (b) until 30 June in the 3rd year after they are elected,
- subject to clauses 31.3–31.7.
- 31.2 Co-opted Board members hold office:
- (a) from the time they are co-opted,
  - (b) until the first Board meeting after 30 June in the year after they are co-opted,
- subject to clauses 30.3, 31.3–31.5 and 31.7.
- 31.3 Board members may be re-elected and co-opted again, subject to clause 28.2.
- 31.4 Board members may resign by writing\* to the VLGA.
- See section 78(2)(a) of the Act\*.

- 31.5 Board members cease to be Board members if they:
- (a) become an employee of the VLGA;
  - (b) fail to attend 3 consecutive Board meetings without leave of absence under clause 51;
  - (c) become insolvent under administration;
- See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
- (d) become a represented person under the Victorian *Guardianship and Administration Act 1986*; or
  - (e) are disqualified under the Commonwealth *Corporations Act 2001*, the Commonwealth *Corporations (Aboriginal and Torres Strait Islander) Act 2006* or the *Co-operatives National Law (Victoria)*.
- See section 78(2) of the Act\*.
- 31.6 Elected Board members also cease to be Board members if they cease to be a representative\* of a member Council.
- 31.7 A general meeting may by resolution passed by a simple majority:
- (a) remove any Board member; and
  - (b) fill the resulting vacancy.
- Compare section 78(2)(b) of the Act\*.
- 31.8 If there is a vacancy in its membership (including a vacancy in accordance with clause 31.7(a) not filled under clause 31.7(b)), the Board may appoint an individual who would be eligible to be elected under clauses 28.1 and 28.2 to fill the vacancy for the remainder of the term of office.
- 31.9 The Board may continue to act despite any vacancy in its membership.
- 31.10 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.

## **32. Responsibility and Powers**

- 32.1 The Board is responsible for both the governance and management of the VLGA.
- 32.2 The Board must by regulation\* delegate the management of the association to the Chief Executive Officer.
- 32.3 The Board may exercise all powers of the VLGA on its behalf.
- 32.4 The Board may delegate its powers as it considers appropriate.
- 32.5 No delegation by the Board under this clause limits the duties and liability of each Board member.

## **33. Governance and Risk Committee**

- 33.1 The Board must by regulation\* establish a Governance and Risk Committee.
- 33.2 The Treasurer is a member of the Committee, and may be the chair.
- 33.3 At least 2 members of the Committee must not be Board members.
- 33.4 The regulation\* must specify:
- (a) how the members of the Committee (other than the Treasurer) and the chair are to be appointed; and
  - (b) the terms of reference and procedure of the Committee.

## **34. Other Committees**

The Board may establish other committees with such membership, terms of reference and procedure as it considers appropriate.

## **35. Regulations**

- 35.1 The Board may by resolution passed by an absolute majority\* make regulations to give effect to this constitution.
- 35.2 Members must at all times comply with the regulations as if they formed part of this constitution.

## **36. Public Statements**

- 36.1 The Board may by regulation\* or resolution authorise the President, Chief Executive Officer or other person to make public statements on behalf of the VLGA.
- 36.2 No person may make any public statement on behalf of the VLGA unless authorised by the Board.

## **37. Duties**

- 37.1 Board members and former Board members 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 themselves or any other person; or
  - (d) to cause detriment to the VLGA.
- See section 83 of the Act\*.

- 37.2 Board members must exercise their powers and discharge their duties with reasonable care and diligence.

See section 84 of the Act\*.

- 37.3 Board members must exercise their powers and discharge their duties:

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

See section 85 of the Act\*.

## **38. Indemnity**

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

See section 87 of the Act\*.

## **39. Remuneration**

- 39.1 The VLGA may reimburse Board members for expenses properly incurred by them.
- 39.2 The Board may by regulation\* set an allowance to be paid to Board members.
- 39.3 The allowance must be based on the time spent by Board members in carrying out their duties, including attendance at Board and committee meetings.
- 39.4 The allowance for the President may reflect the higher level of duties required for that position.
- 39.5 The amount of the allowance paid to each Board member must be disclosed in the financial statements in accordance with clause 58.2(f).

