



## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.159—Alteration of other rules of organisation

### **Master Builders' Association of Tasmania Inc.** (R2021/87)

MURRAY FURLONG

MELBOURNE, 7 JULY 2021

*Alteration of other rules of organisation.*

[1] On 27 May 2021, the Master Builders' Association of Tasmania Inc. (the MBAT) lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to the rules of the MBAT.

[2] The notice of particulars indicates that all of the rules have been amended in some form with the exception of rule 5 which constitutes of the eligibility rules of the MBAT. The alterations largely reflect a broad program of updating and modernising the rules.

[3] One of the principal effects of the alterations is the change in the structure of the committees of management of the MBAT. In particular, the alterations entail the abolition of the three Regional Management Committees and the offices of Vice-President and Treasurer and the renaming of the State Council as the Board.

[4] The Board will comprise 10 Directors directly elected by the membership including a President elected by and from the Directors. Six of the Directors are to be elected by the members attached to three Regions (two from each Region) and four are to be elected by the members attached to two Sectors (two from each Sector).

[5] The Regions are commensurate with those existing under the current rules and rule 25, as altered, establishes two Sectors, namely, the General Contractor Sector and the Residential Builder Sector. The Board is vested with the power to establish advisory committees with respect to the Regions and the Sectors.

[6] Rule 13 p) provides that the current members of State Council will complete their terms of office and take all the powers of a Director until the conclusion of the Annual General Meeting following the first election after the certification of the alterations in the present matter. The current holder of the office of President will continue in the office as President and the holders of the offices of Vice-President and Treasurer will become Directors pursuant to the rules as altered.

[7] The alterations also entail the deletion of existing rule 25 which establishes the Investment Committee. The Board will continue to be vested with a broad power to establish committees to examine and enquire into any special matter (rule 18).

[8] The position of Executive Director will be renamed as Chief Executive Officer and the associated duties and powers refined.

[9] The alterations to rule 6 affect the categories of affiliated membership and make provision for Life Members, Affiliates and Honorary Members.

[10] On 23 June 2021, the MBAT filed a declaration of Mr David Gates, President, of the same date in accordance with regulation 126(2) of the *Fair Work (Registered Organisations) Regulations 2009*.

[11] On the information contained in the notice and the declaration of Mr Gates subsequently filed, I am satisfied the alterations have been made under the rules of the organisation.

[12] On 23 June 2021, the MBAT advised that it gave consent, under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009*, for the Delegate to make an amendment to the alterations for the purpose of correcting a typographical, clerical or formal error. Accordingly the following correction has been made:

- The definition of “Member” in rule 1 has been numbered as q. and the definitions numbered q. to hh. have been renumbered as r. to ii.

[13] In my opinion, the alterations comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*.



ACTING GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

< PR730822 >

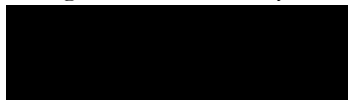
**DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 Fair Work (Registered Organisations) Regulations 2009**

**ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the Fair Work (Registered Organisations) Act 2009)**

I, DAVID ERIC GATES of LEVEL 5, 116 BATHURST STREET HOBART TAS 7000 am the PRESIDENT of the MASTER BUILDERS' ASSOCIATION OF TASMANIA INC. and am authorised to give this notice of particulars of alterations to the rules of MASTER BUILDERS' ASSOCIATION OF TASMANIA INC. and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*.

1. I declare that the alterations were made in accordance with the rules of the MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.
2. The particulars of the rule alterations are attached to this declaration and labelled 'Schedule A'.
3. The actions taken under the rules to make this alteration were as follows:
  - (a) 18<sup>th</sup> April 2019 in accordance with rule 46(a) 3 Members were appointed to a committee by the organisation's governing Council to assess and to set out in full the desired alterations to the rules.
  - (b) 18<sup>th</sup> April 2019 to Apr 2021 the committee worked in conjunction with Members to determine the desired alterations -- as all rules except the name of the organisation and eligibility for membership had varying degrees of change, the alteration was put forward as a replacement set of rules rather than as alterations to specific rules.
  - (c) 23 April 2021 in accordance with rule 46(b) Council resolved to put the matter to a Special Meeting of Members.
  - (d) On 29 April 2021 (followed by a reminder on 5 May 2021) in accordance with rule 24(a) and rule 44(a) & (c) notice of the meeting was sent by electronic transmission to Members. The notice included a copy of the proposed replacement rules, which is attached to this declaration as Schedule B, explanatory notes regarding the changes and the wording of the resolution to be considered by Members.
  - (e) 14 May 2021, the Special Meeting was held in accordance with the rules and in a COVID-safe way.
  - (f) 14 members attended the Special Meeting. Current membership is 577. As such the meeting was quorate in accordance with rule 21(g).
  - (g) 14 voted in support.
4. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

Signed and dated by



DAVID ERIC GATES

Date: 23 June 2021

## SCHEDULE A

### MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.

#### Particulars of the rule alterations to other rules in accordance with section 159 of the Fair Work (Registered Organisations) Act 2009)

All rules were altered except for rule 5 *Eligibility for Membership* and the name of the organisation (rule 2) both of which remained unchanged. Schedules 1, 2, 3 and IV attached to the rules, to the extent required, were incorporated into the relevant altered rules.

Signed and dated by



DAVID ERIC GATES

Date: 23 June 2021

**SCHEDULE B**

**MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.**

**Rules as approved by Member at the Special Meeting held on 14 May 2021.**

The attached document comprises a cover sheet, contents page and 56 pages of the rules as altered as per Schedule A.

Signed and dated by

A black rectangular redaction box covering the signature of David Eric Gates.

DAVID ERIC GATES

Date: 23 June 2021

## Schedule B

+ [004T: Incorporates alterations of 6/5/2015 (R2015/4)]

Replaces version of 2/1/2014 (R2013/236)

Replaces version 004T: Incorporates alterations of 6/5/2015 (R2015/4)

Replaces version of 6/5/2015.

# Master Builders' Association of Tasmania Inc.

## Rules

Approved by Members 14 May 2021

Certified by FairWork Commission ?? ??? ?????

Level 5 116 Bathurst Street Hobart Tas 7000

GPO Box 992 Hobart Tas 7001

03 6210 2000

[headoffice@mbatas.org.au](mailto:headoffice@mbatas.org.au)

[mbatas.org.au](http://mbatas.org.au)

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 56 both inclusive contain a true and correct copy of the registered rules of the Master Builders' Association of Tasmania Inc.

DELEGATE OF THE GENERAL MANAGER

# Rules of the Master Builders' Association of Tasmania Inc.

## Contents

1 – DEFINITIONS AND INTERPRETATION .....	1
2 - NAME OF ASSOCIATION AND INDUSTRY CONCERNED.....	3
3 - REGISTERED OFFICE .....	3
4 - OBJECTS .....	3
5 - ELIGIBILITY FOR MEMBERSHIP .....	6
6 - CATEGORIES OF MEMBERSHIP .....	6
7 - ADMISSION OF MEMBERS .....	8
8 - DUTIES, RESPONSIBILITIES AND WITHDRAWAL OF REPRESENTATIVES .....	10
9 - RESIGNATION OF MEMBERS.....	11
10 – CEASING TO BE A MEMBER.....	11
11 - REGISTER OF MEMBERS .....	13
12 - OFFICE-BEARER AND THEIR POWERS AND DUTIES .....	14
13 – BOARD COMPOSITION, DUTIES AND POWERS .....	14
14 – BOARD MEETINGS .....	20
15 - ELECTION OF DIRECTORS AND PRESIDENT .....	23
16 - PROXIES .....	30
17 - CASUAL VACANCIES – PRESIDENT AND DIRECTORS .....	32
18 - APPOINTMENT OF COMMITTEES .....	33
19 – CHIEF EXECUTIVE OFFICER .....	33
20 - ANNUAL GENERAL MEETING.....	35
21 - SPECIAL MEETING .....	36
22 – CHAIR OF MEETINGS .....	37
23 – CONDUCT OF MEETINGS .....	38
24 - VOTING AT MEETINGS OF MEMBERS .....	39
25 - SECTORS.....	41
26 - REGIONS.....	42
27 - FINANCIAL YEAR.....	43
28 – SUBSCRIPTIONS, LEVIES, FEES, DUES AND FINES .....	43
29 – ACCOUNTS OF MBT .....	44
30 - RECOVERY OF SUBSCRIPTIONS AND OTHER AMOUNTS DUE TO THE ASSOCIATION.....	45
31 - APPLICATION AND CONTROL OF FUNDS, PROPERTY .....	46
32 - APPOINTMENT OF AUDITORS AND AUDIT.....	47
33 – DISCLOSURE RULES AND ACCESS TO BOOKS.....	47
34 - CONFLICT OF INTEREST / PERSONAL INTEREST .....	48
35 - DISCIPLINARY POWERS .....	49
36 - MEMBER’S ASSENT TO RULES .....	51
37 - INDEMNIFICATION OF DIRECTORS AND EMPLOYEES.....	51
38 - COMMON SEAL AND AUTHENTICATION OF DOCUMENTS .....	51
39 - ASSOCIATION EMBLEM .....	52
40 - LEGAL ASSISTANCE.....	52
41 - LEGAL REPRESENTATION .....	52
42 - CONCILIATION AND ARBITRATION, AUTHORISED AGREEMENTS.....	52
43 - MINUTES .....	53
44 - NOTICES .....	53
45 - POLICY.....	55
46 - ALTERATION TO CONSTITUTION .....	55
47 – DISSOLUTION OF THE ASSOCIATION.....	56

## 1 – DEFINITIONS AND INTERPRETATION

- a) In these Rules, and any By-Laws made under them, unless it is inconsistent with the subject or context in which it is used:
- a. ‘Act’ means the *Fair Work (Registered Organisations) Act 2009* (Cth);
  - b. ‘Affiliate’ means a Person covered by **Rule 6 b)b.** that is not eligible to be a Member under **Rule 5** but with a reason to be formally associated with MBT;
  - c. ‘AGM’ means the annual general meeting of the Members;
  - d. ‘Association’ and ‘MBT’ mean the *Master Builders’ Association of Tasmania Inc* (note: the Association trades as *Master Builders Tasmania*, which may be abbreviated to *MBT*);
  - e. ‘Association’s Office’ means the registered office for the time being of the Association;
  - f. ‘Board’ means the Directors, as provided for under **Rule 13** meeting or working as a board;
  - g. ‘By-Law’ means supporting guidance to these Rules made in accordance with these Rules;
  - h. ‘Chief Executive Officer’ or ‘CEO’ means the individual appointed in accordance with **Rule 19** to occupy the role of the chief executive officer or senior executive manager of MBT and includes any individual acting as CEO from time to time in accordance with that rule;
  - i. ‘Declaration Envelope’ means the envelope in which a ballot paper of a Member is placed and sealed when participating in a relevant election within MBT;
  - j. ‘Director’ means an individual elected or appointed in accordance with these Rules who is responsible as a member of the Board for the governance and management of MBT in accordance with these Rules;
  - k. ‘Employee’ means an employee of MBT, whether bound by an award or not, and whether or not described as an “officer” or “staff” or “employee”, and includes the CEO but does not include any Director;
  - l. ‘Financial Member’ shall mean a Member not being a Member in default in accordance with and as provided in **Rule 30**;
  - m. ‘Financial Year’ means the period of a year for accounting purposes in accordance with **Rule 27**;
  - n. ‘Honorary Member’ means a Person covered by **Rule 6 b)c.** that is not eligible to be a Member under **Rule 5** but with a reason to be formally associated with MBT;
  - o. ‘Industry’ means the building construction industry or civil engineering works industry or any phase thereof including demolition or excavation work and the like;
  - p. ‘MBT’ and ‘Association’ and mean the *Master Builders’ Association of Tasmania Inc* (note: the Association trades as *Master Builders Tasmania*, which may be abbreviated to *MBT*);  
  
‘Member’ means any Person that is eligible under **Rule 5** that has been admitted to membership in accordance with **Rule 7**, provided that Affiliates and Honorary Members are not eligible under **Rule 5** and thus are not voting Members of the Association;
  - q. ‘Objects’ means the purposes for which MBT is established as specified in **Rule 4**;



- r. 'Officers' has the same meaning as in the Act;
  - s. 'Outer Envelope' means the envelope in which a Declaration Envelope is included prior to returning the ballot to the RO for MBT;
  - t. 'Person' includes partnerships, associations, firms, organisations, corporations, incorporated or unincorporated bodies, trustee companies or any entity duly registered under the *Corporations Act 2001* (Cth) or similar Act of the Commonwealth or any State or Territory of the Commonwealth, societies, agencies or other organisations or businesses as well as an individual;
  - u. 'Region' means a geographic area of Tasmania allocated for governance and operational purposes in accordance with **Rule 26**;
  - v. 'Regional Director' means a Director elected or appointed from the relevant Region;
  - w. 'Register' means the register of Members required by the Act;
  - x. 'Related Corporation' has the same meaning as in the *Corporations Act 2001*;
  - y. 'Representative' means an individual who is nominated in writing by a Member to be the individual to act as the Member;
  - z. 'Returning Officer' and 'RO' mean an individual appointed in accordance with **Rule 15 f)** to conduct an election for MBT;
  - aa. 'RO' and 'Returning Officer' mean an individual appointed in accordance with **Rule 15 f)** to conduct an election for MBT;
  - bb. 'Rules' means these rules as required by the Act and as amended or replaced from time to time that amount to the constitution of MBT;
  - cc. 'Sector' means a part of the Industry allocated for governance and operational purposes in accordance with **Rule 25**;
  - dd. 'Special Meeting' means the a general meeting of the Members of MBT other than an AGM;
  - ee. 'Special Resolution' means a resolution passed at a general meeting of the Members of MBT of which at least 21 days clear notice has been given of the wording and intention to put the resolution and where the resolution is supported by at least 75% of the votes cast on the resolution at the general meeting which may include direct votes;
  - ff. 'State Council' means the governing body of MBT in accordance with the Rules that were replaced by these Rules;
  - gg. 'Term' means the normal period a Director is a Director after being elected and for a Director other than a Director appointed to fill a casual vacancy that period is 3 Years; and.
  - hh. 'Year' means the period between the closing of an AGM and the closing of the next AGM.
- b) In these Rules, the following rules of interpretation apply unless the context requires otherwise:
- a. singular includes plural and vice versa;
  - b. a gender includes all genders;
  - c. where a word or phrase is defined, its other grammatical forms or parts of speech have corresponding meaning;

## 4 - OBJECTS

---

- d. a reference to a rule is to a rule in these Rules and includes any further embedded content;
  - e. a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislation substituted for it and any regulations and statutory instruments issued under it; and
  - f. the words 'writing' and 'written' include any mode of representing or reproducing words, figures, drawings or symbols in a visible or communicable form.
- c) A Member is taken to be present at a general meeting if the Member is present in person or by Representative or by attorney or by proxy or, when applicable, by direct vote.
  - d) When the notice calling a meeting offers remote participation in the meeting using any specified technology that gives a reasonable opportunity to participate in the meeting, the relevant individual is taken to be 'present' for all purposes if they participate from a location remote from the meeting venue using the specified technology.

## 2 - NAME OF ASSOCIATION AND INDUSTRY CONCERNED

- a) The name of the Association is *Master Builders' Association of Tasmania Inc.*, a registered organisation under the Act formed by employers in the Industry for the purpose set out in these Rules.

## 3 - REGISTERED OFFICE

- a) The registered office of the Association is at Level 5, 116 Bathurst Street, Hobart, 7000, Tasmania, or at such other place in Tasmania as the Board may from time to time determine.
- b) The principal place of business of the Association need not be the registered office.

