

[070N: Incorporates alterations of 13/01/2014 in matter R2013/96]

I CERTIFY under section 161 of the Fair Work
(Registered Organisations) Act 2009 that the pages
herein numbered 1 to 41 both inclusive contain a true
and correct copy of the registered rules of The
Master Builders' Association of New South Wales.

DELEGATE OF THE GENERAL MANAGER
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently
in force may be directed to any office of the Fair Work Commission.]

Rules of the Master Builders' Association of NSW

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THE MASTER BUILDERS' ASSOCIATION OF NEW SOUTH WALES

CONSTITUTION AND RULES

1 - NAME OF ASSOCIATION AND INDUSTRY CONCERNED

The Association shall be known as "The Master Builders' Association of New South Wales", and is established by employers in the Building Construction Industry for the purposes hereinafter set out.

2 - REGISTERED OFFICE

The registered office of the Association shall be at such place as the Council may from time to time determine.

3 - OBJECTS

The Association is formed for the following purposes:

- 3.1 To promote the interests of the Building and Construction Industries throughout the Commonwealth of Australia and its Territories and in such other countries where any of its members may carry on or propose to carry on business.
- 3.2 The safeguarding of the interests of the members in their regular business as Master Builders, building industry contractors or civil engineering contractors or such activities as are ancillary or providing goods or services to the Building and Construction Industries.
- 3.3 The protection of its members against injustice or oppression in the fair and proper execution of such works as they may undertake from time to time to carry out.
- 3.4 To establish, promote and enforce a Code of Tendering and a Code of Ethics and Good Business Practice amongst members.
- 3.5 To secure, maintain and improve favourable trade relations with all public authorities, manufacturers, suppliers or distributors of goods, materials, and/or services either within Australia or abroad.
- 3.6 To maintain and improve the relations of members with their employees and the registered organisations or registered unions of such employees.
- 3.7 To support, provide and promote education of the building and construction industries within the State of New South Wales to improve the knowledge of industry participants as to matters affecting their activities in these industries.
- 3.8 To encourage and preserve by every means, skill in the Building and Construction Industries.
- 3.9 To take an active part in assisting or opposing such public movements as may appear likely to affect its members interests in the carrying on of their business.
- 3.10 To improve conditions of contract, forms of agreement, conditions of tendering, and the like, and to enter into lawful agreement with the Royal Australian Institute of Architects or similar bodies, and Public Authorities, Commonwealth State and Local Government Authorities and Lending Institutions or other bodies with similar aims to its own for the promotion of fair and equitable forms of contract, specifications, conditions of tendering and the like.

3 - OBJECTS

- 3.11 To encourage the Quantity System in connection with Building Contracts and to endeavour to secure provision of quantities for the use of tenderers for works.
- 3.12 Where invited or limited tenders are called, to secure the contract for the lowest tenderer, all things being equal.
- 3.13 To secure to its members all the advantages of unity of action in any lawful manner whatsoever.
- 3.14 To discuss and consider matters affecting the said industry and its auxiliaries and to collect and disseminate such information relating thereto as may be calculated to be of use to members, producers and distributors of building materials, suppliers of auxiliary or specialist services associated or special to the Building and Construction Industry and the public generally.
- 3.15 To establish or assist in the establishment of technical and statistical libraries.
- 3.16 To support all forms of education and especially Technical Colleges, Colleges of Advanced Education or Universities and to establish or contribute to bursaries, scholarships or prizes for educational purposes.
- 3.17 To purchase, take or lease, or license, or hire, or otherwise acquire, real or personal property of any kind in furtherance of the objects of the Association and to sell, exchange or otherwise dispose of any real or personal property on such terms as may be considered expedient, and in such manner as is provided in these Rules.
- 3.18 To construct, maintain, and alter buildings, works, plant and machinery necessary or convenient for the purposes of the Association, and to afford facilities to its members for the conduct of their business (other than office accommodation) and means of their relaxation.
- 3.19 To establish Divisions, sector groups and provide for the establishment of local or regional groups to deal with local or regional matters.
- 3.20 To affiliate with or enter any alliance with any organisation, company, firm or like either within the Commonwealth of Australia or overseas, having objects similar to or calculated to benefit members generally, and to acquire shares and interests in or lend money upon debentures, or otherwise, to such, and to appoint representatives to such.
- 3.21 To raise money by any means lawful, whether specially provided by these Rules or not to further any of these objects.
- 3.22 To raise funds by means of subscriptions, fees on turnover, donations, fees, and levies, from or on members or otherwise (including contracts for fees for periods of time not exceeding three years), for all purposes and objects of the Association and impose fines on members in such amounts and in such manner as are provided in these Rules.
- 3.23 To act as an organisation, and/or industrial union of employers and/or trade union under the laws of the Commonwealth of Australia and its Territories or any State within the Commonwealth.
- 3.24 To bring any industrial dispute or claims relating to industrial matters before the appropriate tribunal established by the Commonwealth or State Law and to represent the interests of employers in all sections of the

Building and Construction Industries or an industry auxiliary or special to the Building and Construction Industries before Councils, Boards, Conciliation Committees, other tribunals or other

4 - INTERPRETATION

- bodies, and at conferences with organisations of employers and other bodies of employees or employers.
- 3.25 To enter into agreements with members, employees and/or their representatives relative to the terms and/or conditions of employment and to assist and promote agreements between members and their employees relating to the terms and conditions of such employment.
- 3.26 To adopt whatever procedure that may be considered advisable in the interests of members or associates of the Association, and in the maintenance of private enterprise.
- 3.27 To do all such lawful things as may appear to be incidental or conducive to the beforementioned objects or any of them, and to adopt additional objects from time to time.
- 3.28 To publish or cause to be published an official journal.
- 3.29 To impose fines in accordance with this Constitution and the Rules.
- 3.30 To take disciplinary action against members for breaches of the Codes adopted pursuant to Rule 3.4.
- 3.31 To provide dispute resolution processes for members for matters arising out of or in connection with their businesses (whether such disputes are with another member or not) - including but not confined to arbitration, mediation, conciliation and other forms of dispute resolution which are alternatives to litigation.

4 - INTERPRETATION

In the interpretation of these Rules and this Constitution, the following words and expressions shall have the meaning hereinafter specified, unless the context otherwise requires.

"Association" means The Master Builders' Association of New South Wales.

"Council" means the Council of Management as provided for under Rule 14.

"Association Office" means the registered office for the time being of the Association.

"Executive Director" shall mean the person appointed in accord with Rule 18.7 and shall also include any other person acting as Executive Director from time to time in accordance with Rule 18.7.

"Executive Newsbrief" shall mean any publication of the Association of that title or any successor thereto.

"Financial Member" shall mean a member whose fees, levies, or any other amounts owed to the Association are paid in full for all such sums due to the Association at a date three months prior to the date when it is to be determined whether or not a requirement that a member is a "Financial Member" has been met by such member.

"Register of Members" shall mean that Register of Members as required by Rule 21.

"Person" shall also mean firms, partnerships, associations, corporations, incorporated or unincorporated bodies, trustees, companies or any body duly registered under the laws of the Commonwealth or any State therein which govern the operation of corporations, societies, agencies or other organisations or combinations thereof.

"Member" shall mean any person who has been admitted to membership as a Builder Member, Member, Life Member, Past Service Member, or Honorary Member, and includes a representative or additional representative.

"Master Builder" shall mean any person who is qualified by training and/or experience to control and direct "Building and Construction" or Civil Engineering Works.

"In writing" or "written" includes printing, photograph, typewriting or other mode of representing or reproducing words in a visible form including all forms of electronic storage or transmission which are capable of causing reproduction of words in a visible form and specifically includes but is not confined to electronic storage or transmission on computer tapes, disks or other analogous media and transmission by facsimile or direct electronic data transfer.

Words importing the singular number include the plural number, and vice versa.

"Auxiliary to the Building and Construction Industry" shall mean any specialist allied to and permanently engaged in the Building and Construction Industry.

ADMISSION OF MEMBERS, RESIGNATIONS WITHDRAWALS, ETC.