## **PART 6 – OFFICE-BEARERS**

### **40. Positions**

The office-bearers of the association are:

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

### **41. Election**

- 41.1 The Board must at its first meeting after 30 June in each odd-numbered year elect the office-bearers (other than the Secretary) from among the Board members.
- 41.2 The President must be an elected Board member.
- 41.3 Office-bearers may be re-elected, subject to clause 41.4.
- 41.4 An office-bearer who has held a position for 2 full terms is not eligible to hold that position again.

### **42. Term of Office**

- 42.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 42.2–42.5.
- 42.2 Office-bearers may resign by writing\* to the VLGA.
- 42.3 Office-bearers who cease to be Board members, other than by the expiry of their term of office, cease to be office-bearers.
- 42.4 Office-bearers may be removed by resolution of the Board passed by an absolute majority\*.
- 42.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.
- 42.6 This clause does not apply to the Secretary.

### **43. Secretary**

- 43.1 The Chief Executive Officer is the Secretary of the VLGA, subject to clauses 43.5–43.8 and 53.3(b).
- 43.2 The Secretary is the secretary of the VLGA for the purposes of the Act\*.

- 43.3 The Secretary must notify the Registrar\* of:
  - (a) their appointment, and
  - (b) any change of address,within 14 days.

See sections 74 and 74A of the Act\*.

- 43.4 The Secretary whose appointment was last notified to the Registrar\* remains the secretary of the VLGA in some circumstances under the Act\* until the appointment of a new Secretary is notified.

See section 215 of the Act\*.

- 43.5 The Secretary may resign by writing\* to the VLGA.

See section 78(2)(a) of the Act\*.

- 43.6 A general meeting may by special resolution\* remove the Secretary.

See section 78(2)(b) of the Act\*.

- 43.7 The Board must fill any vacancy in the position of Secretary within 14 days.

See section 73 of the Act\*.

- 43.8 If the position of Chief Executive Officer is vacant, the Board may appoint another employee or a Board member as acting Secretary until the vacancy is filled.

## **PART 7 – BOARD MEETINGS**

### **44. Convening**

- 44.1 The Secretary, President or any 3 Board members may convene\* a Board meeting.
- 44.2 Ordinary Board meetings must be held at least 6 times each year.
- 44.3 At its first meeting after 30 June each year the Board must by resolution set the dates, times and places of ordinary Board meetings until 30 June the following year.
- 44.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

### **45. Notice**

- 45.1 Each Board member must be given at least 7 days notice in writing\* of Board meetings, subject to clause 45.4.
- 45.2 Notice may be given of more than 1 Board meeting at the same time.

45.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.

45.4 In cases of urgency a meeting may be held without the notice required by clause 45.1, provided that:

- (a) as much notice as practicable is given to each Board member by the quickest practicable means; and
- (b) resolutions may only be passed by an absolute majority\*.

#### **46. Use of Technology**

46.1 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 communicate clearly and simultaneously with every other such Board member.

See section 79 of the Act\*.

46.2 Without limiting clauses 45.4(a) and 46.1, Board meetings may be convened\* and held by telephone.

#### **47. Quorum**

The quorum for Board meetings is the presence in person of a majority of Board members at the time.

#### **48. Chairing**

48.1 The President is entitled to chair Board meetings.

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

48.3 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.

48.4 The chair of the meeting does not have a casting vote.

#### **49. Voting**

49.1 Each Board member has 1 vote.

49.2 There is no voting by proxy.

49.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

#### **50. Conflict of Interest**

50.1 Board members 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) at the next general meeting;
- (b) not be present while the matter is being considered at the meeting; and
- (c) not vote on the matter.

See sections 80 and 81 of the Act\*.

50.2 Clause 50.1 does not apply to material personal interests that:

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

See sections 80 and 81 of the Act\*.

#### **51. Leave of Absence**

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

51.2 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.

#### **52. Resolutions without Meeting**

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

52.2 In clause 52.1, “all Board members” does not include those Board members who:

- (a) would be prohibited by clause 50.1(c) from voting on the matter at a Board meeting; or
- (b) have leave of absence from Board meetings under clause 51.

## **PART 8 – FINANCIAL AND LEGAL**

### **53. Chief Executive Officer**

- 53.1 The Board must appoint a Chief Executive Officer of the VLGA.
- 53.2 The Chief Executive Officer is responsible to the Board for the management of the VLGA.
- 53.3 The Chief Executive Officer:
- (a) must be the Secretary of the VLGA; and
  - (b) ceases to be the Secretary on ceasing to be Chief Executive Officer.
- 53.4 The Chief Executive Officer must attend all Board meetings, unless excused or requested not to by the Board.