## 4 - OBJECTS

- a) The Association is formed for the following purposes:
  - a. to promote by all lawful means the interests of the Industry in Tasmania;
  - b. to safeguard by all lawful means the interests of Members in their regular business or such activities as are ancillary to their interests in the Industry;
  - c. to protect by all lawful means Members against injustice or oppression in the fair and proper execution of their business activities as they may undertake from time to time;
  - d. to establish and to update when required a code of ethics dealing with good business practices to be a guide to Members and to facilitate fair competition and fair employment within the Industry;
  - e. to take an active part in assisting or opposing by all lawful means those public movements that appear likely to affect Members' interests in the carrying on of their business and in regard to the Industry;
  - f. to promote or to oppose as appropriate legislative and other measures affecting or likely to affect the whole or part of the Industry or any Member or Members;

#### 4 - OBJECTS

---

- g. to facilitate for Members all the advantages of unity of action in any lawful and proper manner whatsoever;
- h. to discuss and to consider, to analyse and to promote matters affecting the Industry, in whole or in part, and to collect and to disseminate any information relating to the Industry that may be considered to be of use to Members, other participants in the Industry and the public generally;
- i. to affiliate or to join or to associate with any Person or to promote, or to assist in the promotion of, any other Person either within the *Commonwealth of Australia* or overseas having objects similar to the Objects or assessed by the Board to be of benefit to Members generally and to acquire shares and interests in or lend money upon debentures or otherwise to such, and to appoint representatives to such;
- j. to adopt whatever lawful procedures or pursuits that may be considered desirable in the interests of Members and in the maintenance of their involvement in the Industry;
- k. to enter into lawful agreements with the *Australian Institute of Architects* and/or similar bodies and public authorities, be they for Commonwealth, State or local government purposes and/or lending authorities for the purposes of improving and maintaining work and the Industry's arrangements, contractual conditions, conditions of tendering and the like;
- l. to provide legal assistance to any Member, involving a question of principle or of an established custom affecting Members generally;
- m. to secure and to improve favourable trade relations with all public authorities, manufacturers, suppliers and/or distributors of goods, materials, and/or services either within Australia or abroad;
- n. to maintain and to improve the relations of Members with their employees, including individuals considered as employees under the Act, and the registered organisations or registered unions of those employees;
- o. to act as an organisation and/or industrial association of employers under the laws of the *State of Tasmania* and of the *Commonwealth of Australia* including being a representative body under the Act of employers engaged in the Industry;
- p. to bring any industrial matter, dispute or claim relating to industrial matters before the relevant body established by law for resolving or deciding such matters, disputes or claims and to represent the interests of employers in all sections of the Industry or other industry auxiliary or special to the Industry before courts, boards, conciliation committees, other tribunals or other bodies, and at conferences with organisations of employers and other bodies of employees or employers;
- q. to prosecute or to defend any suits, applications and proceedings, before any court or tribunal whatsoever, as may be deemed necessary, desirable or convenient to MBT, Members or any groups of Members;
- r. to enter into lawful agreements with employees of Members including individuals considered as employees under the Act, and/or their representatives relative to the terms and/or conditions of employment;
- s. to support, to facilitate and to implement practical system or systems of apprenticeship and other skills and knowledge training in addition to basic and advanced ongoing technical and complementary education and training within and associated with the Industry;
- t. to encourage and preserve by every lawful means skill in the Industry including the encouraging of the employment of a suitable ratio of apprentices to tradespersons;

#### 4 - OBJECTS

---

- u. to support all forms of education of relevance to the Industry and to establish or to contribute to bursaries, scholarships or prizes for relevant educational purposes;
- v. to form and to operate Regions and to make By-Laws for the management of those Regions;
- w. to form and to operate Sectors and to make By-Laws for the management of those Sectors;
- x. to establish or to develop or to assist in the establishment or development of technical and statistical libraries, and/or databases and to provide therefore copies of parliamentary and departmental reports, official and other papers having references to, or connected with, the Industry in part or whole in Australia and elsewhere, and to collect, to classify, to tabulate and to publish information which might be of interest to Members, and/or others;
- y. to purchase, to take, to lease, to license, to hire or otherwise to acquire the whole or any part of real or personal property of any kind including from Persons with which MBT is authorised to amalgamate, to affiliate, to merge or to ally and to acquire and to undertake any relevant business or activity which, in the opinion of the Board, is in furtherance of the Objects or is considered by the Board directly or indirectly to enhance the value of or to render profitable any of MBT's property or rights;
- z. to sell, to exchange, or otherwise to dispose of the whole or any part of any real or personal property on such terms as may be considered by the Board to be reasonable or acceptable, and in the manner provided by the Rules including where such actions arise from amalgamations, affiliations, mergers, or alliances with other organisations;
- aa. to construct, to maintain and to alter buildings, works, plant, and machinery necessary or convenient for the purpose of the Association, and to afford facilities to Members for the conduct of their business and means for their welfare, relaxation and education;
- bb. to sign, to seal or to execute all deeds, documents and other instruments of every nature and kind whatsoever for carrying out the Objects;
- cc. to authorise such persons as may be necessary, desirable or convenient in respect of the signing, sealing and execution of all deeds, documents and other instruments for carrying out the Objects;
- dd. to raise money by any lawful means, whether specially provided by the Rules or not, to further any or all of the Objects;
- ee. to raise funds by means of entrance fees, subscriptions, fees, donations, levies and otherwise from or on Members or otherwise for all purposes of the Association, including the Objects, of such amounts and in such manner as is provided for in these Rules;
- ff. to lend, to borrow, to raise and to secure the payment of money in such manner as the Board may think fit upon such terms and conditions as the Board deems necessary, desirable or convenient and, in particular, by mortgage or debenture, perpetual or otherwise, or other securities, and to charge if need be such mortgages, debentures, or other securities, upon the floating assets or upon all or any of the property of MBT, present or future;
- gg. to impose fines in accordance with these Rules and any By-Laws;
- hh. to assist and/or to support any scientific, research or other bodies whose activities are considered to be of interest to, or beneficial to, Members or the Industry generally;
- ii. to establish and/or to support any charity of relevance to the Industry, and to make donations for any relevant charitable purpose;

## 6 - CATEGORIES OF MEMBERSHIP

---

- jj. to accept, to undertake, or to execute any trust or gift, or any bonus, discount or commission which may be deemed to be in accordance with, or which may further, any or all of the Objects;
  - kk. to manage and to control the services provided, or to be provided, to Members, including through Employees, and the provision, allocation and withdrawal or restriction of those services to or from Members be they Financial Members or unfinancial;
  - ll. to establish advisory bodies in relation to any group of Members and/or to develop, to facilitate and to encourage with the Industry partnerships and associations that promote any or all of the Objects;
  - mm. to pursue each of these Objects and to exercise every power set out in law as though each such legal capacity, power or Object were a separate principal Object of the Association and none of such legal capacity, power or Object shall be deemed subsidiary or ancillary to any other Object or power of the Association and to the extent that any power set out in law is expressed to be restricted by reference to the business of the Association or in any other way than to the fullest extent to which the same may be lawful such power shall be varied so that no such restriction shall apply to the Association and such unrestricted power shall be a separate principal Object of the Association; and
  - nn. to do all such lawful things as may appear to be incidental or conducive to the Objects or any of them and to adopt additional objects from time to time.
- b) The Association must not be carried on for profit or gain of Members.

## 5 - ELIGIBILITY FOR MEMBERSHIP

The Association shall consist of an unlimited number of persons engaged in the building construction industry or civil engineering works or any phase thereof including demolition or excavation work and the like and employing any worker in any of the beforementioned work and the administration thereof.

## 6 - CATEGORIES OF MEMBERSHIP

- a) Persons eligible for membership in accordance with **Rule 5** may be admitted in accordance with **Rule 7**. To facilitate the pursuit of the Objects, upon admission the Board may allocate the Member to one of the following categories of membership:
- a. **General Contractor:** being a Person operating predominantly as a principal contractor in the commercial and/or civil and/or engineering construction sectors of the Industry admitted as a Member with the duties, privileges, and responsibilities set out in these Rules.
  - b. **Residential Builder:** being a Person operating predominantly as a principal contractor in the residential construction sectors of the Industry admitted as a Member with the duties, privileges, and responsibilities set out in these Rules.
  - c. **Trade Contractor:** being a Person operating predominantly as a contractor, trade specialist, building agent or pieceworker (provided if an individual they are not an employee) to any Person operating as a head contractor or project manager in the Industry admitted as a Member with the duties, privileges, and responsibilities set out in these Rules.

- d. **Supplier and Service Provider:** being a Person operating predominantly as a supplier of materials or manufactured goods or of services to, or being engaged in direct dealings with, employers in the Industry (provided if an individual they are not an employee) admitted as a Member with the duties, privileges, and responsibilities set out in these Rules.
- b) Persons eligible to be affiliated with MBT may be admitted in the following categories:
- a. **Life Member:** being an individual who is a Member or Representative who has served as President of the Association and who:
- i. is identified and assessed by the Board, as, over several years:
    - (i) having given outstanding leadership and commitment to the Association such as serving on committees and educating, training and assisting Persons in the industry, especially young individuals; and
    - (ii) having demonstrated outstanding service and commitment to the Industry that has brought honour to the Industry;
  - ii. accepts an invitation from the Board to become a Life Member;
  - iii. retains their rights as a Member or as Representative while they remain an employer or a Representative, consistent with section 18A(3)(b) of the Act; and
  - iv. is entitled to privileges as may be determined by the Board from time to time provided that a privilege must be that they pay no annual membership fee and they may be nominated to stand for election as a Director and they may promote themselves as a Life Member.
- b. **Affiliate:** being a Person, not eligible for membership of the Association in accordance with **Rule 5**, that has a reason, be it commercial, educational or otherwise, to be linked with MBT through an affiliation, provided that such a Person:
- i. makes application in a form determined by the Board from time to time;
  - ii. is admitted by the Board at the discretion of the Board, subject to the payment of any annual or other fee or fees as determined as to terms and amounts by the Board from time to time, and remains affiliated subject to the subsequent payment of any relevant such fees as determined as to terms and amounts by the Board from time to time;
  - iii. may have their affiliation withdrawn at the discretion of the Board;
  - iv. will carry no rights of membership including no right to vote nor to be elected as a Director;
  - v. will be entitled to privileges as determined by the Board from time to time; and
  - vi. will not be entitled to promote themselves as a Member but will be entitled to promote themselves as an Affiliate.
- c. **Honorary Member:** being a Person, not eligible for membership of the Association in accordance with **Rule 5**, that:
- i. is identified and assessed by the Board, as having contributed in an outstanding way to the Association and/or the Industry over several years;
  - ii. accepts an invitation from the Board to become an Honorary Member;
  - iii. is appointed at the discretion of the Board and may have their membership withdrawn at the discretion of the Board;
  - iv. has no rights of membership including no right to vote nor to be elected as a Director;
  - v. has the privileges to attend general meetings of the Association and to speak at the discretion of the chair of the meeting but has no right or privilege to vote at the meeting;
  - vi. is entitled to additional privileges as may be determined by the Board from time to time provided that a privilege must be that they pay no annual membership fee and they may promote themselves as an Honorary Member; and
  - vii. may be, but need not be, an Affiliate.

- c) **Transition:** members and affiliated Persons in place under the rules that were displaced by these Rules at the time of certification of these Rules remain in place and take all the rights and privileges of the category of Member or affiliated person as follows:
- a. members in the categories General Contractor/Commercial and General Contractor/Civil become Members in the category General Contractor;
  - b. members in the category Housing Contractor become Members in the category Residential Builder;
  - c. members in the category Trade Contractor become Members in the category Trade Contractor;
  - d. members in the category Service Provider become Members in the category Supplier and Service Provider;
  - e. life members become Life Members in accordance with this **Rule 6.b)a**;
  - f. affiliate members become Affiliates in accordance with this **Rule 6.b)b**; and
  - g. honorary members become Honorary Members in accordance with this **Rule 6.b)c**.

## 7 - ADMISSION OF MEMBERS

- a) **Application:** each applicant for membership must submit in writing an application for membership. The form of the application is as determined by the Board from time to time. In determining that form, the Board must ensure that it includes sufficient information that the Board considers necessary to:
- a. assess that the applicant is eligible in accordance with **Rule 5**;
  - b. identify the legal nature of the applicant;
  - c. determine the principal place of business of the applicant which will determine the applicable Region to which the applicant will be assigned if admitted as a Member;
  - d. determine the principal segment in the Industry in which the applicant operates which will determine the applicable Sector to which the applicant will be assigned if admitted as a Member, if relevant;
  - e. facilitate effective communication with the applicant including electronic communication;
  - f. assess that the applicant, if an individual, is not of general bad character;
  - g. assess that any proposed Representative, if applicable, is not of general bad character;
  - h. assess that the applicant, if a body corporate, does not have constituent documents with provisions inconsistent with the purposes of MBT;
  - i. commit the applicant to complying with these Rules if admitted as a Member;
  - j. assess to which category of Member in accordance with **Rule 6** the applicant appropriately is to be assigned if admitted as a Member;
  - k. allow the applicant to know their financial obligations arising from the membership including assessing any applicable fees, which may be based on size or scale, that might apply to the applicant if admitted as a Member (see **Rule 28**); and

1. inform the applicant of the circumstances and the manner in which they may resign from MBT if they are admitted as a Member.
- b) The application for membership of MBT is to be submitted to the CEO at the office address or nominated electronic address on the application form.
- c) A Person that makes application for admittance as a Member that is not an individual must at the same time nominate a Representative.
- d) **Processing the application:** upon receipt of an application, the CEO must take timely action to have the application assessed. That action may include seeking additional information from the applicant or from other sources and must include:
  - a. informing the applicant in writing:
    - i. that the application has been received;
    - ii. of the estimated financial obligations arising from membership in the first year;
    - iii. of the ways in which they may resign as a Member or their membership of MBT may cease;
  - b. advising relevant Members of the application and inviting any Member who may wish to make any statement, favourable or otherwise, regarding the applicant to do so in writing addressed to the CEO within 14 days;
  - c. advising the relevant Regional Directors and Sector Directors of the application and advising them of any feedback on the applicant from relevant Members; and
  - d. confirming that the applicant conforms with any statutory regulatory requirements for the membership category for which the applicant would be allocated if admitted as a Member.
- e) The relevant Regional Directors and Sector Directors must consider the application and make a recommendation regarding the applicant and advise the CEO accordingly. In doing so, the Directors may seek guidance on the applicant from any relevant advisory committee.
- f) **Becoming a Member:** upon completing the assessment and receiving the recommendation from the relevant Directors, the CEO must then provide to the next practical meeting of the Board the full application and the recommendation that the applicant is entitled to become a Member, including the category of membership to which they may then be allocated if admitted as a Member, subject to paying any required fees, unless the assessment identifies a justification under the law that the applicant is not entitled to membership.
- g) If the Board approves the application, the CEO must inform the applicant in writing and:
  - a. provide a tax invoice covering all fees and applicable taxes payable by the applicant in order to complete the application for membership;
  - b. if required, request their nomination of a Representative if they have not already provided a nominee;
  - c. details of the Region and any Sector to which the applicant is to be assigned once they are a Member; and
  - d. make available a copy of these Rules, together with any code of ethics and any other relevant material applicable to a new Member.
- h) If the Board rejects the application, the CEO must inform the applicant, including the reason for the rejection, and advise the rejected applicant that:



## 8 - DUTIES, RESPONSIBILITIES AND WITHDRAWAL OF REPRESENTATIVES

---

- a. they may appeal by giving notice to the CEO in writing within 21 days of receipt of the advice of the rejection that:
    - i. they intend to appeal to the Board; in which case
    - ii. they may submit, within a further 21 days, a written response to the rejection; and/or
    - iii. they may address the Board personally at a mutually agreed time and date; and
  - b. if, following completion of that appeal process, the Board still rejects their application; then
  - c. their rights of appeal under the Act.
- i) If the application is rejected, any monies that may have been paid to MBT by the applicant for the application must be returned to the applicant in full.
  - j) If the applicant has been approved, once they have paid any applicable fees the name of the applicant must then be entered in the Register at which time they will gain their rights and privileges of membership, subject to the Act and then be allocated to their category of membership, Region and Sector as applicable.

## 8 - DUTIES, RESPONSIBILITIES AND WITHDRAWAL OF REPRESENTATIVES

- a) **Nomination of Representative:** a Member that is not an individual is represented in the Association by a Representative who is an individual where:
  - a. the Representative must be nominated in writing by the Member and assumes all the obligations under these Rules of the Member they represent;
  - b. the Representative must have a significant relationship with the Member such as being a director, principal, trustee, significant shareholder, partner or executive of the Member; and
  - c. the Representative must reside in Tasmania.
- b) Nomination of additional representative:
  - a. A Member operating in a Region or Regions other than their assigned Region in the Register may nominate an additional representative in each such Region provided that:
    - i. the additional representative participates in a Region other than that in which the Representative participates; and
    - ii. the Member has a permanent place of business in the Region where the additional representative is to participate.
  - b. An additional representative in a Region is entitled to participate and to vote at local meetings in the Region but is not entitled to vote on Association matters including elections.
  - c. An additional representative is not entitled to vote at local meetings in their Region when the relevant Representative is present at that meeting.
- c) General requirements of individuals representing Members:
  - a. Nothing in these rules entitles a Member to more than 1 vote at any meeting of the Association or of a Region or a Sector.
  - b. A Representative and any additional representative of a Member is responsible in all respects for their acts and omissions to the Association under these Rules in so far as such acts or omissions are directly or indirectly related to, or incidental to, the business operations of the Member.

- c. The Member is liable for the acts and omissions of its Representative and any additional representative in so far as such acts or omissions are directly or indirectly related or incidental to the business operations of the Member.
- d. A Member may withdraw the appointment of its Representative and/or any additional representative by written notice to the CEO. The CEO must report the withdrawal of the Representative to the Board and work with the Member, in the case of the withdrawal of the Representative, to ensure the appointment of a replacement Representative in accordance with **Rule 8 a)**.

## 9 - RESIGNATION OF MEMBERS

- a) **Resignation:** a Member may resign from membership by written notice addressed and delivered to the CEO.
- b) A notice of resignation from membership takes effect on the later of:
  - a. where the Member is resigning because they cease to be eligible to be a Member:
    - i. on the day on which the notice is received by the Association; or
    - ii. on the day specified in the notice, which is a day not earlier than the day when the Member ceases to be eligible to be a Member; or
  - b. in any other case the later of:
    - i. 2 weeks after the notice is received by the CEO; or
    - ii. on the day specified in the notice.
- c) **Monies:** any monies payable but not paid by a former Member, in relation to a period before the Member's resignation took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association, subject to the limitations on the recovery of arrears in the Act.
- d) Subject to the results of any actions under **Rule 9.c)** and to the limitations on the recovery of arrears in the Act, a former Member shall not be readmitted as a Member until any recoverable unpaid monies outstanding at the time they ceased to be a Member are paid, including any interest or other charges levied on any outstanding monies.
- e) **Notice:** a written notice delivered to the CEO shall be taken to have been received by the Association when it was delivered.
- f) A written notice of resignation that has been received by the CEO is not invalid because it was not addressed and delivered in accordance with **Rule 9.a)**.
- g) A resignation from membership is valid even if it is not affected in accordance with this rule if the Member is informed in writing by or on behalf of the CEO that the resignation has been accepted.