5 - MEMBERSHIP

- 5.1 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.
- 5.2 The Association shall comprise the following grades of membership.
 - 5.2.1 Builder Members - who shall be persons operating as Master Builders or Civil Engineering contractors as principal contractors.
 - 5.2.2 Members - who shall be persons engaged in the Building Construction Industry, but not fulfilling all the qualifications set out in sub-clause 5.2.1.
 - 5.2.3 Life Members shall be those members whom the Council of Management may desire to elect as such in recognition of exceptional services rendered to the Association or the Construction Industry. Life Members shall have all the rights and privileges of members without payment of any fee or subscription. In the event of the elected Life Member being the representative of a member then such representative shall automatically be accorded membership in his own right. It shall be understood in such event that the waiving of fee or subscription is a privilege accorded to the representative and not to the member whom he represents. The Council of Management may also confer life membership upon any person, not being a member, who has rendered continuing and outstanding services to the Association or the Building Construction Industry.
 - 5.2.4 Past Service Members shall be those persons whom the Council of Management may desire to elect as such in recognition of outstanding service to the Association or one of its Divisions, Local Committees or other Committees of the Association. Past Service Members shall have all the rights and privileges of Membership without payment of Annual Subscription, however, only such Past Service Members who also qualify for Builder Membership shall be eligible to hold Executive Office in the Association. In the event of the elected Past Service Member being the representative of a member, then such

representative shall automatically be accorded membership in his own right. It shall be understood in such event that the waiving of fee or subscription is a privilege accorded to the representative and not to the member whom he represents. All past Service Members shall be entitled to hold office in Divisions and vote on matters within those Divisions.

- 5.2.5 Honorary Members - With a view to strengthening the Association by the influence of members or associates who have retired from the Building Construction Industry and for the purpose of keeping the feeling of brotherhood which should exist between them, and those in actual pursuit of their profession, the Council may invite such persons to accept Honorary Membership, and in the event of acceptance by such invitee, shall elect accordingly. A Member or Builder Member who has retired from the Building Construction Industry may apply to be transferred to Honorary Membership and the Council at its discretion may approve such request.

Honorary Members shall be entitled to attend all meetings of their Division and the Association, to receive the Association's official journal and to make use of such recreational facilities as the Division and the Association may provide. An Honorary Member shall not be eligible to hold any office in the Association or a Division, nor vote on any matter other than those of a social nature.

Before the Council can elect a member or builder member as an honorary member, that member or builder member shall have been a member of the Association for not less than ten (10) years.

The words "retired from the Building Construction Industry" mean a withdrawal from active business of any description.

6 - ADMISSION OF MEMBERS

- 6.1 The persons whose names appear in the Register of Members as at the date of registration of this Rule shall be deemed to have fulfilled the requirements of this Rule and any other Rule relating to the qualifications of and admittance of members in the various types.
- 6.2 Any person who is trading as a Master Builder or is engaged in building or civil engineering work or is an auxiliary to the Building and Construction Industries and is desirous of being admitted to membership of this Association shall forward an application in a form approved by the Council, together with an entrance fee as fixed by the Council from time to time and an amount equal to the periodic subscription as provided by Rule 20.2 direct to the Executive Director, and may at the same time indicate the Division and regional group wherein membership is desired and may also indicate the class of membership desired. Should the applicant make no such indications, the Executive Director shall make such allocation as he sees fit provided always that;
- 6.2.1 Where the applicant resides and carries on business outside the Sydney Metropolitan Area and is within reasonable distance of an existing Country Division, the membership shall be allocated to that Division.
- 6.2.2 Where a new member cannot be reasonably allocated to a Country Division, then membership will be allocated to the Division of the applicant's choice.
- 6.3 Where a firm, company or organisation makes application for admittance as a member of the Association, such firm, company or organisation shall at the same time nominate a person or persons as provided in Rule 7 to represent such firm, company or organisation. A person so nominated shall be a member, director, trustee or executive of such firm, company or organisation.

7 - ADDITIONAL REPRESENTATIVES

- 6.4 Upon receipt of an application fulfilling the requirements of Rule 6.2 and/or Rule 6.3 hereof,
- 6.4.1 The Executive Director shall acknowledge receipt of same to the applicant and then make such enquiry regarding the applicant as the Council may from time to time direct.
- 6.4.2 The Executive Director shall cause knowledge of the application to be circulated to all members of the Association and at the same time shall invite any Division or member who may wish to make any statement, favourable or otherwise, regarding the applicant, to do so within two months of the date of the publication in which the name of the said applicant shall appear, in writing and addressed to the Executive Director.
- 6.4.3 The Council may elect to membership, defer or reject the application.
- 6.4.4 Notwithstanding the provisions herein the Executive Committee may, in an emergency, propose a candidate for admission, provided the requisite application form has been completed and the requisite fees lodged, and the Council shall deal with the application.
- 6.4.5 When the Council has made a decision to defer or reject an application for membership, the Executive Director shall notify the applicant by post of such decision, and at the same time advise the Division indicated in the application of such decision. In the case of rejection, the fees lodged with the application shall be refunded less any portion, pro rata, for services provided in the interim period.
- Where an applicant has been admitted to membership, the Executive Director shall forthwith by post, advise the applicant accordingly and at the same time forward him a copy of these Rules, together with such other material as may be determined, from time to time, by the Executive Committee to be appropriate.
- The name of the applicant shall then be entered in the Register of Members.
- 6.4.6 Applicants for membership shall be informed in writing of the financial obligations arising from membership and the circumstances and manner a member may resign from the Association.
- 6.4.7 Applicants for membership shall be informed in writing of the fact that only financial members of the Association can hold office or vote in elections conducted under these rules.
- 6.5 An applicant shall in the application state in which Sector and Regional Groups as defined in Rule 27 hereof membership is required according to the nature and locality of the applicant's business. Nothing in this Rule shall be taken to prevent the additional representatives of an applicant having the membership of that additional representative in a Regional or Sector Group or Regional or Sector Groups other than that of the member's membership.

7 - ADDITIONAL REPRESENTATIVES

- 7.1 The persons who, at the date of registration of this Rule, appear in the Register of Members as additional representatives of members shall be deemed to have been elected in accordance with this Rule.
- 7.2 A Builder Member or Member may apply to have additional representatives elected. Provided that the number of persons who may be elected as provided by these Rules shall not exceed eight (8).

- 7.3 Where a Builder Member or Member is desirous of having an additional representative or additional representatives elected, then application shall be made in the approved form for each representative, and an amount equal to one year's annual subscription shall be lodged with each application. An entrance fee shall not be payable in respect of additional representatives. Additional representatives need not belong to the same Division as the representative, but may nominate a Division. Should the applicant make no such indication, the Executive Director shall make such allocation as he sees fit.

8 - DUTIES, RESPONSIBILITIES AND WITHDRAWAL OF REPRESENTATIVES AND ADDITIONAL REPRESENTATIVES

- 8.1 The person elected as the representative or additional representative of a member shall be in all respects responsible for their acts and omissions to the Association and these Rules, in so far as such act or omissions are directly or indirectly related to or incidental to the business and operations of the member.
- 8.2 The person elected as the representative or additional representative of a member shall be personally responsible for and liable for the acts and omissions to the Association and these Rules by the member that is represented, in so far as such acts or omissions are directly or indirectly related to or incidental to the business and operations of the member.
- 8.3 The member shall be liable for the acts and omissions, to the Association and these Rules, by its representative or additional representative, in so far as such acts or omissions are directly related to or incidental to the business and operations of the Member.
- 8.4 A member may withdraw the nomination of a representative or additional representative by written notice to the Executive Director and delivered to the Executive Director at the Registered Office of the Association. Upon receipt of a notice as aforesaid and subject to Rule 10 the Executive Director shall forthwith cancel the membership of the representative or additional representative as the case may be. The Executive Director shall report the matter to the Council for record.

In the event of the representative to be withdrawn being the sole representative, then a new representative shall be nominated at the same time as the notice of withdrawal is given and such withdrawal shall have no effect unless this occurs.

- 8.5 Nothing in these Rules shall be deemed or construed to confer upon any person elected as a representative or additional representative any personal right or authority or benefits of membership of this Association if that person is also trading as an individual in their own right. In such an event that person shall make application for admittance to membership in their own right in the manner prescribed.

9 - VOTES OF MEMBERS

- 9.1 Each financial member may vote in person. On a show of hands every person present at a meeting who is a financial member shall have one vote. On a poll or on any other occasion on which a financial member is required or entitled to vote, every financial member shall have one vote. On any election for an office of the Association or an office of a Division or Region of the Association the voting must be by secret ballot conducted in accordance with this Constitution and Rules.
- 9.2 For the purposes of this Rule the word "Member" shall mean any person who has been admitted to membership as a Builder Member, Member, Life Member or Past Service Member and who has not ceased to be a member and shall mean also a representative or additional representative whose

nomination as such has not been withdrawn and who has not ceased otherwise to be a representative or additional representative provided that in respect of each category of membership described herein a subscription has been paid.