### **54. Sources of Funds**

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

### **55. Financial Year**

The financial year of the VLGA is from 1 July to 30 June, unless the Board by regulation\* adopts a different financial year.

### **56. Management of Funds**

- 56.1 The Board is responsible for the management of the funds of the VLGA.
- 56.2 The VLGA must keep financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
  - (b) would enable true and fair financial statements to be prepared in accordance with clause 58.
- See section 89(1) of the Act\*.
- 56.3 All money received by or on behalf of the VLGA must be deposited without delay into a bank account in the name of the VLGA.

### **57. Payments**

- 57.1 All payments by the VLGA must be:
- (a) specifically authorised in writing\*, and
  - (b) in the case of cheques – signed, by at least 2 persons nominated by the Board by regulation\* or resolution.
- 57.2 The Board may nominate a list of individuals or positions for the purposes of clause 57.1.
- 57.3 Signatories must not sign cheques until the payee and amount have been written in.
- 57.4 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Board by regulation\* or resolution.

### **58. Financial Statements**

- 58.1 As soon as practicable after the end of the VLGA's financial year under clause 55, the Board must cause financial statements of the VLGA for that year to be prepared in accordance with the Australian Accounting Standards.
- See sections 92, 95 and 98 of the Act\*.
- 58.2 The financial statements must contain particulars of:
- (a) the income and expenditure of the VLGA during and at the end of its last financial year,
  - (b) the assets and liabilities of the VLGA at the end of its last financial year,
  - (c) the mortgages, charges and securities of any description affecting any property of the VLGA at the end of its last financial year,
  - (d) the same particulars in respect of each trust of which the VLGA was trustee during any part of its last financial year,
  - (e) any trust, held on behalf of the VLGA by a person or body other than the VLGA, in which funds or assets of the VLGA are placed, and
  - (f) any allowances paid to Board members under clause 39.

See section 101(1) of the Act\*.

58.3 The financial statements must also deal with any matters prescribed by the regulations under the Act\*.

See sections 92(2)(b), 95(2)(b) and 98(2)(b) of the Act\*.

58.4 The financial statements must have a certificate attached in the form prescribed under the Act\* signed by 2 Board members in accordance with a resolution of the Board certifying that the financial statements give a true and fair view of the financial position and performance of the VLGA during and at the end of its last financial year.

Compare sections 94(2)(b), 97(2)(b) and 100(2)(b) of the Act\*.

58.5 The Board must submit the financial statements (including the attached certificate) to the annual general meeting under clause 18.3(a).

See sections 94, 97 and 100 of the Act\*.

## **59. Audit**

59.1 The Board must:

- (a) have the financial statements audited in accordance with the Act\*; and
- (b) submit the audit report to the annual general meeting under clause 18.3(b).

See sections 99 and 100(2)(c) of the Act\*.

59.2 Clause 59.1 applies whether the Act\* requires the financial statements of the VLGA to be audited or not.

See sections 90, 93, 96 and 99 of the Act\*.

59.3 An auditor may only be removed by a general meeting in accordance with the procedure set out in the Act\*.

See sections 106 and 107 of the Act\*.

## **60. Minutes**

60.1 The Board must ensure that minutes are taken and kept of all general meetings, Board meetings and resolutions without meeting.

Compare item 14 of Schedule 1 of the Act\*.

60.2 The minutes of annual general meetings must include a copy of the financial statements and accompanying audit report submitted at the meeting in accordance with clause 18.3.

See sections 94(4), 97(4) and 100(4) and item 15 of Schedule 1 of the Act\*.

60.3 The minutes of special general meetings must include a copy of any financial statements submitted at the meeting.

See item 15 of Schedule 1 of the Act\*.

60.4 Members and representatives\* may inspect and obtain copies of minutes in accordance with clause 62.

## **61. Retention of Records**

61.1 The Board must provide for the safe keeping of the records of the VLGA.

61.2 The VLGA must keep its financial records for at least 7 years after the transactions covered by the records are completed.

See section 89(2) of the Act\*.

61.3 The VLGA must keep the financial statements submitted to the annual general meeting for at least 7 years after the annual general meeting.

See section 105(1) of the Act\*.

61.4 The VLGA must keep the certificate referred to in clause 18.6 for at least 7 years after the certificate was signed.

See section 105(2) of the Act\*.