## 10 – CEASING TO BE A MEMBER

- a) Upon ceasing to be an employer then, in accordance with the Act, a Member must, in writing, notify the change concerned to the CEO so that, as applicable, **Rules 10 b) & c)** may be applied.
- b) So that other changes that might alter a Member's eligibility to be a Member can be assessed, a Member must, in writing, notify the CEO within 14 days after:

- a. the business, or part of the business, of the Member is assigned or transferred to a Person that is or is not a Member; or
  - b. such a Person succeeds to the business or part of the business, of a Member; provided that;
  - c. a change to the members of a body corporate that is a Member does not of itself constitute such a change.
- c) The membership of any Member shall cease, with their name removed from the Register, if the Member:
- a. **resigns** under **Rule 9**;
  - b. becomes **ineligible** upon that Member ceasing, according to **Rule 5**, to be eligible to be a Member;
  - c. **is unfinancial**: upon the Member becoming unfinancial on the date their name is removed from the Register:
    - i. for the purpose of this **Rule 10 c)c.** “unfinancial” means a Member that has not met the requirements of **Rules 30 a)&b)**;
  - d. **dies** where that Member is an individual;
  - e. **is expelled** from membership in accordance with **Rule 35**;
  - f. **faces bankruptcy, dissolution or insolvency**, subject to the limitations on recovery of arrears in the Act, upon the Board so resolving that the Member has:
    - i. become bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with their creditors or has made an assignment for their benefit or a sequestration order has been made against them; or
    - ii. in the case of a firm, upon the dissolution thereof or upon the making of a sequestration order or the execution of a deed of assignment or arrangements for the benefit of creditors against or by the firm or any member thereof; or
    - iii. in the case of a company, or other incorporated body, subject to the protections available in the *Corporations Act 2001* upon appointment of a liquidator, provisional liquidator, official manager or receiver, provided that at the written request of the liquidator, provisional liquidator, official manager or receiver, accompanied by their undertaking to pay in full all membership and other dues accruing as from the date of the relevant appointment, the Board may provide that the membership shall not terminate subject to due payment as may be agreed.
- d) In the case of an Affiliate or an Honorary Member, their removal is by decision of the Board.
- e) **Notice of intent**: if, under **Rules 10 c)e. or f.**, the Board has resolved to remove the Member from the Register, the resolution shall not take effect until:
- a. the Member has been given notice of at least 14 days of the intention to remove the Member from the Register; and
  - b. if the resolution concerns a breach or breaches of these Rules, the procedures provided for in **Rule 35** have been followed.
- f) If the removal was in response to **Rule 10 c)b.**, the former Member must be advised that MBT has acted under obligations under the Act and invite the Member to show that they remain eligible to be a Member.
- g) If the planned removal is in accordance with **Rule 10 c)c.**, final advice in writing as to the intention to terminate their membership must be sent to the Member 1 month prior to the termination applying.

- h) **Response to notice:** if, in response to the notice under **Rule 10 e)**, the Member responds during the notice period with an explanation that the Board considers is satisfactory, then the Board must cancel implementation of the resolution, or delay it pending further consideration by the Board which consideration may include seeking further information from the Member or other Persons. The Member must be advised forthwith of the changed actions by the Board.
- i) If the removal was in response to **Rule 10 c)b.**, and the former Member provides satisfactory evidence that they remain eligible for membership according to **Rule 5**, then their membership must be restored and treated as continuous, and the Member be advised.
- j) If, in response to the notice under **Rule 10 c)c.**, the Member responds during the notice period with relevant payment of the outstanding monies or a payment plan considered satisfactory by the Board, then the termination process must cease and the Member must be advised.
- k) When any Member ceases to be a Member for whatever reason, the former Member shall have no claim or interest of any nature to or in any of the funds or assets of MBT, or against any Director, any member of any of the governance structures of MBT or against any Employee but will retain any rights they may have under the Act as a former Member including any rights related to the payment of specific fees within a set period of ceasing their membership.

## 11 - REGISTER OF MEMBERS

- a) Board shall cause the Register to be kept in accordance with the Act listing the name and address of each Member and the date they became a Member. The Board may delegate to the CEO the administration of the Register, including the administration of additional information for each Member to be entered as supplementary information to facilitate the administration of MBT. That additional information may include:
  - a. any electronic communication address the Member has provided;
  - b. any additional contact address the Member has provided;
  - c. the category of membership;
  - d. the name and contact details of the Representative, where applicable and of any additional representatives;
  - e. the Region for the Member;
  - f. the Sector for the Member where applicable; and
  - g. such other information and particulars as the Board may from time to time determine.
- b) A Member must, as soon as practicable, notify the CEO of any change in their contact and other details including any change of name or legal structure.
- c) The Board may cause the Register to be amended or changed as is appropriate, provided that such action is consistent with the Act.
- d) The Register, or a part of it, may be maintained in such form and manner as is determined by the Board from time to time, provided such form and manner is not contrary the Act or the requirements of law including the law covering privacy.
- e) Any entry in the Register shall be evidence of membership of MBT and deemed membership of a Region and Sector, where applicable, in respect of a Member.

## 12 - OFFICE-BEARER AND THEIR POWERS AND DUTIES

- a) The office-bearer of the Association shall be the President. The position is honorary. The office-bearer shall carry out such duties individually as are provided in these Rules and as may be delegated to them by the Board.
- b) The President shall:
  - a. chair meetings of the Board and of AGMs and Special Meetings, subject to these Rules;
  - b. have all authority usually vested in the chair of any meeting while performing the role of chair of the meeting;
  - c. as chair of the meeting, keep order and direct the manner of debate upon all questions introduced and determine what questions shall be discussed and in what order questions shall be introduced, subject to the law and conventions of meetings;
  - d. have a right to vote on all questions and where voting is equal, and they are chairing the meeting, may exercise a right to a casting vote by declaring the result of the voting, subject to these Rules;
  - e. have power to cause any meeting of the Association, its Board, and its committees to be convened;
  - f. have power to postpone any meeting and appoint other dates for those meetings;
  - g. have power to delegate their authority to another Director;
  - h. have power to direct the CEO and to suspend the CEO from office as provided in **Rule 19**; and
  - i. carry out such additional duties as may be delegated to them by the Board or by an AGM or Special Meeting.

## 13 – BOARD COMPOSITION, DUTIES AND POWERS

- a) **The Board comprises** 10 Directors including the President, allowing that there will be fewer than 10 while casual vacancies exist. None of the positions as a Director is of a full-time nature.
  - a. Of the Directors, 6 are to be Regional Directors and 4 are to be Sector Directors;
  - b. Of the Regional Directors, 2 are to be elected from each of the 3 Regions.
  - c. Of the Sector Directors, 2 are to be elected from each of the 2 Sectors.
  - d. Of the Directors, 1 is to be elected President.
- b) **Terms:** subject to these Rules, individuals who are Directors shall:
  - a. assume office at the conclusion of the AGM at which the declaration of their election as a Director is made;

- b. hold office for a Term but be eligible for re-election, provided that if the re-election is at consecutive elections then they may only be re-elected twice if consecutive (ie 3 Terms or 9 Years in office in any single period as a Director); and
  - c. be eligible to be appointed a Director for a maximum of 4 Terms.
- c) **Obligations on Directors:** subject to these Rules, Directors have obligations to:
- a. attend all meetings of the Board;
  - b. attend all meeting of committees to which they are elected or appointed by the Board;
  - c. exercise the powers, duties and obligations prescribed by these Rules and the Act;
  - d. exercise such authority as may be delegated to them by the Board or a general meeting under these Rules;
  - e. participate in consideration of and to vote on all relevant matters before the Board, subject to **Rule 34**, and related elections as prescribed by these Rules and legislation which are relevant to their position;
  - f. provided that:
    - i. a Director may be charged with gross neglect of duty if they are absent from 2 consecutive meetings, that they are otherwise required to attend, without an acceptable explanation; provided that
    - ii. that Director so charged shall be dealt with in accordance with **Rule 35**.
  - g. When a Director knows in advance that they are likely to miss 2 consecutive meetings they may apply, in writing, to the Board for a ‘leave of absence’ in accordance with **Rule 13 o**. The application:
    - i. must be lodged in time for the Board to consider the application prior to the first meeting from which the Director would likely be absent;
    - ii. the Board’s decision regarding the application must be communicated in writing to the applicant; and
    - iii. if the Board approves such an application no charge for gross neglect of duty can be laid, unless it is later found that the application was misleading.
- d) **Duties and powers of the Directors:** control of the Board is ultimately vested in the Members that appoint the Directors.
- e) Subject to these Rules, the Board manages the affairs including the strategic direction of the Association and determinations of the Board are binding throughout MBT. The Board may exercise all such powers and do all such acts and things as may be exercised or done by the Association and that are not expressly directed or required to be exercised or done by the Association in a general meeting.
- f) The Board, in addition to the powers and authorities specifically conferred upon it by these Rules, may exercise all such powers and do all such acts and things required for good governance of MBT including that the Board:
- a. will have responsibility for legal, financial and due process of MBT;
  - b. will ensure that the policies followed by all groupings in MBT meet, and are in general agreement with, the overall vision, objectives and any codes of practice of MBT; and
  - c. will have the power to resolve any policy issues referred to it by a Member or group of Members.

- g) Without limiting the general powers conferred by these Rules on the Board, but subject to the provisos hereto, the Board also has the following powers for the purpose of managing the affairs of MBT:
- a. to adopt such measures as it from time to time considers necessary, desirable or convenient for the purpose of giving effect to the Objects or any of them;
  - b. to make any application concerning MBT or any Member, and to bring any industrial disputes, claims or matters concerning MBT or any Member, to or before the *High Court of Australia*, the *Federal Court of Australia*, the *Australian Fair Work Commission* or any court, commission, commissioner, committee, board or other tribunal or body whatever, dealing with industrial matters or disputes, established under the law of the *Commonwealth of Australia*, or any territory under the control of the Commonwealth, or any State within the Commonwealth, and for any of these purposes to engage solicitors or counsel to act on behalf of MBT;
  - c. on behalf of MBT or any Member or Members to make and to take any legal steps to enforce any claims or demands relating to industrial matters or disputes upon any organisation or industrial or trade union of employees or employers, or upon any individual employee or employer;
  - d. to enter on behalf of MBT into industrial agreements with any trade or industrial union or association of employees or employers: allowing that
    - i. such agreements shall be under the seal of MBT which shall be affixed and attested in accordance with **Rule 38**; provided that
    - ii. any other instrument not required by law to be under seal shall be executed by such persons as the Board may appoint, or, in the case of an emergency or an urgent need, by such person or persons as the President may appoint;
  - e. to appoint representatives of MBT to any committee, board, tribunal, commission, authority, delegation or the like;
  - f. to refer any claims or demands by or against MBT or any Member or Members to conciliation or arbitration;
  - g. to give assistance to any Member charged with a breach of any law, regulation, or award, involving a question of principle or of an established custom affecting Members generally or Members assigned to any particular Region or Sector;
  - h. to appoint under contract or otherwise a CEO and other salaried staff, employees, clerks, agents or other Persons for permanent, temporary or special services, as the Board may from time to time think fit, and, subject to these Rules, to determine their powers and duties, and to fix their salaries or emoluments, to fix their conditions of employment subject to any contract, to remove, to suspend or to dismiss any such CEO or other salaried staff, clerks, agents and employees, and to control or to direct such employees, agents, consultants or other Persons;
  - i. to enter into all such negotiations and contracts, and to rescind and to vary all such contracts, and to execute and do all such acts, deeds and things, in the name and on behalf of MBT as the Board may consider necessary, convenient or desirable for or in relation to any of the Objects, or otherwise for the purposes of MBT;
  - j. to institute, to conduct, to defend, to compound or to abandon any legal proceedings by or against MBT, or its Directors, including the President, or its Employees, or otherwise concerning the affairs of MBT, and also to compound and to allow time for payment or satisfaction of any debts due, and of any claims or demands by or against MBT;
  - k. to purchase, to take in exchange or on lease, or otherwise to acquire, and for any estate or interest therein, any real or personal property, rights, or privileges which MBT is authorised to purchase or to acquire, and which the Board may deem requisite or expedient to acquire for the purpose of MBT 's business, and at the Board's discretion to sell, to subdivide, to let, to

exchange, or to dispose of, any property of MBT on such terms as to credit or otherwise as the Board may think fit;

- l. at the Board's discretion to pay for any property, rights or privileges acquired by or services rendered to MBT, either wholly or partially in cash or in bonds, debentures, or other securities of MBT, and any such bonds, debentures, or other securities may be either specifically charged upon all or any part of the property of MBT, or not so charged;
- m. to secure the fulfilment of any contracts or arrangements entered into by MBT by mortgage or charge of all or any of the property of MBT for the time being or in such other manner as the Board may think fit;
- n. to raise or to borrow money in the name or otherwise on behalf of MBT as the Board may from time to time think expedient, and to secure the repayment thereof or the fulfilment or discharge of any liability, guarantee or obligation of or undertaking by MBT in such manner and upon such terms and conditions as the Board thinks fit, and in particular by the issue of bills or notes, by mortgages or charges of or on any of the property or assets of MBT, both present and future;
- o. to appoint any Person or Persons (whether incorporated or not) to accept and to hold in trust for MBT any property belonging to MBT or in which MBT is interested or for any other purpose, and to execute and to do all such deeds and things as may be requisite in relation to any such trust, and to provide for the remuneration of any such trustee or trustees;
- p. to act on behalf of MBT in all matters relative to bankrupts and insolvents, assignments or liquidations;
- q. to make and to give receipts, releases and other discharges, for money payable to MBT and for the claims and demands of MBT;
- r. to draw, to accept, to make, to endorse, to transfer, to discount, to guarantee, and to negotiate such cheques, bills of exchange, promissory notes and all other negotiable or transferable instruments or securities, and to give such indemnities and guarantees, and to enter into such other obligations as may seem to the Board to be necessary, convenient, desirable or expedient for the purposes of MBT;
- s. to invest and to deal with any monies of MBT not immediately required for the purposes thereof upon such securities and in such manner as the Board may think fit, whether secured or unsecured, and from time to time to vary or to realise such investments;
- t. to affiliate MBT with, and to consent to the affiliation with MBT of, any organisation or body corporate or incorporate, having objects altogether or in part similar to those of MBT or that could be of benefit to MBT, upon such terms and conditions and subject to the payment of such fees for subscriptions (if any) as the Board may think fit, and at any time to terminate or to cancel such affiliation by or with MBT;
- u. to purchase, or otherwise to acquire and to undertake all or any part of the property, assets, liabilities and arrangements, of any one or more of the associations, companies, firms, with which MBT is authorised to amalgamate, to affiliate, to merge or to ally and to transfer all or any part of the property, assets, liabilities and arrangements of MBT to any one or more of the associations, companies, or firms, with which MBT is authorised to amalgamate, to affiliate, to merge or to ally;
- v. from time to time to make, and to alter, to vary and to rescind, administrative, financial and other instructions including By-Laws (see **Rule 13 j**)), for the carrying out of these Rules, and to put into effect the powers and authorities vested in the Board and for otherwise regulating the operation of MBT, and generally to provide for all such matters and things relating to the management of MBT and MBT's property or to the conduct of MBT's business and activities



as are not inconsistent with or repugnant to these Rules or required to be done by MBT in general meeting;

- w. to entrust to and to confer upon any Director or to delegate to any member of a committee, or any Employee or any agent of MBT, such of the duties of the Board as the Board may think fit, and from time to time to revoke, to withdraw, to alter, or to vary all or any of such duties and with any such delegations at all times subject to the direction and under the responsibility of the Board;
- x. to authorise or to direct any Officer or Employee to make, and to alter, to vary and to rescind from time to time, administrative, financial and other instructions for the carrying out of these Rules, and to put into effect the powers and authorities vested in the Board and for otherwise regulating the operation of MBT and generally in relation to all such matters and things relating to the management of MBT and MBT's property or to the conduct of MBT's business and activities as are not inconsistent with or repugnant to these Rules or policies of MBT or required to be done by MBT in general meeting;
- y. to operate administrative, accounting, printing, banking, investment and other facilities of any kind whatsoever for MBT;
- z. to provide such properties as the Board may from time to time determine to house the offices of MBT, and to permit such sub-letting thereof as the Board may from time to time determine;
- aa. to implement, to conduct and to maintain superannuation or insurance schemes for Members, Employees and employees of Members or of Related Corporations or trusts;
- bb. to engage in or effect banking, insurance or other financial services for MBT thereof or to do any acts or things in or in connection therewith;
- cc. to appoint attorneys to execute such documents, agreements and the like as may be determined by the Board from time to time;
- dd. in accordance with these Rules and the Act, to promote and to facilitate the altering, adding to or rescinding of these Rules, and to enforce, or to perform functions in relation to the enforcement of these Rules;
- ee. to manage and to control the services provided or to be provided to Members and Affiliates and the provision, allocation and withdrawal or restriction thereof to or from any Member, Members, or Affiliates;
- ff. to establish advisory bodies in respect of any groups of Members, subject to the provision that such bodies shall not act in any way inconsistent with these Rules;
- gg. generally to do all such things as are or may be of benefit to Members;
- hh. generally to do all such things as are or may be necessary, desirable or convenient for the administration of MBT, including the giving of instructions and directions for the carrying out of the Objects and the purposes of MBT, the decisions of the Board and the performance of any duty or obligation of MBT;
- ii. to interpret and to enforce these Rules;
- jj. to control and to supervise the work of Employees;
- kk. to control and to conduct the business and the affairs of MBT;
- ll. to exercise all power, privileges and advantages available under the provision of any act, regulation or under the law generally including exercising such powers as are inherent or derived from MBT's existence as a registered organisation of employers;

- mm. subject to law and to these Rules, and as determined by the Board, to authorise any Officer or Employee to institute any legal proceedings by MBT, alone or with any other party, including the laying of any information or complaints, and to authorise any Officer or Employee to be the proper officer of MBT for the purpose of defending any legal proceedings against MBT;
  - nn. to create, to alter, to vary, to divide or to dissolve committees and to alter the assignment of Members to Regions and Sectors;
  - oo. to maintain facilities for accounting for funds raised by MBT by way of subscriptions, levies, dues or otherwise, to invest any funds, to provide accountancy services for MBT, to provide banking and/or investment facilities in relation to funds and to do all things in or in connection therewith, to provide computer services, printing services, and communication services for MBT;
  - pp. to impose penalties in accordance with these Rules;
  - qq. to carry out, to interpret and to enforce the decisions and resolutions of general meetings of Members and meetings of the Board;
  - rr. to deal with any matter submitted to it by a committee;
  - ss. to ensure that Officers comply with these Rules and with valid decisions and resolutions of general meetings of Members, of committees and of the Board;
  - tt. to overrule any committee which has acted or is acting in a manner deemed by the Board to be contrary to:
    - i. these Rules;
    - ii. decisions or resolutions of Members in general meeting; or
    - iii. decisions or resolutions of the Board.
- h) A Director may attend any meeting of Members, whether general or otherwise, and whether of a committee or other body within MBT. A Director attending any such meeting may speak at the meeting but will only have a right to vote at a committee meeting if they are a member of the committee and at a general meeting of Members in accordance with these Rules.
- i) The Board exercises the powers in this **Rule 13** subject to the direction and control of the Members in general meeting, and provided that no fixed assets of MBT of capital value in excess of \$1,000,000, or such other sum as may be determined from time to time by an ordinary resolution of a general meeting of Members, shall be sold, exchanged, disposed of, or transferred except with the approval by ordinary resolution of the Members in general meeting.
- j) The Board from time to time may make alter, vary, and rescind, By-Laws for carrying out the provisions of these Rules, to put into effect the powers and authorities thereby vested in the Board, and for regulating the conduct and proceedings of the Association and of Board meetings and generally to provide for all such matters and things relating to the management of the property of the Association and to the conduct of its business as are not inconsistent with or repugnant to these Rules or required to be done by the Association in general meeting.
- k) **Duties of the President:** the President has such powers and duties as specified in these Rules, including **Rule 12**, as required by law and as determined from time to time by the Directors.
- l) MBT's nominee to be appointed by *Master Builders Australia Limited* to its board may be the President or, if circumstances require otherwise, another Director or a previous President who need not be a Director.
- a. If an additional nominee is required for appointment to the *Master Builders Australia Limited* board they may be the President, a Director or a previous President who need not be a Director.