10 - RESIGNATION OF MEMBERS

- 10.1 A member of the Association may resign from membership by written notice addressed and delivered to the Executive Director.
- 10.2 A notice of resignation from membership of the Association takes effect:
- 10.2.1 where the member ceases to be eligible to become a member of the Association;
- 10.2.1(a) on the day on which the notice is received by the Association; or
- 10.2.1(b) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;
- whichever is later, or
- 10.2.2 in any other case:
- 10.2.2(a) at the end of two weeks after the notice is received by the Association or
- 10.2.2(b) on the day specified in the notice;
- whichever is later.
- 10.3 Any monies (including but not confined to those described in Rule 3.2.1) payable but not paid by a former member of the Association in relation to a period before the member's resignation from or cessation of membership of the Association 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.
- 10.4 A notice delivered to the Executive Director shall be taken to have been received by the Association when it was delivered.
- 10.5 A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with Rule 10.1.
- 10.6 A resignation from membership of the Association is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.
- 10.7 Upon receipt of a resignation, the Executive Director shall acknowledge same to the member, advising the member of the date of submission of the resignation to the Council, and at the same time advise the Divisional Secretary of the Division to which such membership has been allocated.
- 10.8 Where the business, or part of the business of a member is assigned or transferred to a person who is not a member of this Association or
- such a person succeeds to the business or part of the business of a member
- then the member shall within 14 days of the assignment, transfer or succession notify the Association of the assignment, transfer or succession.

When the Association has been notified that

- (a) the business or part of the business of a member assigned or transferred to a person who is not a member of this Association; or
- (b) such person has succeeded to the business, or part of the business of a member;

the Association shall within 28 days after being notified give written notice of the assignment, transfer or succession to:

- (c) a Registrar meaning the Industrial Registrar or a Deputy Industrial Registrar; and
- (d) any organisation of employees bound by an award or an order of the Commission that also bound the member in relation to the business or part of the business.

10.9 Notwithstanding any other provisions in the Rules, the resignation of a member against whom disciplinary action has been initiated under Rule 29 shall not take effect until such matter has been dealt with by the Council. Provided that with respect to any resignation tendered which does not take effect because of this Sub-Rule, Dues shall not accrue beyond the date which would have been the applicable date of effect pursuant to Rule 10.2 had such disciplinary action not been taken.

11 - TERMINATION OF MEMBERSHIP

11.1 The membership of any member shall cease and determine upon the happening of any of the following events, viz:

11.1.1 The resignation of such member effected pursuant to Rule 10.

11.1.2 The death of such member.

11.1.3 The withdrawal of the authority of such member as a representative or additional representative pursuant to Rule 8.4.

11.1.4 If such member is duly declared or certified according to law as an insane patient or an insane or incapable person.

11.1.5 The expulsion from membership of such member in accordance with Rule 20 or Rule 29.

11.1.6 If such member being a company or unincorporated body shall be dissolved.

Immediately upon becoming aware of any such event the Executive Director shall remove such member's name from the Register of Members, and termination of the membership shall operate from the time of removal of the name from such Register.

11.1.7 The adoption by the Council of a recommendation from the Executive Committee that a member has ceased to be engaged in the Building or Construction Industries or Civil Engineering Works or any phase thereof, including demolition or excavation work and the like. Provided always that the Council shall not act on any such report until the member who is the subject of the report has been informed of the Executive Committee's decision and given seven (7) days' written notice that the member may appear before the Council that will consider such report.

11.2 Except in cases in which the Council shall otherwise decide following compliance with the next succeeding sub-clause, the membership of any member shall cease and determine upon the happening of any of the following events, viz:

11.2.1 If such member being an individual person shall have their estate sequestrated in bankruptcy, or shall assign their estate for the benefit of their creditors generally.

11.2.2 If such member being a firm or partnership shall have its estate or the estate of each of its members sequestrated in bankruptcy or shall assign its estate or the estates of each of its members for the benefit of the creditors generally of such firm or partnership.

11.2.3 If such member being a company shall go or be placed in liquidation or a resolution shall be passed or an order made for its winding up.

11.2.4 If a receiver or a receiver and manager be appointed to control or manage the business or business affairs of such a member.

Unless otherwise directed by the Council, following compliance with the next succeeding sub-clause the Executive Director shall remove the name of such member from the Register of Members and termination of the membership shall operate from the time of removal of the Member's name from such Register.

11.3 Immediately upon becoming aware of the happening of any of the events mentioned in Rule 11.2 the Executive Director shall enquire from such member the circumstances of the leading up to the happening of such event and upon receipt of such information (if furnished by or for such member) together with a request in writing (if so desired by such member) that the membership be not terminated in consequence of such event and also a certificate or report from the Official Receiver or Trustee (in the case of an individual person, a firm or a partnership, or from the liquidator or receiver or, receiver and manager in the case of a company) that all creditors of such member as at the date of the happening of such event are expected to be paid in full, the Executive Director shall submit such information, request and certificate or report to the first regular meeting of the Council after receipt thereof and the Council shall thereupon decide whether the membership of such member shall cease and determine as aforesaid or may continue either unconditionally or subject to compliance with such conditions as the Council may think fit to impose. Such member shall cause the information, request and such certificate or report to be furnished to the Executive Director within twenty-one days after the happening of the said event, in default whereof the Council may deal with the matter in the absence of the same.

12 - TRANSFERS FROM DIVISIONS

12.1 Subject to Rule 6.2 hereof a member who wishes to transfer membership from the Division to which it is allocated to another Division may do so with the approval of the Executive and those wishing to do so shall apply in writing to the Executive Director.

12.2 The application must state the name of the Division to which the member wishes his membership transferred.

12.3 Upon receipt of such an application the Executive Director shall notify in writing the Division to which the transfer is sought and the Division to which the member belongs.

12.4 The Executive Director shall then refer the application to the Executive for decision.

12.5 The Executive Director shall after the decision of the Executive advise both Divisions and the member of the decision.

- 12.6 In the event of the Executive approving the transfer of membership, the Executive Director shall amend the Register of Members required to be kept under Rule 21.1 accordingly.

13 - TRANSFER OF MEMBERSHIP ALTERATION OF MEMBERSHIP NAME

- 13.1 Membership of the Association shall not be transferable except to the extent hereinafter indicated.
- 13.2 Notwithstanding the provisions of Rule 13.1 hereof where any member being:
- 13.2.1 An individual, or
- 13.2.2 A firm or partnership whether registered under the provisions of legislation for the registration of Business Names or not, or
- 13.2.3 A company duly incorporated under the provisions of the corporations laws enforced from time to time within the Commonwealth of Australia, or
- 13.2.4 A body corporate under the provisions of any law for the time being in force in the State of New South Wales or any other State or Territory of the Commonwealth of Australia:

sells, transfers, assigns or otherwise disposes of all or any part of its operation of a Master Builder or Civil Engineering Contractor or being a member its operation within the Building or Construction Industries to any firm or partnership, company or other body corporate but retains in excess of a one-half interest therein the Council may in its absolute discretion permit the membership of such member to be transferred to the firm or partnership, company or other body corporate so acquiring the interest in the operation as aforesaid.

- 13.3 The Division to which the member has been allocated shall be advised forthwith of any application for transfer of membership in pursuance of the preceding paragraph hereof.
- 13.4 Where any builder member or member:
- 13.4.1 Registers or causes to be registered under the provisions of legislation for the registration of Business Names a business name in respect of its operation of a Master Builder, Civil Engineering Contractor or its operation within the Building or Construction Industries, or
- 13.4.2 Being a company under the corporations laws enforced from time to time within the Commonwealth of Australia or a body corporate under the provisions of any law for the time being in force in the State of New South Wales or any other State or Territory of the Commonwealth of Australia changes its name, the Executive Director shall, upon application in writing supported by such evidence as the Executive Director may require, note the alteration to the membership name and shall as soon as practicable thereafter inform the Council and the Division to which the member has been allocated of such alteration.

14 - ELECTION OF OFFICERS, COUNCIL OF MANAGEMENT, AND POWERS OF SAME

- 14.1 The Council - The management of the business and control of the Association (subject to recommendation of Regional or Sector Committees) shall be vested in the Council, which in addition to the powers and authorities especially conferred upon it by these Rules, may exercise all such powers and do all such acts and things as may be exercised or done by the Association and are not expressly directed or required to be exercised or done by the Association in an Annual or Special Meeting.