61.5 The VLGA must keep all its other records for at least 7 years after the record was created.

61.6 A person who is no longer entitled to custody of records of the VLGA must return them to the Board within 28 days.

See section 88 of the Act\*.

## **62. Access to Records**

62.1 Members may on request inspect:

- (a) the register of members,
- (b) the minutes of general meetings,
- (c) a copy of any trust deed referred to in clause 58.2(e), and
- (d) subject to clause 62.2, the other records of the VLGA, including the minutes of Board meetings,

at any reasonable time.

See sections 53(1), 57 and 101(2) and items 13, 15 and 16 of Schedule 1 of the Act\*.

62.2 Members may not inspect the records of the VLGA that relate to confidential personal, employment, commercial and legal matters, except as permitted by the Board.

See items 13 and 16 of Schedule 1 of the Act\*.

62.3 The VLGA must on request make copies of the constitution and regulations\* available to members and applicants for membership without charge.

Compare section 53 of the Act\*.

62.4 The VLGA must within 7 days of request make copies of:

- (a) the register of members (subject to clause 62.5),
- (b) the minutes of general meetings, and
- (c) any trust deed referred to in clause 58.2(e),

available to members without charge.

Compare section 53(2) and see items 13 and 15 of Schedule 1 of the Act\*.

62.5 Members may only have copies of records inspected under clause 62.1(d) if permitted by the Board.

62.6 A member may request that access to their personal information in the register of members be restricted in accordance with the Act\*, if there are special circumstances that justify doing so.

See section 59 of the Act\*.

62.7 In clauses 62.1–62.5 and 63.1, “member” includes a representative\* of a member Council.

### **63. Use of Register of Members**

63.1 Members may only use or disclose information from the register of members to contact or send material to other members if this is directly related to the management or purposes of the VLGA.

See section 58 of the Act\*.

63.2 Non-members must not use or disclose information from the register of members to contact or send material to members unless this is:

- (a) directly related to the management or purposes of the VLGA; and
- (b) authorised by the Board.

See section 58 of the Act\*.

### **64. Signing of Documents**

64.1 The VLGA may sign contracts and other documents either:

- (a) by using a common seal under clause 65; or
- (b) by having the document signed by 2 Board members.

See section 38 of the Act\*.

64.2 A document may only be signed by 2 Board members if authorised by resolution of the Board.

### **65. Common Seal**

65.1 The VLGA may have a common seal, in which case the remainder of this clause applies.

See section 29(2)(b) of the Act\*.

65.2 The name of the VLGA must appear in legible characters on the common seal.

See section 23(1)(a) of the Act\*.

65.3 A document may only be sealed with the common seal if authorised by resolution of the Board.

65.4 The sealing must be witnessed by the signatures of at least 2 Board members nominated by the Board by regulation\* or resolution.

65.5 The Board may nominate a list of individuals or positions to be signatories for the purpose of clause 65.4.

65.6 The Board must provide for the safe keeping of the common seal.

### **66. Registered Address**

66.1 The VLGA must have a registered address for the service of documents on the VLGA.

See sections 28 and 217 of the Act\*.

66.2 The registered address of the VLGA must be the address of the office of the VLGA.

66.3 The VLGA must notify the Registrar\* of any change of registered address within 14 days.

See section 28(3) of the Act\*.

### **67. Amendment of Constitution**

67.1 This constitution may only be amended by special resolution\*.

See section 50(1) of the Act\*.

67.2 An amendment to this constitution does not take effect until it has been approved by the Registrar\*.

See section 50(2) of the Act\*.

67.3 The Secretary must apply to the Registrar\* for approval of the amendment within 28 days after the special resolution\* was passed.

See section 50(3) of the Act\*.

## 68. Winding Up

68.1 The VLGA may be wound up voluntarily by special resolution\*.

See section 125 of the Act\*.

68.2 If the VLGA is:

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

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

See section 132(4) of the Act\*.

68.3 The surplus assets must be given to a body that:

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

subject to clause 68.5.

68.4 If the VLGA is wound up voluntarily, the body to which its surplus assets are to be given must be decided by special resolution\*.

68.5 The surplus assets of the VLGA do not include any property supplied by a government department, public authority or municipal council, including the unexpended portion of a grant. On winding up, that property must be returned to the body that supplied it or its nominee.

See section 132(3) of the Act\*.