- m) **Financial training:** Directors must undertake financial management training, in accordance with the Act, in relation to their financial duties. If exempted under the Act, they may undertake financial management training with Board approval.
- n) The required training referred in **Rule 13 m)** is to be undertaken within 6 months of the individual first being appointed to the role of Director or any other role that requires such training under the Act.
- o) **Leave of absence:** the Board may grant leave of absence to any Director for such period and upon such grounds as it deems fit, provided the granting of such leave does not result in the Board being unable to operate.
- p) **Transition:** office bearers and members of State Council in place when these Rules were certified remain in place and complete their terms under the rules that these Rules replace and take all the powers of the Directors under these Rules until the conclusion of the AGM following the first election following these Rules being certified.
  - a. Of the office bearers, the President becomes the President under these Rules and the Vice President and the Treasurer become Directors.
  - b. The immediate Past President and any Co-opted Extraordinary Board Member on State Council, who do not have any voting rights under the rules replaced by these Rules, cease their involvement with the Board when these Rules are certified.
  - c. If the resulting number of Directors exceeds the maximum in **Rule 13 a)** then all those Directors remain on the Board until the conclusion of the next AGM following an election, subject to these Rules, from which time the number of Directors in office will be determined by these Rules.

## 14 – BOARD MEETINGS

- a) **Convening of meetings:** the Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit but must meet at least once in each Financial Year.
- b) The President or any 2 or more Directors may, whenever they think fit, convene a meeting of the Board. The President must ensure that meetings of the Directors occur when required.
- c) The CEO must, when requested by the President or on the written requisition of any 2 or more Directors, convene a meeting of the Board.
- d) **Notice of meeting:** subject to these Rules, notice of a meeting of the Board must be given to each individual who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Board.
- e) Only Directors have a right to notice of a meeting of the Board and to attend such a meeting. Any other individual in attendance is present at the invitation of the Board and must leave if directed to by the chair of the meeting.
  - a. If MBT's member appointed director on the board of *Master Builders Australia Limited* is not a Director then that individual may attend meetings of the Board as an observer, provided they have entered into a confidentiality agreement, if required by the Board, but must leave if directed to by the chair of the meeting.
- f) A notice of a meeting of the Board:
  - a. must specify the time and place of the meeting;

- b. should where practicable state the nature of the business to be transacted at the meeting;
  - c. may, subject to **Rule 14 g)**, be given immediately before the meeting;
  - d. may be given in person or by post or by telephone, fax, email or other electronic means; and
  - e. if technological connection of Directors is to be involved, must identify how that connection is to be made.
- g) Unless special circumstances apply, notice of a meeting of the Board of at least 14 days should be given.
- h) A Director may notify the CEO of their preferred method of receiving notice of a meeting be it in person or by post or by telephone, fax, email or other electronic means and reasonable efforts must be made to comply.
- i) The non-receipt of notice of a meeting of the Board by, or accidental failure to give notice of a meeting to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting:
- a. if the non-receipt or failure occurred by accident or error;
  - b. if before or after the meeting, the Director has notified or notifies the CEO of their agreement to that act, matter, thing or resolution personally or by post or by telephone, fax, email or other electronic means; or
  - c. the Director attended the meeting.
- j) Attendance by a Person at a meeting of the Board waives any objection that Person may have to a failure to give notice of the meeting.
- k) **Chair of meeting:** the President must, if present within 15 minutes after the time appointed for the holding of the meeting, and if willing to act, preside as chair of each meeting of the Board.
- l) The Directors present must appoint 1 of themselves to chair the meeting if at a meeting of the Board:
- a. there is no President; or
  - b. the President is present but is not willing to act as chair of the meeting or of part of the meeting.
- m) If the President later attends a meeting of the Board or is later willing to act then they must take the role of chair of the meeting.
- n) **Quorum:** no business may be transacted at a meeting of the Board unless a quorum of Directors is present during the time the business is dealt with, subject to **Rule 14 q)**.
- o) A quorum at a meeting of the Board is the lowest number of Directors that is at least a majority of the Directors in office and in Australia at the time of the meeting.
- p) In determining the quorum, there must be Directors from at least 2 Regions and 1 Sector present.
- q) A Director who is present and is disqualified from voting on a matter pursuant to **Rule 34** shall be counted in the quorum despite that disqualification, even if they do not participate in that part of the meeting from which they are disqualified from voting, unless that results in a single Director determining the matter.
- r) If there is a vacancy in the office of a Director then, subject to **Rule 14 s)** the remaining Directors may act.

- s) If the quorum, as determined by **Rule 14 o)** is less than 4, then the quorum becomes all Directors in office less 1 but the requirements of **Rule 14 p)** still apply. If that quorum of less than 4 is due only to casual vacancies in Directors in office, then the remaining Directors must act as soon as possible to fill those casual vacancies.
- t) Until the actions required by **Rule 14 s)** have happened, the Directors must only act if and to the extent that there is an emergency requiring them to act.
- u) **Electronic meetings:** the planned contemporaneous linking together of Directors by technologies, such as telephone or other electronic means, that are consented to by all Directors at least annually and that allow reasonable interaction between all participating Directors where all can effectively communicate with each other, constitutes a Board meeting provided the number of Directors participating is sufficient to constitute a quorum.
  - a. All provisions of these Rules relating to meetings of the Board apply, so far as they can and with such changes as are necessary, to meetings of Directors by such technologies.
- v) A Director participating in a meeting by technology in accordance with **Rule 14 u)** is taken to be present in person at the meeting.
- w) A meeting by means of technology is to be taken to be held at the place determined by the chair of the meeting provided that at least 1 of the Directors involved was at that place for the duration of the meeting.
- x) **Decisions of Directors:** a meeting of Directors at which a quorum is present is a meeting of the Board and is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under these Rules.
- y) Subject to these Rules, questions arising at a meeting of the Board are to be decided by at least a simple majority of votes cast by the Directors present and entitled to vote and any such decision is for all purposes a determination of the Board.
- z) In the case of an equality of votes upon any proposed resolution, the chair of the meeting, in addition to any deliberative vote, has a casting vote and the resolution is or is not passed depending on that vote. If the casting vote is not cast then the proposed resolution fails.
- aa) **Circular resolutions:** the Directors may pass a resolution without a Board meeting if the Directors entitled to vote on the resolution sign a document containing a statement of the resolution set out in the document. For this purpose, signatures can be contained in more than 1 document and can include electronically transmitted signatures or confirmation via email or other electronic advice.
- bb) A resolution under **Rule 14 aa)** shall be deemed to have been passed if the Directors who have responded have signed a document containing a statement that they are in favour of the resolution set out in the document provided that the number of Directors in favour is sufficient for a quorum at a Board meeting in accordance with **Rules 14 o) p) & s)**.
- cc) Resolutions passed in accordance with **Rule 14 bb)** are to be taken to have been passed on the date that is the later of:
  - a. the date 1 week after the resolution was distributed to Directors or such other date as may be specified in the document accompanying the proposed resolution; or
  - b. the date the resolution was assented to by the final Director whose support resulted in the number of Directors in favour of the resolution equalling the number that is a quorum in favour.

## 15 - ELECTION OF DIRECTORS AND PRESIDENT

---

- dd) For **Rule 14 aa)** a Director may signify assent to a document by signing the document or by notifying the CEO of the Director's assent in person or by post or by telephone, fax, email or other electronic means.
- ee) Where a Director signifies assent to a document other than by signing the document, the Director must by way of confirmation sign the document at the next meeting of the Board attended by that Director, but failure to do so does not invalidate the resolution to which the document relates.
- ff) Resolutions passed in accordance with **Rule 14 aa)** must be recorded in the minutes of the Board's proceedings.

## 15 - ELECTION OF DIRECTORS AND PRESIDENT

- a) **Election timing:** elections for the Directors will be conducted every 3 Years by a direct voting system in accordance with these Rules.
- b) Election of the President will be conducted by a collegiate electoral system annually following the AGM in accordance with these Rules.
- c) The election process will commence with the appointment of the Returning Officer/s by the Board and be completed with the final declaration by the Returning Officer/s of the individuals elected to their relevant positions.
- d) The Board must determine and publish the timetable for the elections which is to be set in relation to the date set for the relevant AGM. The timetable should reflect the timing indications outlined in **Rule 15.e)**. The timetable is to be published in such a way as allows Members to be informed of the coming elections. Where practicable, the timetable should be published at least 26 weeks before the date set for the AGM.
- e) The timetable should be within the following schedule:

### STEPS IN EACH ELECTION PROCESS

#### *Schedule for Directors*

*(RO administers direct voting process)*

Appoint returning officer	12 weeks
Advertise elections	11 weeks
Close voter rolls	10 weeks
RO calls for nominations for direct voting for Directors	9 weeks
RO closes nominations for direct voting	7 weeks
RO declares nominations for direct voting	6 weeks
Ballot papers prepared and distributed	5 weeks
Ballot closes	2 weeks
Ballot declared	2 weeks

AGM held

#### *Schedule for President*

*(RO administered collegiate electoral process)*

RO appointed	1 week
RO calls for nominations	2 weeks
RO closes nominations	3 weeks
Ballot held	4 weeks
Ballot declared	4 weeks

### WEEKS PRIOR TO COMPLETION

*Pre AGM no later than*

### WEEKS AFTER AGM

*Post AGM indicative timing*

- f) **Returning Officer and scrutineers:** the Board must appoint a Returning Officer, consistent with the Act, for the election of Directors and the election of the President.
- a. An individual may be appointed RO to conduct 1 or more of the elections.
  - b. The RO/s must not be the holder of any office in, nor be an Employee, nor an agent of MBT.
- g) In any election under these Rules, each candidate duly nominated is entitled to appoint a Member to act as scrutineer on the candidate's behalf at the election. The appointment must be in writing, be signed by the candidate and be addressed and delivered to the appointed RO. The appointment can be made any time after the candidate's nomination but before the close of the voting.
- h) Neither a RO nor a scrutineer, while holding any such position, may be a candidate for any office at any election within MBT.
- i) **Powers of Returning Officers:**
- a. In addition to the powers and duties of a RO herein contained, a RO shall take such action and give such directions as are reasonably necessary in order to ensure that no irregularities occur in, or in connection with, such an election or in order to remedy any procedural defects. No Persons shall refuse or fail to comply with any such directions, or obstruct or hinder a RO or any other Person in the conduct of such an election or in the taking of any such action.
  - b. If a RO conducting an election finds a nomination to be defective, in any respect, including that a nominator, a nominee or the Member who is a nominator or a nominee is not a fully paid up Financial Member, if these Rules require them to be, the RO shall, before rejecting the nomination, notify the individual concerned of the defect and, where it is practicable to do so, give them the opportunity to remedy the defect within not less than 7 days after being so notified.
  - c. The decision of a RO shall be final and binding with regard to any matter touching the validity or formality of any nomination or vote or any matter touching or concerning such an election and its conduct.
  - d. Where the RO is conducting an election, or taking a step in relation to an election, the RO:
    - i. subject to **Rule 15 i)d.ii.**, must comply with these Rules; and
    - ii. may, in spite of anything in the Rules, take such action and give such directions as the RO considers necessary:
      1. to ensure that no irregularities occur in, or in relation to, the election; or
      2. to remedy any procedural defects that appear to the RO to exist in the Rules; or
      3. to ensure the security of ballot papers and envelopes that are for use, or used, in the election.
  - e. Notwithstanding **Rule 15 i)d.ii.**, if an irregularity occurs in the conduct of such an election and if in the opinion of the RO such irregularity may have affected or may affect the result of the election, then the RO:
    - i. may declare the election, or any step in or in connection with the election, to be null and void;
    - ii. may declare that an individual purporting to have been elected not to have been elected;
    - iii. may declare another individual to have been elected;
    - iv. shall make arrangements, in the case of an uncompleted election, for any step in or in connection with the election (including the submission of nominations) to be taken again; and
    - v. for the incompleting steps in the election to be taken; or
    - vi. in the case of a completed election, for any step in or in connection with the election (including the submission of nominations) to be taken again; or

- vii. for a new election to be held; and
  - viii. may give directions incidental or supplementary to, or consequential upon, any other declaration or direction given by the RO.
- f. Where another election is to be held, or a step or steps in an election is or are to be taken again, under **Rule 15 i)e.** or under any other relevant Rule, any times indicated in the Rules for the conduct of such an election whether by reference to a date or not, shall be as from the date upon which such election became necessary or such other date within 14 days thereof as may be decided by the RO.
- j) Both subject to and notwithstanding these Rules, any individual holding an office immediately prior to an election for such office that is declared null and void, in whole or in respect of any step, shall remain in office until their successor is declared elected.
- k) **Number of Directors to be elected to be determined by the RO:** following appointment, the relevant RO shall, in consultation with the Board, confirm for each election including an election to fill a casual vacancy, the respective number of Regional Directors and Sector Directors to be elected in accordance with these Rules. In the event of any dispute, the decision of the RO shall be final and binding.
- l) **Closing of the voter rolls:** not less than 7 days prior to the calling of nominations for elections for Directors, the relevant RO shall instruct the CEO to close the roll of voters for any subsequent ballot in relation to these elections.
- m) **Scrutineers in elections:** subject to any direction of the RO to preserve the secrecy of any ballot in accordance with these Rules, all scrutineers shall in the case of a ballot, so far as is possible having regard to the time of their appointment, be entitled to observe the admission and counting of votes and the conduct of and determination of the election by lot and the declaration of the poll.
  - a. In every case the scrutineer shall observe any direction given by the RO.
  - b. The RO shall take all reasonable steps by notification or otherwise to enable each scrutineer to exercise their rights, but no election shall be rendered invalid by reason of the fact that a scrutineer does not in fact exercise any or all of such rights if they have had reasonable opportunity so to do.
  - c. A scrutineer shall do all things necessary so that the conduct of the election shall conform to these Rules and so that the secrecy of the ballot shall be preserved.
  - d. Subject to the provisions of this Rule, a scrutineer appointed under this Rule may:
    - i. be present while the RO carries out their functions;
    - ii. direct the attention of the RO to any irregularity concerning the admission of a ballot paper as formal, the rejection of a ballot paper as informal or the counting of the votes; and
    - iii. otherwise carry out the functions of a scrutineer; provided that
    - iv. where a scrutineer appointed under these Rules:
      - a. interrupts the scrutiny otherwise than in accordance with these Rules; or
      - b. fails to carry out a lawful request by the RO, then
      - c. the RO may direct the scrutineer to leave the place where the scrutiny is being conducted.
- n) **Nominations for election as a Director:** the RO conducting the elections for the Directors shall, as indicated by the election timetable, cause to be published in any official publication of MBT or any newspaper deemed appropriate by the RO and, as appropriate, the MBT website, a notice indicating that the RO intends to call for nominations from qualified Members for the election of relevant Members or Representatives to those positions.