- 14.2 The Council of Management shall consist of a number of members (who shall be known as Councillors) and who shall comprise the President, Deputy President and 4 Vice-Presidents plus 2 representatives elected by each of the Regional and Sector Groups and shall be elected every two years (an election year), provided always that the candidates for election from the Regional and Sector Groups have been members of the Association for at least twelve months (12) prior to the date of nomination.
- 14.3 Councillors shall take office from the declaration of their election and shall hold office until the further declaration of Councillors at the Annual General Meeting in the next election year.
- 14.4 Such Councillors shall be elected by the Regional or Sector Groups entitled so to do in the following manner:
- 14.4.1 At least six weeks before the Annual Meeting in the election year the Returning Officer shall forward with the Executive Newsbrief or by pre-paid post a nomination form addressed to those members of the Association whose names appear on the Regional or Sector rolls a nomination form with a notification thereon of the opening date for nominations and closing date and time for receipt of such nomination and in addition the following information:
- 14.4.1.1 That nominations will not be received by the Returning Officer after the closing date so affixed.
- 14.4.1.2 That a nomination will not be valid unless a written consent of the nominee is received on or before the closing date for nomination.
- 14.4.1.3 The address to which the nominations and consents are to be forwarded.
- 14.4.2 The roll of voters for the election shall close 7 days before the date on which nominations open.
- 14.5 Where any member or representative of the member is or will be absent at the time of the ballot from his or her address as registered with the Association, the member or representative may make a written request that the Returning Officer forward a ballot paper or papers and other ballot material as outlined in these Rules to a nominated alternative address and the Returning Officer shall comply with the request.
- 14.6 A nomination shall in every case be in writing and shall be signed by the nominator (who shall be a financial member in the Region or from the Sector for which the nomination is made) and shall also be assented to in writing by the nominee.
- 14.7 Nominations and consents shall be forwarded to the Returning Officer so as to arrive not later than 10 a.m. on the 28th day prior to the Annual Meeting in the election year.
- 14.8 Returning Officer: The Returning Officer shall inspect the nomination and consents received at the closing date and time so as to be satisfied that each of them is in order and should the Returning Officer find a nomination or consent defective the Returning Officer shall, before rejecting the nomination, notify the nominator and the nominee concerned of the defect and give them an opportunity of remedying the defect where practicable within seven days of their receipt of such notification.

For the purpose of this Constitution, the Returning Officer shall be appointed by the Council not being an employee or office holder of the Association or a Division of the Association. However, whilst such elections will be conducted by the Electoral Commission of the Commonwealth of Australia, the Returning Officer shall be an employee of the Commission appointed by the Commission for such purpose.

- 14.9 If only the required number of valid nominations is received, the Returning Officer shall certify to the President that the said candidates have been elected unopposed. The Returning Officer shall also declare the said candidates duly elected at the Annual Meeting in the election year.
- 14.10 If more than the required number of valid nominations is received, the Returning Officer shall prepare or cause to be prepared a sufficient number of ballot papers on which shall appear the full names of the candidates only in the order in which they shall have been drawn by the Returning Officer by ballot. A biography limited to 200 words of each of the candidates whose names appear on the ballot papers shall accompany those ballot papers. Any person so nominated, plus the Executive Committee, shall be notified of and have the right to be present at such ballot for positions. The method of voting as provided hereinafter shall also be printed on the ballot paper and also the invalidation of the ballot paper as hereinafter provided.
- 14.11 The Returning Officer shall, within ten days after the closing date for nominations, forward by prepaid post to every member entitled to vote at the election, a ballot paper bearing the Returning Officer's initials, together with a declaration envelope with a removable flap or label, and a prepaid envelope. Both envelopes must comply with the forms prescribed by the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
- 14.12 The Returning Officer shall advise all voters of the closing date for the receipt of returned ballot papers, which shall be not later than 10 a.m. on the seventh day prior to the Annual Meeting.
- 14.13 The Returning Officer shall arrange for a suitable postal box or other receptacle to which ballot papers may be returned to the Returning Officer.
- 14.14 Before counting any votes, or removing the ballot paper from the declaration envelope, the Returning Officer shall remove the flap or label from the envelope. The Returning Officer shall not count any vote unless the ballot paper on which it is recorded is returned in the declaration envelope sent to the voter and the declaration envelope has been returned in a prepaid envelope. The Returning Officer shall not receive any ballot papers after the closing date provided, and shall mark any envelope received 'informal', together with the date of its receipt, and shall not open such envelopes.
- 14.15 The Returning Officer shall also mark the following informal:
- 14.15.1 A ballot paper that gives the identity of the voter.
- 14.15.2 A ballot paper contained in a declaration envelope where the voter has not signed the declaration, and in this case the declaration envelope shall not be opened.
- 14.15.3 A ballot paper which is marked other than with ticks or crosses corresponding to the number of candidates to be elected.
- 14.15.4 A ballot paper which does not bear the initials of the Returning Officer.
- 14.16 After the appointed closing date the Returning Officer shall supervise the scrutiny of votes. The means of counting the votes shall be as set out herein. The Returning Officer is empowered to use the Association staff and/or employ other qualified persons who are not members of the Association to assist in the scrutiny.
- 14.17 Method of Voting:
- In a ballot to which these Rules apply a voter shall record its vote on a ballot paper as follows:

It shall vote for the number of candidates to be elected by placing a tick or a cross against the names of those for whom it wishes to vote and it shall vote for neither more nor less than the number of candidates to be elected.

14.18 The means of counting the votes cast shall be as follows:

Each candidate shall receive a number of votes indicated by the number of ticks or crosses recorded against their name on the ballot papers. The candidate or the candidates up to the required number receiving the highest sum total or totals shall be declared elected. In the case of a tie the Returning Officer shall decide the ballot by drawing lots.

14.19 Check Counting:

Any scrutineer may, at any time during the counting of the votes of any candidate, request the Returning Officer to make a check count of the vote of all or any candidates and the Returning Officer shall forthwith make a check count accordingly. Provided that nothing herein shall make it compulsory upon the Returning Officer to check count the votes more than once.

14.20 The Returning Officer may also, at the Returning Officer's discretion, count votes again as often as the Returning Officer may consider necessary to establish accuracy.

14.21 At the conclusion of the count, the Returning Officer shall certify to the President the result of such ballot.

14.22 At the Annual Meeting in the election year, the Returning Officer shall declare the result of the ballot, or in cases where the Returning Officer has certified that the candidates have been elected unopposed, declare them elected. The candidates so declared to have been elected shall assume office immediately following the declaration of the poll in place of the retiring members of the Council.

14.23 A candidate for election may appoint one member to act as their scrutineer at the scrutiny. The Returning Officer shall be advised in writing by the candidate of the person so appointed prior to the scrutiny commencing. Any member of the Executive may also be present at the scrutiny.

14.24 In the event of the same candidate being elected to represent both a Region and a Sector then that candidate shall elect at the Annual General Meeting or within seven (7) days thereafter whether he or she will remain as the Regional or Sector representative. Such election shall create a vacancy on the Council of Management in respect of the Region or Sector against which the election was made. The Returning Officer shall then declare the candidate with the second greatest number of votes from the Sector or Region referred to elected as Councillor representing that Region or Sector. If the Councillor who makes the election in accordance with this rule is the sole candidate then the vacancy shall be filled in accordance with rule 14.25.

14.25 If less than the required number of nominations which are in order have been received, the Returning Officer shall, at the Annual Meeting in the election year, call for nominations from those present and eligible to fill the remaining vacancies, such nominations to be proposed by a member eligible to be a candidate for such position before the candidate has signified acceptance or rejection of the nomination.

If only the required number of candidates is nominated, then such candidates shall be declared elected. If a greater number of nominations is received than required to fill the vacancy or vacancies, then a postal ballot shall be held by the Returning Officer in accordance with this rule provided that candidates whose nominations are defective shall be given an opportunity to correct the defect in accordance with the Rule 14.8.

15 - VACATION OF OFFICE AND FILLING OF VACANCIES ON THE COUNCIL

- 15.1 The office of any Councillor shall be declared vacant by the Council if:
- 15.1.1 The Councillor resigns from office in writing; or dies;
- 15.1.2 The Councillor ceases to be a builder member or life member of the Association.
- 15.2 The Council may remove from office any officer or member of the Council at a meeting of the Council to which the Councillor concerned has been summoned in writing to show cause why the Councillor should not be so removed. Provided that such Councillor shall not be removed from office unless the Councillor has been found guilty of misappropriation of the funds of the Association, a substantial breach of these rules, or gross misbehaviour or gross neglect of duty, or has ceased, according to these rules, to be eligible to hold the office.
- 15.3 A Councillor summoned to show cause pursuant to Rule 15.2 of this rule shall be given at least 14 days notice of the time and place of the meeting of the Council to which the Councillor is summoned, and the notice summoning such person shall also specify the ground or grounds upon which it is proposed to consider such removal.
- 15.4 The Council may proceed to hear and determine a matter under Rule 15.2 notwithstanding the absence of the person summoned if due notice of the hearing has been given in accordance with this rule.
- 15.5 In the event of a vacancy occurring for a Councillor such vacancy shall be filled at the next meeting of the Council, by the Regional or Sector Group concerned.
- 15.6 The vacancy may be filled by the declaration of the Returning Officer of that person who would next have been elected at the election of Councillors, had one further Councillor been required, and in the event of that person not being willing to accept the office, then the next succeeding person according to the ballot or if there is no such person, a suitably qualified person nominated by Council.
- 15.7 A Councillor so elected shall hold office for the balance of the term of the Councillor whom he replaces.