## 69. Notices

69.1 Members must give the VLGA their address for notices, and any change in that address.

69.2 Member Councils must give the VLGA the address for notices of their representatives\*, and any change in that address.

69.3 The address for notices may include an email address.

69.4 The VLGA must enter any change in the address of a member in the register of members without delay.

69.5 Notice may be given to a member by sending it to the address last given by the member.

69.6 Notice may be given to a representative\* by sending it to the address last given by the member Council.

69.7 In this constitution 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.

69.8 Notices sent by priority post are taken to have been given on the 4th day after posting that is not a Saturday, Sunday or public holiday at that address.

69.9 Notices sent by email are taken to have been given on the 1st day after sending that is not a Saturday, Sunday or public holiday at that address.

69.10 In this clause, “member” includes a Board member.

## 70. Interpretation

70.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all Board members entitled to vote at the time, whether or not those Board members are present, and whether or not they vote;
- (b) “the Act” means the *Victorian Associations Incorporation Reform Act 2012*;
- (c) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
- (d) “Council” means a municipal Council in Victoria;
- (e) “Councillor” means a person who holds the office of member of a Council\*;
- (f) “the Registrar” means the Registrar of Incorporated Associations under the Act\*;



- (g) “regulations” means regulations of the VLGA made under clause 32.1, and “regulation” has a corresponding meaning;
- (h) “representative” has the meaning given in clause 17.1;
- (i) “special resolution” means a resolution:
  - (i) to amend this constitution;
  - (ii) to change the name of the VLGA;
  - (iii) to amalgamate the VLGA with another association incorporated under the Act\*; or
  - (iv) to wind up the VLGA;
 which may only be passed at a general meeting where:
  - (v) at least 21 days notice of the proposed resolution has been given to each member entitled to vote;
  - (vi) the notice specifies that it is intended that the resolution be proposed as a special resolution; and
  - (vii) at least three-quarters of those members who vote at the meeting (whether by representative or by proxy), vote in favour;
 See section 64 of the Act\*.
- (j) “the VLGA” has the meaning given in clause 2.1; and
- (k) “writing” includes emails and documents sent electronically.

70.2 The headings form part of this constitution.

70.3 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.

70.4 This constitution is to be interpreted in accordance with the Victorian *Interpretation of Legislation Act 1984* as if this constitution were an Act of the State of Victoria, unless the contrary intention appears.

70.5 The Board is responsible for the interpretation of the constitution and regulations\*.

70.6 The provisions of this constitution are the rules of the VLGA for the purposes of the Act\*.

70.7 This constitution is intended to make provision for all matters required by the Act\*, with the intention that none of the model rules prescribed under the Act\* apply to the VLGA.

See section 48(3) and Schedule 1 of the Act\*.

## 71. Transitional

71.1 The provisions of this clause take effect when this constitution comes into effect.

71.2 In this clause, “previous rules” means the rules of the VLGA immediately before this constitution came into effect.

71.3 Members in the following membership categories under the previous rules become members in the following categories or representatives\* under this constitution:

- (a) local government members become member Councils;
- (b) councillor members become representatives\*;
- (c) group members become associate members;
- (d) individual members become associate members; and
- (e) honorary members become honorary members (a subcategory of associate members).

71.4 Despite anything to the contrary in this constitution:

- (a) the Board members of the VLGA under the previous rules remain in office until 30 June 2019, subject to clauses 31.4–31.7; and
- (b) the office bearers of the VLGA under the previous rules remain in office until 30 June 2019, subject to clauses 42.2–42.4.

71.5 The following amendments to clauses 27–29 apply in 2019:

- (a) In clause 27(a), “2 elected each year” is replaced with “elected”.
- (b) Clause 28.9 is replaced with:
 

28.9 If the number of nominations received is 6 or fewer, and those candidates agree in writing\* which 2 candidates are to have a term of office expiring on 30 June 2022, which 2 candidates are to have a term of office expiring on 30 June 2021, and which 2 candidates are to have a term of office expiring on 30 June 2020, the returning officer must declare those candidates elected for those terms.
- (c) In clauses 28.10 and 29.7, “2” is replaced with “6”.
- (d) After clause 29.7, a new clause 29.8 is added:
 

29.8 The 2 candidates 1st elected have a term of office expiring on 30 June 2022, the 2 candidates next elected have a term of office expiring on 30 June 2021, and the 2 candidates last elected have a term of office expiring on 30 June 2020

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