- a. Relevant Members will receive the appropriate nomination forms for the purposes of nominating candidates in such election for Directors.
  - b. The RO shall forward to each member of the relevant Region and to each member of the relevant Sector relevant nomination forms with a notification of the closing date of nominations which is to be no later than noon on the date fixed by the RO.
  - c. Each such relevant Member who is a Financial Member (or their Representative) may nominate 1 (or more) eligible candidate/s who is a Financial Member or Representative of a Financial Member up to the number of candidates to be elected for the relevant positions.
- o) To be an eligible candidate for election as a Director the individual must:
- a. be a Financial Member or Representative of such a Member;
  - b. to increase the likelihood that the individual has a reasonable understanding of MBT and of the role of a Director, have been such a Member or Representative of such a Member for at least 1 year; and
  - c. to be a Regional Director, the address in the Register of the Member and the Representative must be in the relevant Region; and
  - d. to be a Sector Director, the relevant Member must be a deemed member of the Sector in the Register.
- p) Where a Member is eligible they (or their Representative) may be nominated for both a Regional Director position and Sector Director position but they may only be appointed to 1 position. Subject to the election process if they are successful in gaining endorsement for both positions the Sector Director position will be the position taken.
- q) **Nominations for election as President:** the RO conducting the election for the President shall deliver by hand or forward by post or by electronic means to each Director nomination forms for President to be elected by and from the Directors in office at the time of the election with a notification of the closing date of nominations which shall be no later than 15 minutes after the actual commencement time of the first meeting of the Board after the relevant AGM.
- r) **Nomination process:** the notifications from the RO shall also state:
- a. that nominations will not be received by the RO after the closing date and time as fixed;
  - b. that a nomination will not be valid unless a signed consent of the nominee is received by the RO before the close of nominations; and
  - c. the address or delivery point or electronic address to which the nominations and consents are to be forwarded.
- s) A nomination for any position shall in every case be in writing and shall be signed by the nominator and shall be consented to in writing signed by the nominee which may be on a separate nomination form.
- t) Nominations for any position and consents shall be forwarded to the RO so as to reach them not later than the time and date specified for the close of nominations.
- u) The RO shall inspect the nominations received and satisfy themselves as far as they reasonably can that each nomination is in order in accordance with these Rules.

- v) **Need for an election:** if the number of valid nominations for any position received does not exceed the number of positions to be filled in any election, the RO shall declare those individuals who have been validly nominated as being elected unopposed and shall certify accordingly to the CEO.
  - a. Such individuals shall take office on a date in accordance with these Rules.
  - b. If there are any positions remaining to be filled due to fewer candidates than required then the vacant positions shall be deemed to be casual vacancies and shall be filled by the holding of a fresh election in accordance with the procedures prescribed by the provisions of these Rules.
  - c. Notwithstanding the provisions of any other Rule, if the number of individuals declared elected unopposed is less than the number of individuals that would ordinarily constitute a quorum under these Rules, then the number elected unopposed shall be the quorum for the Board until sufficient numbers of individuals have been declared elected as Directors so as to constitute the ordinary quorum for the Board.
- w) **Election process where a ballot is required: Rules 15 x) to xx)** apply to all elections for Directors where a ballot is required.
- x) In any election conducted under these Rules if more than the required number of valid nominations is received a secret ballot must be conducted.
- y) No voter shall vote for a greater or lesser number of candidates than the number to be elected, and any vote contrary to this rule or which otherwise fails to observe the directions contained on the ballot paper or accompanying directions to the voter shall be deemed informal.
- z) Where envelopes are sent or delivered to a voting Member in an election under these Rules, neither the RO nor any other Person shall include in any envelope sent or delivered for the purpose of issuing the voting Member with a ballot paper or ballot papers any material prepared by or in respect of any candidate in the election concerned. This Rule does not prevent a candidate or any other Person on their own behalf, and at their own cost, publishing or distributing material prepared by or in respect of a candidate.
- aa) No ballot paper issued in any election conducted by the RO shall contain any indication thereon as to whether or not a candidate in the election concerned has held or holds any office in MBT.
- bb) The RO shall conduct the ballot in accordance with the procedures in these Rules as a secret postal ballot unless exemption under the Act has been granted to conduct the secret ballot as an electronic secret ballot applying similar basic principles as does the secret postal ballot.
- cc) The RO shall prepare sufficient number of ballot papers on which appear the names of the candidates, in the order that is determined by lot conducted by the RO, and directions to the voter:
  - a. to place a cross alongside the name or names of the candidate or candidates for whom they wish to vote;
  - b. that each voter must vote for the number of candidates to be elected and that if any direction on the ballot paper is not complied with the vote will be informal; and
  - c. that the completed ballot paper is to be folded so that the marking thereon is not visible until unfolded.
- dd) Subject to **Rule 15 ii)**, no Member entitled to vote shall be entitled to more than 1 ballot paper in respect of any single election although 1 ballot paper may contain provision for voting in more than 1 election.
- ee) The RO shall advise all voters of the closing date and/or time for the receipt of returned ballot papers which the Returning Officer shall fix in accordance with the election timetable.

- ff) The RO shall, in accordance with the election timetable, forward to every eligible Member, entitled to vote in the election/s, a ballot paper in respect of the election/s for the Members or Representatives referred to in the Rules which shall, show the time and date of the close of the ballot and be initialled by the RO or bear a facsimile of their initials. The RO shall forward the said ballot paper together with an Outer Envelope and a Declaration Envelope as follows:
- a. the Outer Envelope is a pre-paid envelope and must be large enough to have a Declaration Envelope placed in it for return to the RO and the return address of the RO printed on the Outer Envelope so that it may be posted;
  - b. the Declaration Envelope is an envelope in which the completed ballot paper must be placed and which must be a smaller envelope able to fit inside the the Outer Envelope without needing to be folded;
  - c. the Declaration Envelope must contain on it a removable flap or label with the following printed details:
    - i. the name and address of the voter;
    - ii. the required declaration in **Rule 15 ff)d.**; and
    - iii. a place for the signature of the voter; and
  - d. the required declaration referred to in **Rule 15 ff)c.ii.** must state that the voter:
    - i. is the voter named on the envelope;
    - ii. has voted on the ballot/s on the ballot paper/s contained in the envelope; and
    - iii. has not voted before in this ballot.
- gg) The ballot paper/s shall be completed by the voter and placed in the Declaration Envelope without in any way marking the ballot paper in such a way that the paper can be identified as being from the voter. The voter must then seal the Declaration Envelope containing the ballot paper. The voter must then complete the voter's declaration contained on the flap or label of the Declaration Envelope, place the Declaration Envelope inside the Outer Envelope and send the Outer Envelope to the RO so as it is received by the RO not later than the date and time at which the ballot will close.
- hh) The RO shall provide to each voter sufficient details concerning the procedure outlined in these Rules to allow the procedure to be followed.
- ii) If the RO is satisfied that any relevant ballot paper has been destroyed, lost, damaged or misused and, in the case of a damaged or misused ballot paper, returned to the RO, they shall supply to the Member or Representative to whom the original ballot paper was supplied a substitute ballot paper.
- a. Any Member or Representative that is entitled to vote at any election held under these Rules, and that will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the RO for ballot material to be sent to another address that the Member or Representative so nominates. Notification to the RO shall be in a form acceptable to the RO and shall set out the Member's name and usual address and the address to which the Member elects to have the ballot material sent. Where a RO receives a request for an absent vote in the form made in this Rule, the RO shall comply with that request.
- jj) The RO shall arrange for the use of a post office box and/or other receptacle to which ballot papers may be returned to the RO and arrange for the same not to be opened by any other Person.
- kk) The RO shall, after the closing date and time for the receipt of returned ballot papers, collect the Outer Envelopes containing the votes from the post office box and/or receptacle provided and before opening each Declaration Envelope check whether the declaration has been completed and, if so, mark the voter's name off the roll and remove the flap or label containing the declaration and keep it in the RO's safekeeping so as to preserve the secrecy of the ballot. Any vote in any Declaration Envelope that does not contain a completed declaration shall be informal and not be counted by the RO.
- ll) The RO shall count the respective votes indicated upon the ballot paper/s which are properly marked.

- mm) As between candidates for the same position receiving an equal number of votes, in any case in which it is necessary to determine which of such candidates shall be elected, the RO shall determine which candidate or candidates shall be elected by lot and thereupon shall certify such candidate or candidates to have been elected.
- nn) The RO shall declare the result of the ballot, in accordance with the election timetable or in the case where they have certified that the candidates have been elected unopposed, declare them elected. Thereupon the candidates so declared to have been elected shall assume office in accordance with these Rules.
- oo) At the conclusion of all counts the RO shall certify forthwith and shall convey the results to the CEO.
- pp) In the case of an election for President when more than the number of required candidates is nominated, the RO shall conduct a secret ballot in accordance with **Rules 15 qq) to uu)** in conjunction with and at a meeting of the Board where any actual ballot is held.
- qq) The RO shall prepare sufficient ballot papers with names of candidates set out on them. The RO shall mark each ballot paper with their initials or a facsimile thereof, provide voting instructions and do all things necessary to ensure that the ballot is a secret ballot.
- rr) The RO shall distribute ballot papers to those Directors entitled to vote and provide voting directions to voters:
- a. to place a cross alongside the name of the single candidate for whom they wish to vote;
  - b. that each voter must vote for a respective candidate to be elected and that if any direction on the ballot paper is not complied with the vote will be informal; and
  - c. thereafter that the ballot paper is to be folded so that the marking thereon is not visible until unfolded.
- ss) The RO shall provide a receptacle into which all ballot papers shall be placed by the voters when voting. On completion of the ballot the RO shall count all formal votes and immediately declare the result of the ballot on the basis that the candidate with the highest number of votes is elected. In the event of a tie, the RO shall determine the result by lot. Thereupon the candidate so declared to have been elected shall assume office in accordance with these Rules.
- tt) Any Director who will not be present at the meeting at which an election is to be held may lodge with the RO a request for an absentee vote, together with an address where the individual can receive communication. The RO shall not declare the result of the election until the absentee Director is given a reasonable opportunity to vote, provided that to be counted the ballot paper must be delivered to the RO before the commencement of the meeting at which the actual ballot is held.
- uu) At the conclusion of all counts the RO shall certify the results forthwith and shall convey the results to the CEO.
- vv) When an election for President results in more than 1 candidate being unsuccessful in the election the RO shall declare with the result of the ballot, the order in which unsuccessful candidates finished based on the number of votes received provided that the respective candidate/s received at least 2 votes. In the event of a tie, the RO shall determine the relevant order by lot.
- ww) At the end of each election the RO must secure all ballot material relevant to the ballot and provide them to the Board for safe keeping in accordance with the Act.
- xx) Where the RO is unable or unwilling to conduct an attendance ballot, they will instead conduct a postal ballot in accordance with the remaining provisions of these Rule, adjusted as may be necessary.

## 16 - PROXIES

- a) Subject to these Rules, each Member entitled to vote at a general meeting of MBT or a meeting of members of their relevant Region or Sector may attend and vote in person, or via their Representative, or via a proxy.
- b) Directors are not entitled to appoint a proxy for a meeting of the Board or a committee of the Board.
- c) At a general meeting, a proxy is not entitled to a vote on a show of hands but is entitled to a vote if a poll is called.
- d) A proxy is entitled to vote separately for each Member the proxy represents, in addition to any vote they may have in their own right as a Member present in person or as a Representative.
- e) An objection to the qualification of a person to vote at a general meeting:
  - a. must be raised before or at the meeting at which the vote objected to is given or tendered; and
  - b. must be referred to the chair of the meeting whose decision on the qualification to vote is final.
- f) A vote not disallowed by the chair of the meeting under **Rule 16 e)** is valid for all purposes.
- g) Voting by proxy is permitted at any general meeting. Where the Member appointing the proxy is a corporation, company or trust, the proxy shall be under the hand of the Representative. The instrument of proxy shall indicate whether or not the Member appointing the proxy is, at the time of signing of the proxy, a Financial Member.
- h) A proxy may be a Director, a Member, a Representative, or an individual directly involved with a Member or be the chair of the meeting. If a Member appoints a body corporate that is a Member as their proxy then the Representative of that body corporate is deemed to be the proxy unless the chair of the meeting is appointed as their proxy.
- i) A proxy may be appointed for all general meetings, or any number of meetings, or for a particular meeting.
- j) Unless otherwise provided in the instrument, the instrument appointing a proxy will be taken:
  - a. to confer authority to speak to any proposed resolution on which the proxy may vote;
  - b. to confer authority to demand, or to join in demanding, a poll on any resolution on which the proxy may vote in a poll;
  - c. to appoint the chair of the general meeting as the proxy unless the Member clearly specifies another Person as proxy and that Person attends the meeting;
  - d. even though the instrument may refer to specific resolutions and may direct the proxy how to vote on those resolutions:
    - i. to vote, in a way that is consistent with any direction given by the Member on the proxy form, on any amendment moved to any of the proposed resolutions and on any motion that any of the proposed resolutions not be put or any similar procedural motion;
    - ii. to vote on a poll on any procedural motion, including any motion to elect the chair, or to adjourn the meeting (including by motion that the chair leave the chair); and
    - iii. to act generally at the meeting; and

- e. even though the instrument may refer to a specific meeting, to be held at a specific time and venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and to vote at the rescheduled or adjourned meeting or at the new venue.
- k) An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument so provides, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.
  - a. Where the instrument so directs the proxy how to vote, and the Person appointed as proxy is not the chair of the meeting, and the proxy does not exercise the vote when a poll is called, then the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at the meeting and must vote as directed.
- l) Subject to **Rule 16 o)**, an instrument appointing a proxy need not be in any particular form provided it is in writing, contains the Member's name and address, MBT's name, the proxy's name or the office held by the proxy, the meetings at which the appointment may be used and either:
  - a. be signed by the appointer or the appointer's attorney or Representative; or
  - b. be authenticated in such manner as the Board may determine.
- m) A proxy may not vote at a meeting or adjourned meeting or on a poll unless the signed instrument appointing the proxy is received in or at a place, fax number or electronic address specified in the notice of meeting at least:
  - a. 48 hours prior to the time set for the meeting; or
  - b. such lesser period specified for this purpose in the notice calling the meeting.
- n) For the purposes of **Rule 16 m)**:
  - a. the place may be MBT's registered office or other place specified in the notice and a fax number or electronic address may be the fax number or electronic address at MBT's registered office or the fax number or electronic address specified in the notice; and
  - b. the lesser period may be any time set by the Board before the time for holding the meeting or adjourned meeting.
- o) The Directors may waive all or any of the requirements of **Rules 16 m) & n)** and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:
  - a. an oral appointment of a proxy;
  - b. an appointment of a proxy which is not signed and executed in the manner required by **Rule 16 l)**; and
  - c. the deposit, tabling or production of a copy, including a copy sent by facsimile or by electronic transfer, of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.
- p) A later appointment of a proxy revokes an earlier one if both appointments could be validly exercised at the meeting.
- q) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice

## 17 - CASUAL VACANCIES – PRESIDENT AND DIRECTORS

---

in writing of the revocation has been received by MBT by the time and at 1 of the places at which the instrument appointing the proxy is required to be received under **Rules 16 m) & n)**.

- r) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.
- s) If a Member has cast a direct vote on a matter and the Board puts that matter to a general meeting for a vote, then if a Member that has already cast a direct vote or their Representative or their proxy is at the general meeting they are not entitled to vote and must not vote on the matter at the general meeting if a poll is called but may vote on a show of hands. Their direct vote will be counted if a poll is taken on the matter.
- t) The chair of a general meeting may require any Person acting as a proxy to establish to the satisfaction of the chair of the meeting that the Person is the Person nominated as proxy in the form of proxy lodged under these Rules. If the Person is unable to establish their identity, they may be excluded from voting in which case **Rule 16 k)a.** applies unless the form of proxy indicates otherwise.

## 17 - CASUAL VACANCIES – PRESIDENT AND DIRECTORS

- a) The office of a Director, including the President, shall be vacated, subject to the Act, if the relevant individual:
  - a. dies or becomes physically or mentally incapable of performing their duties as such a Director;
  - b. resigns by notice in writing to the CEO; or
  - c. ceases to be eligible to hold the office of Director in accordance with these Rules provided that:
    - i. before the Board confirms that the position has become vacant, the Board must seek evidence of the relevant condition having been met and, except in the case of death, invite the relevant individual to submit to the Board any response that the Board should consider prior to confirming the vacation of office and the position becoming vacant; or
  - d. is removed from office in accordance with **Rule 35 n)b.** by vote of a simple majority of the Members voting at a Special Meeting called for that purpose.
- b) The Board, by resolution passed by at least 75% of Directors in office and eligible to vote at a face-to-face meeting may dismiss from office any Director who has been found to have committed an offence in accordance with the provisions of **Rule 35**.
- c) In dealing with any matter under **Rule 17 b)**, the Board will be guided by the procedure outlined in **Rule 35** and any decision to cease membership will not be implemented until endorsed in accordance with **Rule 35 n)b.**
- d) Notwithstanding the foregoing provisions of this Rule, if the number of vacancies is such that **Rule 14 s)** applies and it is within 3 months of the commencement of the next election cycle then the Board, by resolution, may fill such vacant offices with any relevant Member or Representative, subject to these Rules.
- e) If a casual vacancy occurs in the position of a Director during the last 27 months of the term for the Director, then the vacancy is filled by the relevant candidate who had the next highest number of votes at the last election as specified by the Returning Officer.

- a. If there is no such willing relevant candidate, then the casual vacancy is filled by an election for the position in accordance with these Rules.
- f) If the casual vacancy occurs within 3 months of the commencement of the election process for a regular election cycle, the election to fill the vacancy is conducted not as a casual vacancy but as part of that normal election cycle.
- g) If the casual vacancy in the position of Director occurs prior to the last 27 months of the term for the position then a regular election for the position to fill the casual vacancy must proceed in accordance with these Rules.
- h) For a Director who fills a casual vacancy, the time between when they are elected or appointed to fill that vacancy and the AGM for which their position on the Board is up for election in the normal election cycle is not counted in determining term limits in accordance with **Rule 13 b)**.
- i) An individual Director who fills a casual vacancy as a Director holds the position until the completion of the next election cycle and is eligible to stand for that election subject to these Rules.
- j) To allow for changing personal circumstances the President may submit in writing to the CEO their intention to resign their position as President while remaining a Director. In such a case:
  - a. an election to replace the President must proceed in accordance with these Rules; and
  - b. the resigning President ceases to be President on the declaration of the result of the election by the RO.