16 - MEETINGS OF THE COUNCIL

- 16.1 The Council shall meet as often as may be deemed necessary by the Council.
- 16.2 Unless otherwise decided by the Council the Council shall meet regularly on the second Tuesday of the months of February, April, June, August, October and December for the dispatch of business, except for the case of a public holiday or emergency, when the President or in the President's absence the Deputy President or Vice-President shall have the power to cancel the regular meeting and power to appoint a date for another meeting.
- 16.3 At all meetings of the Council the President shall be the Chair, and, in the President's absence, the Deputy President or a Vice-President.
- In the event of the President, Deputy President and Vice-President not being present, the Council shall elect a Chair from amongst its members.
- 16.4 One-third of the number of Councillors shall form a quorum at all meetings of the Council.

17 - POWERS OF THE COUNCIL

17 - POWERS OF THE COUNCIL

- 17.1 Without in any way limiting the general powers conferred by these rules or otherwise on the Council, it is hereby expressly declared that it shall have the following powers:
- 17.1.1 To adopt such measures as it, from time to time, deems expedient for the purpose of giving effect to the objects of the Association or any of them;
 - 17.1.2 To purchase, take in exchange, or on lease, or otherwise acquire, and for any estate or interest therein, any real or personal property, rights, or privileges, which the Association is authorised to purchase or acquire, and which it may deem requisite or expedient to acquire for the purpose of the Association's business, and at its discretion to sell, subdivide, let, exchange, or dispose of any property of the Association on such terms as to credit or otherwise as it may think fit;
 - 17.1.3 At its discretion to pay for any property, rights, or privileges acquired by or services rendered to the Association, either wholly or partially in cash or in bonds, debentures, or other securities of the Association, and any such bonds debentures, or other securities, may be either specifically charged upon all or any part of the property of the Association, or not in such other manner as it may think fit;
 - 17.1.4 To secure the fulfilment of any contracts or engagements entered into by the Association by mortgage or charge of all or any of the property of the Association for the time being or so charged;
 - 17.1.5 To raise or borrow money in the name or otherwise on behalf of the Association as it 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 the Association in such manner and upon such terms and conditions as it thinks fit, and in particular by the issue of bills or notes or debentures, by mortgage or charge of or on any of the property or assets of the Association, both present and future;
 - 17.1.6 To institute, conduct, defend, compound, abandon, any legal proceedings by or against the Association or its officers, or otherwise concerning the affairs of the Association, and also to compound and allow time for payment or satisfaction of any debts due, and of any claims or demands by or against the Association;
 - 17.1.7 To refer any claims or demands by or against the Association to arbitration and observe and perform the awards;
 - 17.1.8 To act on behalf of the Association in all matters relative to bankrupts and insolvents, assignments or liquidations;
 - 17.1.9 To make and give receipts, releases, and other discharges, for money payable to the Association, and for the claims and demands of the Association;
 - 17.1.10 To draw, accept, make, endorse, transfer, discount, guarantee, and negotiate such cheques, bills of exchange, and promissory notes, and give such indemnities and guarantees, and enter into such other obligations as may seem to it to be expedient for the purposes of the Association;
 - 17.1.11 To provide for the local management of the affairs of the Association in any state or place in such manner as it shall think fit, and to establish any Local Committee, which may advise the Council on local matters.
 - 17.1.12 To form Regional, Sector Groups or Divisions of the Association in any part of the Commonwealth of Australia, and to approve by-laws for the management of such Divisions, Regions or Sector groups;

17 - POWERS OF THE COUNCIL

- 17.1.13 To affiliate the Association with any organisation, association, or body, corporate or incorporate, having objects altogether or in part similar to those of the Association, upon such terms and conditions and subject to the payment of such fees or subscriptions (if any) as the Council may agree, and at any time to terminate or cancel such affiliation by the Association;
- 17.1.14 To purchase, or otherwise acquire and undertake all or any part of the property, assets, liabilities, and engagements, of any one or more of the associations, companies, firms, or chambers with which this Association is authorised to amalgamate, affiliate, fuse, or ally, and to transfer all or any part of the property, assets, liabilities, and engagements of this Association to any one or more of the associations, companies, firms, or chambers, with which this Association is authorised to amalgamate, affiliate, fuse or ally;
- 17.1.15 To appoint the Committees required under these Rules to be appointed, and Special Committees from amongst its own number or otherwise to examine and inquire into any special matter in connection with the objects or business of the Association, and to appoint members of the Association or other persons to act with any such Special Committee, and dissolve such Special Committees whenever it may think proper, and generally to determine the constitution, and regulations of the procedure of any Committee, whether Special or appointed under these Rules provided that members of the Association shall comprise the majority of the number of members of any such Committee, and further provided that the powers of such Committees and Special Committees shall be restricted to providing advice to Council;
- 17.1.16 From time to time to make and to alter, vary, and rescind, by-laws for the carrying out of these Rules, to put into effect the powers and authorities thereby vested in the Council, and for regulating the conduct and proceedings of the Association and of the Council 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 Special or Annual Meetings;
- 17.1.17 To bring any industrial disputes, claims, or matters, before the Commonwealth Conciliation and Arbitration Commission, Industrial Commission of New South Wales, or any Committee, Board, or other Tribunal whatsoever, appointed under any Act of Parliament of the Commonwealth or State;
- 17.1.18 Save as provided by Rule 20.12 to consider, approve, or veto, resolutions or decisions of Divisions made under Rule 27.
- 17.1.19 To give assistance to any member of the Association charged with a breach of any law, regulations, or award, involving a question of principle or of an established custom affecting members of the Association generally or members of any particular Division, Region or Sector.
- 17.1.20 On behalf of the Association or any members thereof to make and take any legal steps to enforce any claims or demands relative to industrial matters upon any organisation, or Industrial or Trade Union of Employees or Employers, or upon any individual employees or employers;
- 17.1.21 To enter into industrial agreements with any Trade or Industrial Union or Association of Employees or Employers; all such agreements shall be under the seal of the Association and shall be executed by the President and Executive Director.
- 17.1.22 In the event of the absence of the President or the Executive Director, to appoint any person to act in their stead to execute any agreement, deed or document, in the place of the absent office-bearer.

- 17.1.23 To appoint persons empowered to execute any instrument required by law to be under seal and such seal shall be the seal of the Association.
- 17.1.24 To authorise recovery of monies owed to the Association by any person (including but not confined to the recovery of unpaid fees from members and former members).
- 17.1.25 To authorise the establishment of companies, partnerships, joint ventures or other commercial arrangements (whether wholly owned by the Association or in concert with other persons) for the furtherance of objects of the Association as set out in Rule 3 - provided that proper financial information shall be included in the Association's annual accounts with respect to any such entities.
- 17.2 Provided always that the Council shall exercise the aforesaid powers subject to the direction and control of the Association in Special or Annual Meeting.

18 - ELECTION OF OFFICERS AND THEIR POWERS AND DUTIES

- 18.1 Executive Officers: The Executive Officers of the Association shall be the President, the Deputy President and Vice-Presidents, all of which positions shall be honorary. They shall carry out such duties individually as provided in these Rules. Collectively they shall form an Executive Committee which may in case of emergency exercise such powers of the Council as may be in the interests of the Association, provided that such action shall be reported to the next meeting of the Council which may rescind the action. Three form a quorum at Executive Committee Meetings.

The President/Executive Committee shall and is hereby authorised (in a manner as may be directed by the Council) 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 General, Civil or Criminal Law of the Commonwealth or any State.

- 18.2 The President: The President shall be elected by and from among the members of the Council of Management, bi-annually. Such election shall take place by the October meeting of the Council in an election year. At least six weeks prior to the October meeting of Council in an election year the Returning Officer shall invite written nominations for the office of President. Such nominations shall be proposed by a member of the Council and be supported by the signed consent of the nominee. Such nominations shall be in the hands of the Returning Officer by 10am on the 28th day prior to the October meeting of the Council in that election year.

In the event of more than one nomination being received, then the Returning Officer shall prepare or cause to be prepared a sufficient number of ballot papers on which will appear the full name of the candidates only in the order in which they shall have been drawn by the Returning Officer by ballot. The Returning Officer shall, within ten days after the closing date for nominations, forward by pre-paid post to members of the Council, a ballot paper bearing the Returning Officer's initials, together with an envelope marked "Ballot Paper Only", suitable to contain the ballot paper of each member and not disclosing otherwise any identification, and a further business reply paid envelope to contain the beforementioned envelope, addressed to the Returning Officer at an address arranged by the Returning Officer for the return of the ballot paper by post by the voter without expense to them. This envelope shall also provide the signature of the voter. The Returning Officer shall advise all voters of the closing date for the receipt of return of ballot papers, which shall be not later than 10 am on the day prior to the October Meeting of Council. The Returning Officer shall arrange for a suitable postal box or other receptacle to which ballot papers may be returned to the Returning Officer. The Returning Officer shall not receive any ballot papers after the closing date provided and shall mark any envelope received "Informal", together with the date of its receipt and shall not open such envelopes. Where more than two nominations are received the ballot shall be determined by the preferential method of counting votes in accord with Rule 19.9.

18 - ELECTION OF OFFICERS AND THEIR POWERS AND DUTIES

The President Elect shall be installed in office as President at the Annual Meeting in the election year by the Retiring President. Such installation shall be last item on the Agenda and the President shall assume office on installation.

The President shall:

- (i) be the Principal Executive Officer of the Association and shall preside at all meetings of the Association, the Council and all Committees, whether Special or otherwise, and may preside at any meeting of a Division;
- (ii) have all the authority usually vested in the Chair of any meeting;
- (iii) keep order and direct the manner of debate upon all questions introduced and determine what order questions shall be introduced;
- (iv) have the right to vote on all questions and where voting is equal may exercise a right to a casting vote by declaring the result of the voting. No member shall persist in a line of conduct contrary to the ruling of the Chair.
- (v) have power to cause any meeting of the Association, its Council, its committees and Divisions to be convened, cancelled or postponed;
- (vi) have power to delegate authority and to direct the Executive Director and to suspend the Executive Director from office as provided in Rule 18.6.

18.2.1 If the Returning Officer finds a nomination to be defective the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give that person the opportunity of remedying the defect by the close of nominations.

18.2.2 Where any Councillor is or will be absent at the time of the ballot from his or her address as registered with the Association, the Councillor may make a written request that the Returning Officer forward a ballot paper or papers and other ballot material as outlined in these Rules to a nominated alternative address and the Returning Officer shall comply with the request.

18.2.3 Each candidate may appoint a scrutineer who may observe, and be present at, all steps in the conduct of an election by the Returning Officer. The failure of a scrutineer to exercise any of their rights shall not invalidate an election.

18.2.4 Completed ballot papers shall be inserted in a sealed ballot box.

18.2.5 When the ballot box is opened, all votes shall be immediately formally counted and the successful candidate formally declared elected at the December meeting of Council.

18.3 Vacancy before expiration of term of Office:

18.3.1 Should the office of President, Deputy President or any Vice-President become vacant prior to the expiration of one quarter of the term for which that person was elected it shall be competent for the Council to elect a successor.

Within seven days after the vacancy referred to above the Returning Officer shall invite written nominations from amongst the Councillors for a President, Deputy President or Vice-President as the case may be. Such nomination shall be proposed by a member of Council and be supported by the signed consent of the

18 - ELECTION OF OFFICERS AND THEIR POWERS AND DUTIES

nominee. Such nominations shall be in the hands of the Returning Officer by 10.00 a.m. on the 7th day prior to the next meeting of the Council.

Where only one nomination is received for the position, then the person so nominated shall be declared elected to the position.

In the event of more than one nomination being received by due date for the office then a secret ballot shall take place within the Council present at the meeting, and as a result of the ballot a President, Deputy President or Vice-President, as the case may be shall be declared elected and assume office. Where more than two nominations are received the ballot shall be determined by the preferential method of counting votes in accord with Rule 19.9.

In the event of no nomination being received at the said closing date for nomination, the Returning Officer shall report the fact to the next meeting of the Council when it shall be competent for the said Council to elect from the Councillors so assembled one of their number to fill the vacancy provided that a Councillor who is not present at the said meeting and who has obtained leave of absence and has indicated his willingness in writing to the Returning Officer to accept nomination, prior to the meeting, may be duly nominated and the nomination accepted as if the nominee were present at the meeting. The provisions of the Rule 18 shall apply mutatis mutandis to elections conducted under this Rule.

- 18.3.2 Should the Office of President, Deputy President or any Vice President become vacant when the unexpired part of the term for which that person was elected is less than three quarters, it shall be competent for the Council to appoint a successor from amongst the Councillors.

18.4 The Deputy President, Vice-Presidents:

A Deputy President and four Vice-Presidents shall be elected from amongst the members of the Council bi-annually. Such elections shall take place prior to the October meeting of the Council in an election year.

The President shall nominate from amongst the Deputy President and the Vice-Presidents elected pursuant to this Clause one who shall perform the duties listed in Rule 18.5 hereof.

At least six weeks prior to the October Meeting of Council in an election year the Returning Officer shall invite written nominations from amongst the Councillors for a Deputy President and four Vice-Presidents. Such nominations shall be proposed by a member of Council and be supported by the signed consent of the nominee. Such nominations shall be in the hands of the Returning Officer by 10.00 a.m. on the 28th day prior to the October meeting of council in that year.

Where any Councillor will be absent at the time of the ballot from his or her address as registered with the Association, the Councillor may make a written request that the Returning Officer forward a ballot paper or papers and other ballot material as outlined in the Rules to a nominated alternative address and the Returning Officer shall comply with the request.

Where only one nomination is received for each position, then the persons so nominated shall be declared elected to the respective positions and assume office forthwith. In the event of more than one nomination being received by due date for the Office of Deputy President or more than four for the Office of Vice-President, then the Returning Officer shall prepare or cause to be prepared a sufficient number of the required ballot papers on which will appear the full name of the respective candidates only in the order in which they shall have been drawn by the Returning Officer by ballot. The Returning Officer, shall, within ten days after the closing date for

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nominations, forward by prepaid post to all members of the Council the necessary ballot paper(s) bearing the Returning Officer's initials, together with an envelope marked "Ballot Paper(s) Only", suitable to contain the ballot paper(s) of such member and not disclosing otherwise any identification and a further business reply paid envelope suitable to contain the beforementioned envelope addressed to the Returning Officer at an address arranged by the Returning Officer for the return of the ballot paper(s) by post by the voters without any expense to them. This envelope shall also provide for the signature of the voter. The Returning Officer shall advise all voters of the closing date for receipt of return of ballot papers, which shall be not later than 10 am on the day prior to the October meeting of the Council of Management. The Returning Officer shall arrange a suitable postal box or other receptacle to which the ballot papers may be returned to the Returning Officer. The Returning Officer shall not receive any ballot papers after the closing date provided, and shall mark any envelope received "Informal", together with the date of its receipt, and shall not open such envelopes. The result of any ballots held shall be declared at the October meeting in an election year and such person(s) shall assume Office following the close of the December Meeting of Council.

Where more than two nominations are received for the office of Deputy President or four for the offices of Vice-President the ballot shall be determined by the preferential method of counting votes in accord with Rule 19.9, such secret ballot shall be conducted in accordance with Rule 18.2.1 to 18.2.6.

In the event of no nomination being received at the said closing date for nominations, the Returning Officer shall report the fact to the next meeting of the Council when it shall be competent for the said Council to elect from the Councillors so assembled, one of their number to the vacancy, provided always that a Councillor who is not present at the said meeting and who has obtained leave of absence and has agreed in writing to the Returning Officer to accept a nomination, prior to the meeting, may be duly nominated and the nomination accepted as if the Councillor were present at the meeting.

In the absence of the President the Deputy President, and in the Deputy President's absence a Vice-President, shall act as and possess all the rights, privileges and duties of the President. They shall carry out such other duties as may be delegated to them by the President, the Council or a meeting of the Association.

18.5 Executive Member responsible for Finance:

The Deputy President or a Vice-President nominated by the President shall certify all accounts due by the Association, shall see that the Executive Director causes all moneys belonging to the Association to be paid to the credit of the Association without undue delay in a bank authorised by the Council.