## **18 - APPOINTMENT OF COMMITTEES**

- a) The Board may appoint committees from amongst the Directors or in any other manner it deems appropriate to examine and enquire into any special matter in connection with the Objects or business of the Association and to report to the Board on such matters.
- b) The Board must provide terms of reference for any such committee. Unless indicated otherwise in the terms of reference, a committee should follow the basic guidelines in these Rules for the operation of the Board, adjusted as may be necessary.
- c) No such committee shall exercise any of the functions of management of the Association, unless that committee comprises only Directors and where the function has been specifically delegated to that committee in its terms of reference.
- d) The Board must review the personnel and function of all committees so appointed at the first meeting of the Board following each AGM and may re-appoint such committees as the Directors deem necessary.

## **19 – CHIEF EXECUTIVE OFFICER**

- a) The Chief Executive Office shall be appointed under contract or otherwise by the Board.
- b) The CEO shall be responsible to the Board but shall act normally under the direction of the President.
  - a. In addition to normal rights related to the supervision and control of an Employee, the President shall have power to suspend the CEO from duty for concerns related to:
    - i. misappropriation of funds of the Association;



- ii. a substantial breach of the CEO's duties under these Rules or any applicable By-Laws;
    - iii. gross misbehaviour; or
    - iv. gross neglect of duty or breach of contractual obligation.
  - b. If the President acts under **Rule 19 b)a.** then the President must forthwith convene a meeting of the Board to consider the suspension.
  - c. The Board shall have power to dismiss the CEO if it resolves that the charges under **Rule 19 b)a.** are proven.
  - d. In exercising such power of suspension or dismissal, the President and the Board must afford the CEO so charged the opportunity to be heard in their own defence to such charge or charges.
  - e. Any dismissal will be subject to any contractual obligations and the law.
- c) The CEO shall be the Association's chief administrative officer and the public officer and secretary of the Association for all such purposes as may be required, and is the officer of the Association nominated by it to sue or be sued or to issue or accept legal process on behalf of the Association.
- d) The CEO must:
- a. carry out any specific functions listed in these Rules in reference to the CEO;
  - b. ensure that appropriate notice is given of all meetings of the Association, the Board and committees;
  - c. keep or cause to be kept a faithful record of the business transacted at all meetings of the Association, the Board and committees;
  - d. keep and maintain the Register, collect all subscriptions, fees, levies, dues, or other liabilities payable to the Association by Members or otherwise;
  - e. keep, maintain, and be responsible for the safe keeping of those books of accounts as are required by law to be kept;
  - f. conduct correspondence on behalf of the Association and, except as directed by the President, the same shall be conducted in the CEO's name; and
  - g. prepare and furnish all notices and returns required to be given by or on behalf of the Association under law.
- e) The CEO, subject to the direction of the Board, shall engage the staff of the Association, and shall have full charge and management of the Association's staff.
- f) The CEO shall and is hereby authorised (in a manner as may be directed by the Board) to bring or defend, or cause to be brought or defended, any action, prosecution or complaint in any court or tribunal as may be established under any industrial or arbitration or any general civil or criminal law of the *Commonwealth of Australia* or the *State of Tasmania*.
- g) The CEO shall carry out such other duties as may be required by the Rules or as directed by the Board from time to time.
- h) The CEO may delegate tasks but remains responsible for any such delegations.
- i) In the event of the position of the CEO becoming vacant for any cause, the Board shall have power to appoint an individual to act as CEO (to be called "the Acting Chief Executive Officer") until such time as a permanent appointment that accords with industrial law and employment law can be made. No Acting CEO shall hold office for more than 12 months without being formally appointed as provided

## 20 - ANNUAL GENERAL MEETING

---

by these Rules. Any Acting CEO shall have the duties and authority of the CEO, however, their appointment may be terminated in such manner and at such time as the Board shall determine. Where an Acting CEO is appointed temporarily prior to formal Board approval, the Board must be informed of the fact at its next meeting and the Board must confirm or reject such acting appointment.

## 20 - ANNUAL GENERAL MEETING

- a) **Timing:** the AGM shall take place in a timely manner on a date and at a time and place to be determined by the Board within 6 months of the end of the Financial Year or as otherwise required by the Act.
- b) **Notice:** it is not necessary for the notice of an AGM to state that the business to be transacted at the meeting includes the following matters that must be laid before each AGM:
  - a. a report on the affairs of MBT;
  - b. audited accounts and other statements required by law to be prepared from the accounting records of MBT;
  - c. the report of the auditor for the preceding Financial Year as may be required by law; and
  - d. a report on the outcome of any election process for Directors.
- c) Except as required by law, no business other than as specified in the notice convening the meeting or as provided for in **Rule 20 b)** may be transacted at any AGM (or Special Meeting).
- d) The CEO shall forward by prepaid post or electronic transmission notice of at least 21 days for an AGM (or Special Meeting) in a manner authorised by these Rules to each Member or Representative.
- e) A notice of an AGM (or Special Meeting) must specify:
  - a. the place, date and time of the meeting;
  - b. subject to **Rule 20 b)**, the general nature of any business to be conducted at the meeting;
  - c. if a resolution is to be proposed, the details of and the intention to propose it; and
  - d. if the meeting is to be held in more than 1 place, the technology that is to be used to facilitate this.
- f) The accidental failure to give notice of an AGM (or Special Meeting) to, or the non-receipt of notice of the meeting by, any Person entitled to receive notice will not invalidate the proceedings at, or any resolution passed at, the AGM (or Special Meeting).
- g) A Person's attendance at an AGM (or Special Meeting) waives any objection that that Person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the Person at the beginning of the meeting objects to the holding of the meeting.
- h) **Quorum:** the quorum for an AGM (or Special Meeting) is 10 Members entitled to vote present (see **Rules 1 c) & d)**).
  - a. No business may be transacted at a meeting unless a quorum is present during the time the business is dealt with, subject to **Rule 20 i)c)**.
- i) If a quorum for any meeting of Members is not present 20 minutes after the appointed time for the meeting to commence, then the individual who would be chair of the meeting may facilitate discussion

## 21 - SPECIAL MEETING

---

on the business without resolution or minutes. If a quorum is present within a further 20 minutes the meeting may proceed.

- a. If no quorum is present then the meeting is postponed for a period of 14 to 28 days to a date, time and place to be set by the individual who would be chair of the meeting, if required in consultation with the CEO.
- b. A replacement notice of the meeting must be sent.
- c. The notice must draw attention to the fact that the prior meeting was postponed for want of a quorum. In the event of a quorum not being present at the postponed meeting within 20 minutes after the time set for the meeting, then the number of Members present and entitled to vote shall be the quorum, subject to the law of meetings, and the business of the meeting may proceed.

## 21 - SPECIAL MEETING

- a) A Special Meeting has many similarities to an AGM – see **Rule 20**.
- b) A Special Meeting may be convened on the instructions of the President or the Board or by the CEO as required by **Rule 35 n**).
- c) In addition to the powers of the President under **Rule 12 b)e.**, a Special Meeting may be requisitioned, by 3 Directors or 10 Members with a right to vote.
  - a. Where a Special Meeting is requisitioned, the requisition must be in writing and duly signed by each of the Directors or Members concerned and must clearly set out the reasons for the requisition.
- d) A Special Meeting shall deal only with the business that is set out in the notice of the meeting.
- e) Where the business of a Special Meeting is to consider any subject upon which a notice of motion has not been submitted then any motion or motions submitted at the said Special Meeting shall be received and may be debated, but shall not be determined.
  - a. If it is the will of the meeting, such motions shall be referred to a further Special Meeting to be convened in the period 21 to 28 days following the meeting and be set out in the notice convening the further Special Meeting.
  - b. The further Special Meeting shall have power to determine the motions submitted to it and those motions shall be carried by a simple majority of the Members present and entitled to vote, unless the motion would lead to a Special Resolution. On being adopted, those motions shall become resolutions for the guidance or action of the Board depending on the nature of the resolution.
- f) These provisions do not apply when the Special Meeting is convened under **Rule 35**.
- g) Where the notice for a Special Meeting includes a specific motion for consideration then the meeting shall have power to determine the motion submitted to it and such motion shall be carried by a simple majority of the Members present and entitled to vote, unless the motion would lead to a Special Resolution. On being adopted, those motions shall become resolutions for the guidance or action of the Board depending on the nature of the resolution.
- h) If the Special Meeting is to consider a Member or Director who has been referred to the meeting under **Rule 35 n**) the meeting may resolve that the Member or Director be removed from office provided they have been found guilty of:

- a. misappropriation of the funds of the Association;
  - b. substantial breach of these Rules;
  - c. gross misbehaviour; and/or
  - d. gross neglect of duty.
- i) A resolution cancelling the membership of a Member or removing a Director from office shall require passing by a simple majority of the votes cast by Members present and entitled to vote at that Special Meeting.
- j) Before a resolution under **Rule 21 h)** is put to the vote, the Member or Director concerned shall be granted every reasonable opportunity to be heard by the Members present and entitled to vote.
- k) Any vacancy that occurs in the office of Director by the operation of **Rule 21 h)** shall be a casual vacancy and be filled as provided by these Rules.

## 22 – CHAIR OF MEETINGS

- a) The President shall preside as chair at each AGM and Special Meeting unless:
- a. there is no President;
  - b. the President is not present within 15 minutes after the time appointed for the meeting or the time at which a quorum is present, whichever is the later; or
  - c. the President is present within that time but is not willing to act as chair of the meeting.
- b) When the President does not preside then:
- a. the Directors present must elect as chair of the meeting another Director who is present and is willing to act; or
  - b. if no other Director willing to act is present at the meeting, the Members eligible to vote who are present in person or by Representative at the meeting must elect as chair of the meeting a Member present in person or by Representative who is willing to act and who is entitled to vote at the meeting.
- c) Despite anything in **Rules 22 a) & b)**, if the President and/or any other Director or Directors as the case may be later attend the meeting or later are willing to act, 1 of them (elected if necessary where 2 or more Directors are later in attendance) from time to time who is willing to act must take over as chair of the meeting.
- d) Subject to **Rule 23**, the chair of a meeting:
- a. shall ensure that all items on the agenda are dealt with, and in the sequence set out, unless the Members and Representatives eligible to vote who are present in person consent to the order being changed;
  - b. shall conduct the meeting in a manner designed to facilitate decision making and the transaction of business; and
  - c. shall superintend and control the proceedings in accordance with the requirements of the relevant law, these Rules and the broad conventions of debate.

## 23 – CONDUCT OF MEETINGS

- a) A Member either in person, via a Representative or via a proxy is entitled to attend and to speak at an AGM and Special Meeting.
- b) The chair of a general meeting may at any time they consider it necessary or desirable for the proper and orderly conduct of the meeting, subject to the law:
  - a. impose a limit on the time that a person may speak on each motion or other item of business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present (see **Rules 1 c) & d)**) and entitled to vote; and
  - b. adopt any procedures for casting or recording votes at the meeting whether on a show of hands or a poll, including the appointment of tellers and scrutineers.
- c) Any question arising at a meeting relating to the order of business, subject to these Rules, procedure or conduct of the meeting must be referred to the chair of the meeting whose decision is final.
- d) The chair of a meeting may take any action they consider appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any individual:
  - a. who is in possession of a visual and/or sound recording device which in the opinion of the chair of the meeting may or does cause inconvenience or disruption to the meeting;
  - b. who is in possession of a placard or banner;
  - c. who is in possession of an article considered by the chair of the meeting to be dangerous, offensive or liable to cause disruption;
  - d. who refuses to produce or permit examination of any article, or the contents of any article, in the individual's possession;
  - e. who behaves or threatens to behave in a dangerous, offensive or disruptive way; or
  - f. who is not entitled to receive notice of the meeting but only if they are not the proxy or representative of a Person entitled to receive notice of the meeting.
- e) The chair of the meeting may delegate powers conferred by **Rule 23 d)** to any person they think fit.
- f) The chair of a general meeting may at any time during the course of a meeting, and must if so directed by the meeting, adjourn from time to time and from place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting as determined by the chair of the meeting.
- g) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- h) A resolution passed at a general meeting resumed after an adjournment is passed on the day that it is passed.
- i) Where a meeting is adjourned for 28 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

## 24 - VOTING AT MEETINGS OF MEMBERS

---

- j) Except as provided by **Rule 23 i)**, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting but reasonable efforts should be made to inform Members and Representatives.
- k) Where a meeting is adjourned, the chair of the meeting must set the time, date and place for the resumption of the meeting, if required in consultation with the CEO.
- l) Nothing in this **Rule 23** is to be taken to limit the powers conferred on the chair of a general meeting by law.

## 24 - VOTING AT MEETINGS OF MEMBERS

- a) Questions arising at an AGM or Special Meeting are to be decided by at least a majority of votes cast by the Members present (see **Rules 1 c) & d)**) at the meeting who are eligible to vote and any such decision is for all purposes a decision of the Members, except in the case of any resolution which under these Rules or as a matter of law requires a special majority.
- b) At any time before a vote on a motion is taken at a meeting, a summary of the proxy position and, if applicable, direct votes received in relation to the motion must be disclosed to the meeting.
- c) In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to any deliberative vote, may exercise a casting vote and if not exercised in favour then the resolution shall lapse.
- d) A resolution put to the vote of a meeting must be decided on a show of hands of the Members present in person or by Representative and eligible to vote unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands.
  - a. Where a general meeting is called involving attendance via technology, Members present in person or by Representative or by proxy via technology and who cannot be seen for a show of hands may cast their vote by voice or by electronic or other means approved by the chair of the meeting.
  - b. On a show of hands all Members present in person and by Representative and eligible to vote have 1 vote. Any additional votes that any individual present may be entitled to exercise shall not be exercisable on a show of hands but will be exercisable on a poll.
- e) A poll may be demanded:
  - a. by the chair of the meeting; or
  - b. by at least 2 Members present (see **Rules 1 c) & d)**) and having the right to vote on the resolution.
- f) A demand for a poll does not prevent the continuation of a meeting for the transaction of any business other than the question on which the poll has been demanded, subject to **Rule 24 i)**.
- g) At any general meeting, unless a poll is demanded, a declaration by the chair of the meeting that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the minutes of the proceedings of MBT which has been signed by the chair of the relevant meeting or of the next succeeding meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- h) If a poll is demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair of the meeting directs, subject to **Rule 24 i)**, and the result of the poll will be the resolution of the meeting at which the poll was demanded, and an entry to

## 24 - VOTING AT MEETINGS OF MEMBERS

---

that effect in the minutes of the proceedings of MBT which has been signed by the chair of the relevant general meeting or of the next succeeding general meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- a. Where a meeting is called and a poll is demanded, Members present via technology may cast their vote by informing the chair of the general meeting, or a delegate appointed by the chair of the meeting, who must complete the poll for them in good faith on their instructions, or, if offered by the Board, by electronic or other means approved by the chair of the meeting.
- i) A poll demanded at a meeting on the election of a chair of the meeting pursuant to **Rule 22 b)b.** or on an adjournment pursuant to **Rule 23 f)** must be taken immediately.
- j) The demand for a poll may be withdrawn.
- k) A resolution included in a notice of meeting may be amended at a general meeting prior to being decided upon provided that any amendment is within the specific scope and intent of the wording of the resolution in the notice of meeting and the substantial intent of the original wording remains and the amendment does not amount to a direct negative. Amendments shall be put to the meeting before the motion is put to a vote.
  - a. Amendments, in any substantial way, are not permitted if direct voting on the resolution has been allowed and votes have been received or directed proxies specifying a vote on the resolution have been received, subject to **Rule 16 j)d.**
- l) Subject to these Rules, at a general meeting every Member that is financial, that is entitled to vote and that is present in person or by Representative has 1 vote on a show of hands.
- m) Where the Board has allowed Members to cast a direct vote by electronic or postal means on a matter, the voting must be done in a way that identifies that a Member has voted but with the actual way in which the vote or votes have been cast secret. The Board must advise Members at the time of inviting a direct vote as to whether the result of the vote shall be the decision of the Members or whether the matter that has been voted on by direct vote shall also be voted on at a meeting and the decision shall be the combined result of the direct vote and the voting at the meeting where a poll must be called on the matter. A Member or Representative that has voted by Direct vote is not entitled to vote on the same matter at a meeting when a poll is called.
- n) At a general meeting, a proxy is not entitled to a vote on a show of hands but is entitled to a vote if a poll is called.
- o) A proxy is entitled to vote separately for each Member the person represents, in addition to any vote they may have in their own right as a Member present in person or as a Representative.
- p) An objection to the qualification of a person to vote at a meeting:
  - a. must be raised before or at the meeting at which the vote objected to is given or tendered; and
  - b. must be referred to the chair of the meeting whose decision on the qualification to vote is final.
- q) A vote not disallowed by the chair of the meeting under **Rule 24 p)** is valid for all purposes.
- r) Voting by proxy is permitted at any general meeting. Where the Member appointing the proxy is a corporation, company or trust, the proxy shall be under the hand of the Representative, secretary of the corporation or company or anyone authorised by them to appoint a proxy or anyone authorised by the trustee to appoint a proxy. The instrument of proxy shall indicate whether or not the Member appointing the proxy is, at the time of signing of the proxy, a Financial Member.
- s) The authority covering the conduct of meetings of the Association shall be the latest edition of the publication "Horsley's Meetings: Procedure, Law and Practice".