The persons so nominated shall certify the Association's Balance Sheets and Revenue Statements and the Trade Union or such other Returns as may be required by law. The persons so nominated shall, so far as is practicable (and subject to Rule 20.10), sign all cheques or bank withdrawals on behalf of the Association.

18.6 On the election of the Deputy President and Vice Presidents those Regional or Sector Groups which have elected the Deputy President or Vice Presidents as councillors shall be deemed entitled to an additional councillor for each office bearer thus elected and such additional positions shall be filled by the Declaration of the Returning Officer of that person who would next have been elected at the election of councillors had one further person have been required and in the event of there being no such candidate the Returning Officer shall conduct a further ballot in accordance with Rule 14.

18.7 Executive Director:

The Executive Director shall be a servant of the Association employed pursuant to a contract of employment, the conditions and remuneration of which shall be determined by the Executive Committee and the selection and appointment of the Executive Director shall be made by the Executive Committee.

The Executive Director shall be responsible to the Council but shall act entirely under the direction of the President, or in the absence of the President then the Executive Officer so acting. The Executive Committee shall have power to dismiss the Executive Director for breach of his/her contract of employment.

The Executive Director shall be:

- the Association's Chief Administrative Officer and Executive Officer
- the Public Officer of the Association for all such purposes as may be required
- the officer of the Association nominated by it to sue or to issue or accept legal process on behalf of the Association.

The Executive Director shall:

- convene all meetings of the Association, the Council and Committees;
- keep or cause to be kept a faithful record of the business; transacted at all meetings of the Association, its Council and, committees;
- under the direction of the Executive Committee, keep and maintain a Register of the members of the Association, collect all subscriptions, fees, levies, dues or other liabilities payable to the Association by members or otherwise and keep and maintain books of account as may be required by law;
- conduct correspondence on behalf of the Association;
- under the direction of the Executive Committee, prepare and furnish all notices and returns required to be given by or on behalf of the Association under any law;
- subject to the direction of the Council, engage the staff of the Association;
- have full charge and management of the Association's staff and authority to delegate powers and duties to such staff;
- carry out such other duties as may be required by these Rules or directed by the Council from time to time.

In the event of the office of the Executive Director becoming vacant for any cause, the Executive Committee shall have power to appoint a person to act as Executive Director. A person so appointed shall be known as the Acting Executive Director.

- 18.8 The President is entitled to become a Representative of the Association on the council of the Master Builders Australia and shall continue as such Representative during the term of the presidency but no longer unless elected in accordance with the provisions of this Rule.

Such other Representative (or Representatives), including a Representative in lieu of the President, should The President determine not to so act, as may be required by the Articles and Governing

Provisions of the Master Builders Australia, to represent the Association on the Council of the Master Builders Australia shall be elected annually by and from Members of the Council.

Such election shall take place at the last Council Meeting not less than forty days prior to the Annual Meeting of the Council of the Master Builders Australia. At least thirty days prior to the last Council Meeting not less than forty days prior to the Annual Meeting of the Council of the Master Builders Australia the Executive Director shall invite written nominations from amongst the Councillors for the Office of the Association's Representative on the Council of the Master Builders Australia.

Nominations shall be made in writing by a member of Council and accompanied by the signed consent of the Nominee. Nominations shall be in the hands of the Executive Director by 4.00 p.m. on the seventh day prior to the last Council meeting referred to in the preceding paragraph.

Where only one nomination is received for the position, then the person so nominated shall be declared elected and assume office after the declaration is announced at the Annual Council Meeting of the Master Builders Australia.

In the event of more than one nomination being received by due date, then a secret ballot shall take place within the Council present at the meeting not less than forty days prior to the Annual Federal Council Meeting, and as a result of the ballot, a Representative shall be declared elected.

In the event of insufficient nominations being received at the said closing date for nominations, the Executive Director shall report the fact to the next meeting of Council, when it shall be competent for the said Council to elect from the Councillors so assembled, one of their number to the vacancy, provided always that a Councillor who is not present at the said meeting and who has obtained leave of absence and has indicated willingness to the Executive Director, in writing to accept a nomination prior to the meeting may be duly nominated and such nomination accepted as if the nominee was present at the meeting.

The Representative(s) so elected shall report verbally to the Council from time to time on the activities and affairs of the Master Builders Australia.

A casual vacancy may be filled by the Council at any of its meetings in the manner prescribed by this Rule.

- 18.9 The Councillors elected pursuant to Rule 14 as the representatives of the Sector Groups identified in Rule 27.1.1 to Rule 27.1.5 shall represent the Association on the corresponding Sector Groups established pursuant to the rules of the Master Builders Australia.

18A - SPECIAL ELECTION OF EXECUTIVE OFFICERS

Notwithstanding anything contained in Rule 18 a special election for the Executive Officers of the Association being the President, Deputy President and four Vice Presidents shall occur in the following manner.

At least three weeks prior to the February meeting of Council in the Year 2000 the Returning Officer shall invite written nominations from amongst the Councillors for a President, Deputy President and four Vice Presidents. Such nominations shall be in the hands of the Returning Officer by 10.00 am on the 14th day prior to the February meeting in the Year 2000.

If more than one nomination is received by the due date for the Office of President and Deputy President or more than four for the Office of Vice President an election shall be conducted.

The election for all positions including that of the President shall be conducted in the manner set out in Rule 18.4 except that ballot papers shall be forwarded to Councillors within three days after the closing date for nominations and the closing date for receipt of the return of the ballot papers shall not be later than 10.00 am on the day prior to the February meeting of the Council of Management.

Executive Officers who are elected pursuant to this rule shall hold office from the declaration of the election at the Council meeting in February in the Year 2000 until the assumption of office in December 2000 by Executive Officers elected in accordance with Rule 18.

Rule 18.6 shall not apply in relation to vacancies on the Council caused by this election.

Any requirements elsewhere contained in these rules for the conduct of election shall continue to operate except and insofar as altered by this rule.

Executive Officers elected under this rule shall hold office in accordance with and have the same rights and obligations as Executive Officers elected in accordance with Rule 18.

This rule shall expire at the conclusion of the Annual Meeting in December in the Year 2000.

18B - MATERIAL PERSONAL INTERESTS, REMUNERATION AND NON-CASH BENEFITS

(a) Definitions

In the interpretation of this Rule 18B only, the following words and expressions shall have the meanings hereinafter specified:-

- (i) "Board" means a group of persons who supervise or otherwise have oversight of a corporation, organisation association or other like body including a Board of Directors.
- (ii) "Disclosure Period" means the financial year unless a shorter period is specified.
- (iii) "Declared Person or Body" a person is a Declared Person or Body if:
 - (a) An Officer of the Association has disclosed a Material Personal Interest under subrule 18(c)(i); and
 - (b) The interest relates to, or is in, the Person or body; and
 - (c) The Officer has not notified the Association that the Officer no longer has the interest.
- (iv) "Financial Duties" includes duties that relate to the financial management of the Association.
- (v) "General Manager" means the General Manager of the Fair Work Commission.

- (vi) “Non-Cash Benefit” means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (vii) “Office” has the same meaning as defined by Section 9 of the *Fair Work (Registered Organisations) Act 2009*.
- (viii) “Officer” has the same meaning as defined by Section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- (ix) “Peak Council” has the same meaning as defined by Section 12 of the *Fair Work Act 2009*.
- (x) “Related Party” has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (xi) “Relative” in relation to a Person means:
 - (a) Parent, step parent, child, step child, grandparent, grandchild, brother or sister of the person; or
 - (b) Spouse of the first mentioned person.
- (xii) “Relevant Remuneration” in relation to an Officer of the Association for a Disclosure Period is the sum of the following:
 - (a) Any Remuneration disclosed to the Association by the Officer under sub-rule 18A(b) during the Disclosure Period;
 - (b) Any Remuneration paid during the Disclosure Period, to the Officer of the Association.
- (xiii) “Relevant Non-Cash Benefits” in relation to an Officer of the Association for a Disclosure Period means the Non-Cash Benefits provided to the Officer, at any time during the Disclosure Period, in connection with the performance of the Officer’s duties as an Officer, by the Association or by a Related Party of the Association.
- (xiv) “Remuneration” includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but
 - (a) Does not include a Non-Cash Benefit; and
 - (b) Does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the Officer carrying out his or her duties.