## 25 - SECTORS

- a) The purpose of Sectors is:
  - a. to facilitate the election of Sector Directors; and
  - b. to provide an operational forum for Members with common and related needs and issues relevant to the Objects for:
    - i. identifying issues and needs;
    - ii. informing and educating on those issues and needs; and
    - iii. assisting in developing common and consistent responses to those issues and needs.
- b) Sectors are not branches, in accordance with the Act, and members of any advisory committee of a Sector are not Officers within the meaning included in the Act.
- c) There are 2 Sectors:
  - a. General Contractor Sector; and
  - b. Residential Builder Sector.
- d) Reflecting the evolving nature of the Industry, the Board, after consultation with members of the Sectors, may alter the scope of Members deemed allocated to a Sector.
- e) Subject to these Rules, Members that have been deemed to be a member of a Sector have rights to:
  - a. be elected as a relevant Sector Director, or have their Representative so elected; and
  - b. vote on the election of relevant Directors from their Sector.
- f) Subject to these Rules, Members that have been deemed to be a member of a Sector, or their Representatives, have privileges of:
  - a. participating in knowledge sharing activities arranged by and/or for the Sector, subject to the terms and conditions of such activities; and
  - b. participating in an advisory committee of the Sector at the invitation of the Board.
- g) The Board may establish an advisory committees for each Sector where:
  - a. the Board will provide terms of reference for the committee;
  - b. the Board will invite members of the Sector or their Representative to join the committee;
  - c. where broader membership may enhance the effectiveness of the committee the Board may invite a Member or Representative that is not a member of the Sector to join the committee; and
  - d. a relevant Director from the Sector appointed by the Board may chair the committee and report to the Board on the workings of the committee.



---

**26 - REGIONS**

- a) The purpose of Regions is:
- a. to facilitate the election of Directors; and
  - b. to provide an operational forum for Members with common and related local needs and issues relevant to the Objects for:
    - i. identifying issues and needs;
    - ii. informing and educating on those issues and needs; and
    - iii. assisting in developing common and consistent responses to those issues and needs.
- b) Regions are not branches, in accordance with the Act, and members of any advisory committee of a Region are not Officers within the meaning included in the Act.
- c) There are 3 Regions:
- a. Southern Region;
  - b. Northern Region; and
  - c. North Western Region.
- d) At the time of certification of these Rules the areas covered by the Regions were:
- a. Southern Region comprising the Municipalities of:
    - i. Brighton;
    - ii. Central Highlands;
    - iii. Clarence;
    - iv. Derwent Valley;
    - v. Glamorgan/Spring Bay;
    - vi. Glenorchy;
    - vii. Hobart;
    - viii. Huon Valley;
    - ix. Kingborough;
    - x. Sorell;
    - xi. Southern Midlands; and
    - xii. Tasman;
  - b. Northern Region comprising the Municipalities of:
    - i. Break O'Day;
    - ii. Dorset;
    - iii. Flinders;
    - iv. George Town;
    - v. Launceston;
    - vi. Meander Valley;
    - vii. Northern Midlands; and
    - viii. West Tamar; and
  - c. North Western Region comprising the Municipalities of:
    - i. Burnie;
    - ii. Central Coast;
    - iii. Circular Head;
    - iv. Devonport;
    - v. Kentish;
    - vi. King Island;
    - vii. Latrobe;
    - viii. Waratah-Wynyard; and
    - ix. West Coast.

- e) Reflecting the evolving nature of communities, the Board, after consultation with Members of the relevant Regions, may alter the areas deemed allocated to a Region.
- f) Subject to these Rules, Members are allocated to the Region based on the address of their principal place of business in the Register.
- g) Subject to these Rules, Members that have been allocated as a member of a Region have rights to:
  - a. be elected as a relevant Regional Director, or have their Representative so elected; and
  - b. vote, or have their Representative vote, on the election of relevant Directors from their Region.
- h) Subject to these Rules, Members that have been allocated as a member of a Region, or their Representatives, have privileges of:
  - a. participating in knowledge sharing activities arranged by and/or for the Region, subject to the terms and conditions of such activities; and
  - b. participating in an advisory committee of the Region at the invitation of the Board.
- i) Subject to these Rules, Members that have operations in a Region other than the Region where they are allocated as a Member have privileges of:
  - a. participating in knowledge sharing activities arranged by and/or for the Region where they operate, subject to the terms and conditions of such activities; and
  - b. participating in an advisory committee of the Region where they operate at the invitation of the Board.
- j) The Board may establish an advisory committee for each Region where:
  - a. the Board will provide terms of reference for the committee;
  - b. the Board will invite members of the Region or their Representative to join the committee;
  - c. where it may enhance the effectiveness of the committee, the Board may invite a representative of a Member that is not a member of the Region to join the committee; and
  - d. a relevant Director from the Region appointed by the Board may chair the committee and report to the Board on the workings of the committee.

## **27 - FINANCIAL YEAR**

- a) The Financial year of the Association shall commence on the 1st July in any year and end on the 30th June in the following year.

## **28 – SUBSCRIPTIONS, LEVIES, FEES, DUES AND FINES**

- a) The Board, from time to time for the purpose of carrying on the affairs of MBT, may:
  - a. fix rates of subscriptions payable from time to time by Members;

- b. make such levies and impose such fees, dues and fines as it may think fit, provided that no single fine shall exceed \$1000.
- b) Any such subscriptions, levies, fees, dues and fines may be imposed by the Board upon such basis and to such amounts as the Board may consider necessary, convenient or desirable from time to time, and may be imposed on some of the Members or on some category or grouping of the Members to the exclusion of others, provided further that no fines shall be imposed without giving the Member a reasonable opportunity to be heard in defence.
- c) Unless otherwise determined by the Board, subscriptions shall be payable annually and in advance. Levies, fees and/or dues may be payable annually or as otherwise determined by the Board.
  - a. The Board, by determination, may provide for the progressive payment of the subscriptions, levies, fees and/or dues in equal instalments and periods during the year.
- d) For all new Members an application fee as determined by the Board shall be lodged before admission to membership.
  - a. On admission, the membership subscription fee shall be charged in accordance with **Rule 28 a)** and shall be adjusted on a monthly basis from the first day of the month of admission for the remainder of the subscription year.
- e) Subscriptions, levies, fees, dues and fines are due and payable by a Member within 14 days of the date on which they are payable in accordance with these Rules.
- f) For the purposes of this **Rule 28**, a number of Members being Related Corporations may, if they so apply to the Board, and if the Board so approves, pay their subscriptions, levies, fees or dues jointly.
- g) Notice of determination and/or imposition of any subscription, levy, fee, due or fine, must be given to such Members as are affected by such determination and/or imposition as soon as is reasonably practicable.
  - a. Any subscription, levy, fee, due or fine imposed by the Board may be set aside, increased, reduced, modified or amended by a Special Meeting, especially called for the purpose and held within 9 weeks from the date of the determination and/or imposition of such subscription, levy, fee, due or fine.
  - b. For the purposes of this **Rule 28 g)**, notice shall be deemed to have been given to the Members concerned by way of any invoice, statement or any other communication advising them of the amounts concerned.
- h) Subject to the provisions of the Act and notwithstanding **Rule 28 d)**, the Board may direct the payment of an entrance fee by all Members admitted under **Rule 7** and determine the amount thereof from time to time.
- i) All subscriptions, levies, fees, dues and fines and any other charges applicable to Members must have GST added where applicable and then be quoted GST-inclusive.

## 29 – ACCOUNTS OF MBT

- a) The Board, consistent with **Rule 19 d)**, shall cause to be kept:
  - a. such accounting records as correctly record and explain the transactions and financial position of MBT, including such records as are required to be kept by law;

### 30 - RECOVERY OF SUBSCRIPTIONS AND OTHER AMOUNTS DUE TO THE ASSOCIATION

---

- b. accounting records in such a manner as will enable accounts and statements to be prepared from them in accordance with the requirements of the law; and
  - c. accounting records in such a manner as will enable the accounts of MBT to be conveniently and properly audited in accordance with the requirements of the law.
- b) The Board shall, as soon as reasonably practicable after the end of each Financial Year, cause to be prepared from the accounting records, kept by MBT in respect of that Financial Year, such accounts and other statements, in respect of that Financial Year as are required by law to be prepared.
  - c) The Board must submit to the auditors of MBT the accounts for audit as required by law as soon as reasonably practicable after the end of such Financial Year and prior to the AGM held following the end of such Financial Year.
  - d) It shall be the duty of the Board to certify the correctness of accounts of MBT, and no financial statements as required by law shall be submitted to any general meeting of Members unless they have been so certified as correct in accordance with the law.
  - e) Consistent with **Rule 19 d)**, it is the duty of the CEO to cause to have delivered to the Board by a not-unreasonable date set by the Board, consistent with the requirements of the law, such accounts and other statements required by law to be prepared from its accounting records for each Financial Year. The CEO must also cause to be delivered to the Board the report by the auditor as required by law and these Rules.
  - f) Such Person or Persons as the Board may from time to time appoint, shall be entitled at all reasonable times to full and free access to all accounts, records, documents and papers relating directly or indirectly to the receipt or payment of monies, or to the acquisition, receipt, custody or disposal of assets with the Person/s entitled to seek from any Officer such information and explanations as they desire for the purposes of the Board.

### 30 - RECOVERY OF SUBSCRIPTIONS AND OTHER AMOUNTS DUE TO THE ASSOCIATION

- a) Any Member failing to pay any subscription, levy, fee, due or fine within 3 months after the payment becomes due and payable shall:
  - a. be disqualified from taking part in any proceedings of MBT; and
  - b. shall be liable to pay an additional penalty of 10% of the levy, fee or due and/or amount of arrears of subscription.
- b) Any Member who is 3 months in arrears in the due payment of any subscription, levy, fee, due or fine shall be sent notice of pending action along with a notice of final demand for payment within 30 calendar days of the date of the notice.
  - a. If the payment is not received, or a satisfactory arrangement for payment made with the Board, by that relevant date the Member shall be deemed to have broken a rule of MBT and the membership of such Member shall be terminated in accordance with **Rule 10 c)**.
- c) In default of payment under **Rule 30 b)** of the amount of any levy, fee, due or subscription or fine within 1 month of a final demand for payment under the hand of the CEO or any other duly authorised Employee, the Board, upon any termination of the membership and subject to the Act, may:
  - a. recover the amount at law in proceedings instituted by MBT; or
  - b. direct that the amount be 'written off' as a bad debt.

## 31 - APPLICATION AND CONTROL OF FUNDS, PROPERTY

---

- d) On the hearing of any proceedings for the recovery of any monies due by a Member or ex-Member for subscriptions, levies, fees, dues or fine, it shall be sufficient to prove that:
- a. the name of the Member sued is entered upon the Register as a Member at the relevant time;
  - b. that the resolution fixing the subscription or imposing the levy, fee, due or fine is duly recorded in the minutes; and
  - c. that notice of the fixing of the subscription or the imposition of the levy, fee, due or fine was duly given to the Member sued; and
  - d. it shall not be necessary to prove the appointment of the Board which fixed such subscription or imposed such levy, fee, due or fine nor any other matter whatever, but the proof of the matters aforesaid shall be conclusive evidence of the debt;
  - e. provided that:
    - i. for the purpose of **Rule 30 d)** notice shall have been deemed to have been given if the said notice shall have been forwarded by registered mail or by any other means authorised by **Rule 44** by an Employee in the ordinary course of business irrespective of whether the notice was received by the Member.
- e) Subject to the Act, any such termination of membership shall not affect in any way the liability of such ex-Member for any subscriptions, levies, fees, dues, fines or penalties fixed, made or imposed prior to the date of such termination.

## 31 - APPLICATION AND CONTROL OF FUNDS, PROPERTY

- a) MBT is a reporting unit in accordance with the Act so MBT's funds shall be managed and controlled in accordance with these Rules by the Directors as designated Officers in accordance with the Act.
- b) The funds of MBT and its income and property shall be under the control of the Board, which shall have the sole management thereof, subject to these Rules.
- c) MBT's funds shall consist of:
  - a. any real or personal property of which the Board, by these Rules or any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement would have, the right of custody, control or management;
  - b. all property, including subscriptions, fines, fees, dues and levies and entrance and admission fees paid or payable by a Member;
  - c. fees paid or payable;
  - d. the whole or part of any entrance or admission fees, subscriptions, fines, fees, dues or levies paid or payable;
  - e. any interest, rents, dividends or other incomes derived from the investment or use of MBT's funds;
  - f. any long service leave or other fund operated or controlled in accordance with rules relating to MBT as a whole for the benefit of MBT's Officers or Employees;

- g. any sick pay fund, accident pay fund, funeral fund or like fund operated and controlled in accordance with rules relating to MBT as a whole for the benefit of Officers, Employees or Members as the case may be;
  - h. any property acquired wholly or mainly by expenditure of MBT's monies or derived from other assets of MBT; and
  - i. the proceeds of any disposal of parts of MBT's assets.
- d) All cheques, negotiable instruments, electronically transferred monies and other monies belonging to MBT, shall forthwith, upon receipt thereof, be paid to the bankers nominated by the Board to the credit of MBT.
- e) **Rule 31 d)** does not prevent an amount as may be determined from time to time by the Board being retained in cash in the Association's registered office, principal place of business and any other business offices operated by MBT for the purpose of petty cash.
- f) In expending the funds referred to in **Rule 31 b)**, the Board must develop and implement policies and procedures relating to the expenditure by MBT including policies related to the use of credit cards and other forms of electronic transfers.
- g) Cheques, negotiable instruments and electronic payments shall be signed or authorised by such Directors and/or Employees as may from time to time be so authorised to do so by the Board.
- h) No Member shall have, by reason of their membership, any transmissible or assignable interest in the property of the Association. On a Member ceasing to be a Member the ex-Member has no claim to an interest in the property of the Association.
- i) A loan, grant or donation of an amount exceeding \$1000 may only be made by the Association if the Board has approved the loan, grant or donation after the Board has satisfied itself:
- a. that the making of the loan, grant or donation would be in accordance with these Rules;
  - b. in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory for MBT.
- j) The Board may develop and implement requirements for the preparation of, and managing to, budgets for MBT as a whole and parts of MBT, including Regions and Sectors, as the Board considers appropriate for the good governance and proper management of the affairs of MBT.

## **32 - APPOINTMENT OF AUDITORS AND AUDIT**

- a) The Board must appoint from time to time a properly qualified auditor in accordance with the Act.
- b) The auditor has all rights, privileges and obligations in accordance with the Act and the law.
- c) The auditor may only be replaced in accordance with the Act and must be replaced as required by the Act.

## **33 – DISCLOSURE RULES AND ACCESS TO BOOKS**

- a) MBT must meet the applicable disclosure of information obligations and right of access to information obligations of the Act.

### 34 - CONFLICT OF INTEREST / PERSONAL INTEREST

- a) **Interested Directors:** subject to **Rule 34 h)**, a Director may hold any other office (other than auditor) in MBT or any related body corporate in conjunction with their directorship and may be appointed to that office upon such terms as to tenure of office and otherwise as the Directors think fit.
- b) Subject to **Rule 34 h)**, a Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by MBT or in which MBT may be interested as a shareholder or otherwise and the Director is not accountable to MBT for any other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- c) The Board may exercise the voting rights conferred by shares held or owned by MBT in any body corporate in such manner in all respects as the Board thinks fit including voting in favour of any resolution appointing a Director as a director or other officer of that body corporate or voting for the payment of remuneration to the officers of that body corporate and a Director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that they are, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- d) Subject to **Rule 34 h)**, a Director is not disqualified merely because of being a Director from contracting with MBT in any respect including, without limitation, any of the following:
  - a. selling any property to, or purchasing any property from, MBT;
  - b. guaranteeing the repayment of any money borrowed by MBT for a commission or profit; and
  - c. acting in any professional capacity, other than auditor, on behalf of MBT.
- e) No contract made by a Director with MBT and no contract or arrangement entered into by or on behalf of MBT in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- f) No Director contracting with or being interested in any arrangement involving MBT is liable to account to MBT for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.
- g) Subject to **Rule 34 h)**, a Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
  - a. be counted, if they are present at the time of commencing to deal with the matter, in determining whether or not a quorum is present at any meeting of the Board that is considering that contract or arrangement or proposed contract or arrangement;
  - b. vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
  - c. sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement that MBT may execute.
- h) **Rule 34 g)** does not apply if, and to the extent that, it would be contrary to the Act including without limitation provisions of the Act that regulate matters concerning material personal interests/conflicts of Officers (including Directors).

- i) The Board may make By-Laws requiring the disclosure of interests that a Director, and any Person deemed by the Board to be related to or associated with the Director, may have in any matter concerning MBT or a related body corporate and any By-Laws made under these Rules shall bind all Directors.
- j) The Board may allow any Person who is not a Director to attend and take part in its meetings as an observer or adviser provided that any such Person shall not have the right to vote on questions arising at any such meeting and must leave the meeting when requested to by the chair of the meeting.

### 35 - DISCIPLINARY POWERS

- a) Subject to this Rule, the Board may impose a penalty not exceeding \$1000 or terminate a Member from membership of MBT or dismiss a Representative or an individual from office, if the Member, Representative or individual is found to have committed any of the following:
  - a. misappropriation of any funds of MBT whatsoever; or
  - b. a substantial breach of these Rules including any breach of any code of ethics; or
  - c. gross misbehaviour; or
  - d. gross neglect of duty.
- b) **Charging** of a Member with any alleged offences specified in **Rule 35 a)** may arise by:
  - a. the Board charging any Member; or
  - b. a Member charging any other Member provided that any such charge must be made in writing and be addressed to the CEO.
- c) The CEO, if directed by the Board after an initial consideration by the Board of the written charge, must:
  - a. provide the Member with a copy of the allegations that have led to the charge; and
  - b. ask the Member charged to come before a meeting of a disciplinary committee at a mutually agreed time but only on notice of at least 14 days.
- d) **Assessment of charge:** is done by a disciplinary committee. The committee shall be appointed by the President and comprise 3 Directors, none of whom has a direct interest in the charge.
  - a. If sufficient Directors without a direct interest in the charge cannot be appointed then the President may appoint previous directors of MBT who have no direct interest in the charge.
- e) If a majority of the committee present at the meeting, after holding full and due enquiry, determine that the Member charged has been found to be guilty of the act or acts alleged against them, the committee may recommend disciplinary action consistent with **Rule 35 a)** and the gravity of the offence.
  - a. For the purpose of clarification the recommended action may include:
    - i. admonishing the Member or the Representative;
    - ii. reprimanding the Member or the Representative;
    - iii. suspending the membership or the representation for a period not exceeding 3 months,
    - iv. imposing a monetary penalty on the Member;
    - v. cancelling the membership or the representation; or
    - vi. a combination of these actions.



- f) The CEO must inform the Member or Representative of the recommendation and of their further rights.
- g) **Review:** the recommendation of the committee must be referred to the Board for consideration along with any written response to the recommendation from the Member or Representative.
- h) The Board must consider the recommendation and any written response expeditiously.
- i) The Board may ratify, vary or reject the recommendation following which the Member or Representative must be informed in writing.
- j) If the recommendation to the Board is for a suspension or monetary penalty or cancellation the Member or Representative must be advised and informed that prior to the Board making a decision on the recommendation the Member or Representative has a right to address the Board at a mutually agreed time and/or make a further submission to the Board.
- k) If for any reason the Member or Representative fails to attend the meeting with the Board at a mutually agreed time then a second mutually agreed time must be set. The Member or Representative may elect to meet with the Board virtually using a mutually agreed service provider.
- l) If for any reason the Member or Representative fails to attend the meeting with the Board at a mutually agreed time for the second time, or a mutually agreed time for a meeting cannot be agreed, then the Board may proceed to decide to ratify, to vary or to reject the recommendation without the participation of the Member or Representative.
- m) Once a final decision is made the Member or Representative must be advised in writing.
- n) **Appeal:** if the decision of the Board is to ratify the recommendation and that recommendation is to cancel the membership then:
  - a. the Member must be informed in writing and advised that they may appeal the decision to a Special Meeting to be held in accordance with **Rules 21 g) to j)**;
  - b. if the Member or Representative is a Director then the decision of the Board is only a recommendation and the matter must be referred to a Special Meeting to be held in accordance with **Rule 17 a)d.** to determine by ordinary resolution whether or not to endorse and to apply the recommendation from the Board.
- o) **Procedures:** for the guidance of the Board and disciplinary committee and without in any way being mandatory, the following is suggested as a way in which an investigation and/or hearing of a matter under this Rule may be carried out:
  - a. inform the Member or Representative of the charge laid against them and any rules of procedure to apply;
  - b. at the meeting or meetings:
    - i. read the charge to the Member or Representative in the presence of the Board or committee;
    - ii. ask the Member or Representative how they plead to the charge;
    - iii. ask the Person laying the charge to state the case against the Member or Representative charged;
    - iv. give the Member or Representative charged an opportunity to question the Person laying the charge;
    - v. give the Person laying the charge and the Member or Representative charged an opportunity to call witnesses, question each witness and to address the Board or committee on the whole case;
    - vi. discuss the whole of the evidence and submissions and decide whether the charge against the Member or Representative is proven;

- vii. if the case is proven, give the Member or Representative charged an opportunity to address the Board or committee in person or in writing on the question of penalty that may be imposed;
- viii. the Board or committee discusses the question of penalty and decides on the penalty (if any) and then the Member or Representative charged is informed of the decision and of any penalty and of any rights of appeal.

### **36 - MEMBER'S ASSENT TO RULES**

- a) The Rules of the Association shall be kept at the Association's principal place of business and posted onto the Association's website.
- b) Every Member on notification of their admittance to membership, and existing Members when the Rules are altered must be advised that:
  - a. the current Rules are posted on the Association's website and may be freely downloaded; or
  - b. that they may request of the CEO that:
    - i. a hard copy of the current Rules be posted to them at their address in the Register or to an alternative address; or
    - ii. a copy of the current Rules be emailed to them at their email address which may be in the Register or to an alternative email address.
- c) Upon being admitted to membership of the Association, a Person undertakes that they become bound by the provisions of these Rules as amended from time to time.

### **37 - INDEMNIFICATION OF DIRECTORS AND EMPLOYEES**

- a) Every Director, member of a committee of the Board, at whatever level, and the Employees, shall be indemnified against, and it shall be MBT's duty, out of its funds, to pay all costs, losses, charges, and expenses which any such person may in good faith incur or become liable for by reason of any contract entered into or act or deed done by them as such Director, member of a committee of the Board, at whatever level, or any Employee, in accordance with these Rules and any such person entitled to such indemnity shall, on the establishment of their claim therefore have a lien on the property of MBT for the amount thereof, subject to the law.
- b) Every Employee, at whatever level, shall be an employee of MBT, which shall be responsible for taking out Workers' Compensation Insurance or other kinds of insurance in respect of every such Employee, whether or not the insurance premiums are funded by MBT, and the Board shall be responsible, directly or by way of delegation, for determining the terms and conditions of employment of every Employee, at whatever level, whether or not the salary of a particular Employee is funded by MBT and whether or not the Employee performs work for MBT.

### **38 - COMMON SEAL AND AUTHENTICATION OF DOCUMENTS**

- a) MBT must have a common seal which must be kept in the care and control of the CEO at the registered office or principal place of business of MBT.
- b) The seal may only be affixed to any instrument by the authority of a resolution of the Board and in the presence of 2 Directors or 1 Director and another individual so authorised by the Board and such individuals shall sign every instrument to which the seal is so affixed in their presence.

- a. In an emergency or for urgent matters the seal may be affixed in the presence of the President and the CEO or by such person or persons as the President may appoint provided the President has made reasonable endeavours to gain the endorsement of a majority of Directors.
- c) The use of the seal must be recorded in a seal register with the initials of the document signatories appearing against the record of use.
- d) Any other instrument or document not required by law to be executed under seal may only be executed by such individual/s as the Board may from time to time appoint, or in case of an emergency or an urgent need by such individual/s as the President may appoint, where such individuals may include the President.

### **39 - ASSOCIATION EMBLEM**

- a) The Association's emblem shall be in a form determined by the Board from time to time.
- b) The emblem shall be used on the Association's stationery and all the Association's publications where practicable. It may be used for publicity purposes by the Association. Use or reproduction of the emblem by Members shall be in accordance with these Rules, or, until such time as permission is revoked, by written authority of the Board.

### **40 - LEGAL ASSISTANCE**

- a) No Member shall be entitled to legal assistance from the Association or assistance toward expenses of same unless the matter litigated is one of principle which may affect other Members as determined by the Board.
- b) The Board shall determine whether or not legal assistance shall be afforded to any such Member.
- c) The Board must not authorise or make available assistance, legal or otherwise, to any Member whose difficulties are caused by departure from the Association's policy, advice, or by the use of a form of contract which has not been approved by the Board.

### **41 - LEGAL REPRESENTATION**

- a) Notwithstanding **Rule 19 c)**, any person or persons whom the Board or President may from time to time appoint may represent the Association in any proceedings before any Court in defence of the trade interests of the Members.

### **42 - CONCILIATION AND ARBITRATION, AUTHORISED AGREEMENTS**

- a) The Board may, by resolution, give the consent of the Association to the submission of an industrial dispute to conciliation and arbitration before the appropriate tribunal established by the law. Thereupon such dispute shall be so submitted and the Association may be represented therein by the CEO or by such other Person as may be determined by the Board.
- b) No industrial agreement, or other instrument shall be executed by or on behalf of the Association unless there shall be present a quorum at the Board meeting where a resolution to that effect has been

#### 44 - NOTICES

---

passed, and in execution the common seal of the Association shall be affixed to such agreement or other instrument.

- c) Subject to the provision of any award or any court of industrial arbitration or other competent Commonwealth or State industrial tribunal, the Members shall observe any resolutions of the Association that may be made relative to the terms and conditions of employment of any tradesperson or labourers engaged by them in the Industry and any award, industrial agreement, or other instrument by which the Association is bound or to which it is a party.

#### 43 - MINUTES

- a) The Directors must ensure that minutes of proceedings and resolutions of general meetings of Members of MBT and of meetings of the Board (including committees of the Board) are recorded in books kept for that purpose within 1 month following the relevant meeting.
- b) The Directors must ensure that minutes of resolutions passed by Directors without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed.
- c) The minutes of a meeting must be signed within a reasonable time after the meeting by the chair of the meeting or the chair of the following meeting.
- d) The minutes of a passing of a resolution by the Directors without a meeting must be signed by a Director within a reasonable time after the resolution is passed.
- e) A minute that is recorded and signed in accordance with **Rule 43** is evidence of the proceeding or resolution to which it relates unless the contrary is proved.
- f) The Board must ensure that the minute books for general meetings are open for inspection by Members free of charge.
- g) Subject to **Rule 43 f)** and the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the minute books, financial records and other documents of MBT or any of them, will be open to inspection by Members other than Directors.
- h) A Member, other than a Director, does not have the right to inspect any books, records or documents of MBT except as provided by these Rules, by the law or authorised by the Board.
- i) Notwithstanding **Rule 43 h)**, a previous Director has a right to inspect minute books and related papers for meetings of the Directors and committees of the Board for the period covering when they were a Director.
- j) Any Director or previous Director at the discretion of the Director or previous Director may enter into a deed of access covering the rights in **Rule 43 i)**.

#### 44 - NOTICES

- a) **Notice to Members:** subject to these Rules, a notice may be given by MBT to any Member, either personally or to an address supplied by the Member to MBT for the giving of notices to them. Subject to the nature of the notice, such notice may be given in any official publication of MBT or any appropriate newspaper.
  - a. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the letter, ballot, journal, newspaper, or periodical, as the

case may be, containing the notice, and notice is taken to have been effected 2 days after the letter, journal, newspaper, or periodical is posted.

- b. A notice delivered by any mode other than post covered by **Rule 44 b)** is taken to be effected the day after it is first delivered.
- b) A notice may be given by MBT to a Member:
- a. by serving it on the Member or Representative personally;
  - b. by sending it by prepaid post to the Member's address as shown in the Register;
  - c. by sending it to the fax number, electronic contact address or such other electronic address the Member has supplied to MBT for the giving of notices;
  - d. by making a copy of it accessible electronically on a website of, or related to, MBT and advising the Member of its availability via any electronic contact address provided by the Member; or
  - e. by publishing it in a regular newsletter publication of MBT to Members which publication may be printed or be electronic or internet based.
- c) Each Member shall from time to time notify to the CEO of an address in Tasmania which shall be deemed their registered address for the purpose of this **Rule 44**.
- d) A certificate in writing signed by the CEO that the letter, envelope, electronic transmission or wrapper containing the notice, ballot paper, or other material was so addressed, and sent shall be conclusive evidence of that fact, unless the contrary is proved.
- e) Where notice of a given number of days or notice extending over any other period is required to be given the day of service shall, unless it is otherwise provided, be counted in such number of days or other period.
- f) The fact that a Member has supplied a fax number or email or other electronic address for the giving of notices:
- a. does not require MBT to give any notice to that Person by fax or email or other electronic means; or
  - b. does not prevent MBT from giving notice to that Person in the manner envisaged by **Rule 44 b)**.
- g) A signature to any notice given by MBT to a Member may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.
- h) **Notice to Directors:** subject to these Rules, a notice may be given by MBT to any Director either by serving it personally at, or by sending it by prepaid post to, the Director's usual residential or business address, or by sending it to the fax number, electronic contact address, or such other address as the Director has supplied to MBT for the giving of notices.
- i) **Notice to MBT:** subject to these Rules, a notice may be given by a Member, a Representative or a Director to MBT by serving it on MBT, or by sending it by prepaid post to the registered office or principal place of business, if any, of MBT or by sending it to the principal fax number or principal electronic address of MBT at its registered office or principal place of business, if any.
- j) A reference in these Rules to a notice or other communication in writing includes a notice given by fax or electronic means or other modes of reproducing words in a visual form.

#### 45 - POLICY

- a) Subject to the authority vested in a Special Meeting as provided in **Rule 21 f)**, the policy of the Association on any matter shall be determined by the Board, or may be determined by the Members at an AGM or a Special Meeting from time to time.
- b) Within 21 days of the determination of the Association's policy affecting the general membership on any matter, the CEO shall notify in writing all Members of such determination and such determination shall apply until such time as the determination is rescinded or amended.

#### 46 - ALTERATION TO CONSTITUTION

- a) No new Rule shall be made, nor shall any part of these Rules be made, be altered, or be rescinded, unless by a Special Resolution.
- b) Notwithstanding **Rule 46 a)**, where as a consequence of the specific requirements of the Act or any other applicable law, or of any regulations made pursuant to any Act, or the objection of the *Fair Work Commission*, its General Manager or their delegate, any new Rule is to be made, or any existing Rule is to be altered or rescinded, such new Rule may be made, or such existing Rule may be altered or rescinded by a majority of at least 75% of the votes cast at a duly convened meeting of the Board, of which notice of at least 21 days in writing shall have been given to all Directors containing full particulars of all proposed amendments.
- c) The Board may initiate an alteration to these Rules.
- d) In addition, any 10 Members may request in writing to the Board an alteration to the Rules, setting out in full the desired alteration and the reasons for the request. The Board must consider the request then may:
  - a. reject the request in which case the Board must respond to the Members in writing giving the reasons for the rejection;
  - b. refer the request to a committee to review the request and to recommend to the Board a course of action;
  - c. refer the request to the next AGM for discussion by Members to then allow the Board to determine future action in regard to the request;
  - d. endorse the request with or without modification and put the matter to Members in accordance with **Rule 46 a)**.
- e) Following certification of any alteration to the Rules the CEO must advise all Members in writing.

#### **47 – DISSOLUTION OF THE ASSOCIATION**

- a) MBT may be dissolved by Special Resolution.
- b) Upon the dissolution of MBT, or should it become defunct, as provided by **Rule 47 a)**, the meeting deciding upon such dissolution or a meeting of the remaining Members, may, after providing for payment of all debts then due, provide that the property remaining shall be either given, divided between or transferred, or sold and the proceeds given, divided between or transferred, to some other registered organisation, society or institution having objects similar, to the Objects or engaged in scientific research in matters relating to the Industry as shall be determined by such meeting provided always that not any of such remaining property shall be paid to or distributed amongst the Members as Members.

\*\*\*END OF RULES\*\*\*

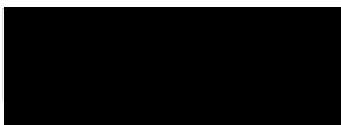
**DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 *Fair Work (Registered Organisations) Regulations 2009***

**ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the *Fair Work (Registered Organisations) Act 2009***

I, MATTHEW BRIAN JOHN POLLOCK of LEVEL 5, 116 BATHURST STREET HOBART TAS 7000 am the EXECUTIVE DIRECTOR of the MASTER BUILDERS' ASSOCIATION OF TASMANIA INC. and am authorised to give this notice of particulars of alterations to the rules of MASTER BUILDERS' ASSOCIATION OF TASMANIA INC. and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*.

1. I declare that the alterations were made in accordance with the rules of the MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.
2. The particulars of the rule alterations are attached to this declaration and labelled 'Schedule A'.
3. The actions taken under the rules to make this alteration were as follows:
  - (a) 18<sup>th</sup> April 2019 in accordance with rule 46(a) 3 Members were appointed to a committee by the organisation's governing Council to assess and to set out in full the desired alterations to the rules.
  - (b) 18<sup>th</sup> April 2019 to Apr 2021 the committee worked in conjunction with Members to determine the desired alterations -- as all rules except the name of the organisation and eligibility for membership had varying degrees of change, the alteration was put forward as a replacement set of rules rather than as alterations to specific rules.
  - (c) 5 May 2021 in accordance with rule 46(b) Council resolved to put the matter to a Special Meeting of Members.
  - (d) 5 May 2021 in accordance with rule 24(a) and rule 44(a) & (c) notice of the meeting was sent by electronic transmission to Members. The notice included a copy of the proposed replacement rules, which is attached to this declaration as Schedule B, explanatory notes regarding the changes and the wording of the resolution to be considered by Members.
  - (e) 14 May 2021, the Special Meeting was held in accordance with the rules and in a COVID-safe way.
  - (f) 14 members attended the Special Meeting. Current membership is 577. As such the meeting was quorate in accordance with rule 21(g).
  - (g) 14 voted in support.
4. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

Signed and dated by



MATTHEW BRIAN JOHN POLLOCK

Date: 27 May 2021



## SCHEDULE A

### MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.

#### **Particulars of the rule alterations to other rules in accordance with section 159 of the *Fair Work (Registered Organisations) Act 2009***

All rules were altered except for rule 5 *Eligibility for Membership* and the name of the organisation (rule 2) both of which remained unchanged. Schedules 1, 2, 3 and IV attached to the rules, to the extent required, were incorporated into the relevant altered rules.

Signed and dated by

A solid black rectangular box redacting the signature of the person who signed the document.

MATTHEW BRIAN JOHN POLLOCK

Date: 27 May 2021

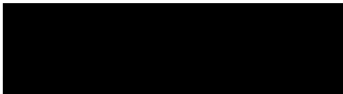
**SCHEDULE B**

**MASTER BUILDERS' ASSOCIATION OF TASMANIA INC.**

**Rules as approved by Member at the Special Meeting held on 14 May 2021.**

The attached document comprises a cover sheet, contents page and 56 pages of the rules as altered as per Schedule A.

Signed and dated by

A solid black rectangular box redacting the signature of the person.

MATTHEW BRIAN JOHN POLLOCK

Date: 27 May 2021