(b) Disclosure of Officer’s Relevant Remuneration and Non-Cash Benefits

- (i) Each Officer of the Association shall disclose to the Association any Remuneration paid to the Officer:
 - (a) Because the Officer is a member of a Board, if:
 - i. The Officer is a member of a Board only because the Officer is an Officer of the Association; or
 - ii. The Officer was nominated for the position as a member of that Board by the Association or a Peak Council; or
 - (b) By any Related Party of the Association in connection with the performance of the Officers’ duties as an Officer.

- (ii) The disclosure required by sub-rule 18B(b)(i) shall be made to the Association:
 - (a) As soon as practicable after the Remuneration is paid to the Officer; and
 - (b) In writing.
- (iii) The Association shall disclose to the Members:
 - (a) The identity of the Officers who are the five (5) highest paid in terms of Relevant Remuneration for the Disclosure Period, and
 - (b) For each of those Officers:
 - i. The actual amount of the Officer's Relevant Remuneration for the Disclosure Period; and
 - ii. Either the value of the Officers' Relevant Non-Cash Benefits, or the form of the Officers' Relevant Non-Cash Benefits, for the Disclosure Period.
- (iv) For the purposes of sub-rule 18B(b) (iii), the disclosure shall be made:
 - (a) In relation to each financial year;
 - (b) Within six (6) months after the end of the financial year; and
 - (c) In writing.

(c) Disclosure of Material Personal Interests

- (i) Each Officer of the Association shall disclose to the Association any Material Personal Interest in a matter that:
 - (a) The Officer has or acquires; or
 - (b) A Relative of the Officer has or acquires,that relates to the affairs of the Association.
- (ii) The disclosure required by sub-rule 18B(c) (i) shall be made to the Association:
 - (a) As soon as practicable after the interest is acquired; and
 - (b) In writing.
- (iii) The Association shall disclose to the Members any interests disclosed to the Association pursuant to this sub-rule 18B(c) (i).
- (iv) For the purposes of sub-rule 18B(c) (iii), the disclosures shall be made:
 - (a) In relation to each financial year;
 - (b) Within six months after the end of the financial year; and
 - (c) In writing.

(d) Disclosure obligations of the Association

- (i) The Association shall disclose the following information to the Members, either:
 - (a) Each payment made by the Association, during the Disclosure Period;
 - (i) To a Related Party of the Association; or
 - (ii) To a Declared Person or Body of the Association; or
 - (b) The total of the payments made by the Association, during the Disclosure Period:
 - (i) To each Related Party of the Association; or

(ii) To each Declared Person or Body of the Association.

- (ii) Sub-rule 18B(d)(i) does not apply to a payment made to a Related Party if:
- (a) the payment consists of amounts deducted by the Association from remuneration payable to officers and employees of the Association; or
 - (b) the related party is an officer of the organisation, and the payment:
 - (i) consists of remuneration paid to the officer by the organisation; or
 - (ii) is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.
- (iii) For the purposes of sub-rules 18B(d) (i) disclosure shall be made:
- (a) in relation to each financial year; and
 - (b) within six (6) months after the end of the financial year; and
 - (c) in writing.

(e) Expenditure Policy

- (i) The Association shall develop and implement policies and procedures relating to expenditure of the organisation.

(f) Approved Training

- (i) Each Officer of the Association whose duties include Financial Duties must undertake training:
- (a) Approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009*; and
 - (b) That covers each of the Officer's Financial Duties.
- (ii) The training required by this sub-rule 18B(f) must be completed within six months from the date which is the later of:
- (a) 1 January 2014; or
 - (b) A date provided for in the relevant legislation; or
 - (c) the date the Person becomes an Officer.

19 - ARRANGEMENT OF MEETINGS

19.1 Annual Meetings:

An Annual Meeting of members shall take place on the second Tuesday in December of each year. At this meeting the audited Balance Sheet and Revenue Statement shall be presented, together with a Presidential Report.

In an election year the Ballot for election of members of the Council for the ensuing two years shall be declared and the President Elect shall be installed in office; provided, however, that this installation shall be the last item of business.

Such other business as the Council may refer to this meeting shall also be dealt with at the Annual Meeting; provided, however, that only that business which is clearly set forth on the notice of meeting shall be dealt with.

Seven days prior to the date of the Annual Meeting, the Executive Director shall forward by prepaid letter post a circular to each member of the Association. Such circular shall request the

19 - ARRANGEMENT OF MEETINGS

members' attendance at the meeting and shall clearly set forth the time and place of the meeting and the business to be transacted. Ten members shall form a quorum at the Annual Meeting.

19.2 Special Meeting:

A Special Meeting of members may be convened on the instructions of the President, the Council,

the Executive Director, as required by Rule 29, requisition of five members of the Council or requisition of ten members of the Association. Provided that where a Special Meeting is requisitioned as beforementioned, such requisition shall be in writing and duly signed by each of the members concerned and shall clearly set forth the reasons for the requisition. A Special Meeting shall deal only with such special business as may be referred to it.

Not less than seven days prior to the date of the Special Meeting the Executive Director shall forward by prepaid letter post a circular to each member of the Association. Such circular shall request the members' attendance at the meeting and shall clearly set forth the time and place of the meeting and the special business to be transacted.

Where the business of a Special Meeting is to consider any subject, or a notice of motion has not been submitted, then any motion or motions submitted to the said Special Meeting shall be received and may be debated, but shall not be determined. Such motion shall be referred to a further Special Meeting to be convened within seven days of the date of their receipt and shall be clearly set forth in the circular convening the further Special Meeting. The further Special Meeting shall have power to determine the motions submitted to it and (with the exception of motions to alter this Constitution or dissolve the Association) such motions shall be carried by a simple majority of members present and entitled to vote.

Motions to alter this Constitution or dissolve the Association shall be carried by a majority of three fourths of the members present and entitled to vote. On being adopted, such motions shall become special resolutions and may be acted upon. The provisions of this paragraph shall not apply when the special meeting is convened under Rule 29.

In the event of a specific notice of motion being received for submission to any Special Meeting, then, providing such notice of motion is clearly set forth on the circular convening such Special Meeting, it shall be competent for the Special Meeting to determine such notice of motion without reference to a further Special Meeting. With the exception of motions to alter this Constitution or dissolve the Association, upon being adopted by a simple majority of members present such motion shall become a special resolution and may be acted upon. Motions to alter this Constitution and Rules or dissolve the Association upon being adopted by a three fourths majority of members present shall become special resolutions and may be acted upon.

The President shall have the option of directing that a Special Meeting be summoned by advertisements in one daily paper circulating generally throughout New South Wales, or such other means as may be expedient, in the case of disrupted postal services, either in lieu of or in addition to the circular referred to, and in such advertisements the business to be transacted may be in a general form if such a course is considered desirable by the President.

A Special Meeting of members shall be the supreme authority of or in the Association.

Twenty five members shall form a quorum at any Special Meeting.

Notwithstanding any other provision of this Rule, once any subject has been determined by a Special Meeting, then such subject shall not be re-opened except upon review of the Council, which, notwithstanding the provisions of this Rule, shall have the absolute discretion as to whether a Special Meeting is to be convened to re-open or re-consider the subject sought to be re-opened.

19.3 Removal of Office-Bearers:

For the purposes of this Rule, Office-bearer shall mean any member of the Executive or any member of the Council.

In addition to the powers conferred by Rules 17, 19.2, 28, 29, 32 and 33 herein a Special Meeting may by resolution (notice of which has been given in accord with Rule 19.2) remove any Office-bearer or Office-bearers from such office. In such case the resolution shall be passed by a majority of not less than three-fourths of the members present at such Special Meeting. Such Special Meeting shall have the powers of the Council and follow the procedures as set out in Rules 15.1.3 and 15.1.4. Any vacancy occurring from the implementation of this Rule shall be filled as provided in these Rules.

19.4 Committee Meetings:

Committees appointed by the Council for a special purpose shall meet as and when necessary. Three days prior to the date of such meeting, the Executive Director shall forward by prepaid letter post or by facsimile transmission to each member of the Committee a notice requesting attendance at such Committee meeting provided, however, that in an emergency or where five or less persons constitute the Committee, then the meeting may be convened by telephone or by facsimile transmission. All Committees shall be convened on the direction of the President or the person appointed convener for that particular Committee.

A quorum for Committee meetings shall be half the number comprising the Committee (where a fraction, to the nearest one above).

The Council shall review the personnel and function of all Committees in February of each year and shall re-appoint such Committees and the personnel of such Committees as it deems necessary at such meeting.

19.5 Council Meetings:

The Council shall meet as provided in Rule 16.

Not less than three days prior to the date of such meetings, the Executive Director shall forward to each member of the Council by pre-paid letter post or by facsimile transmission a notice requesting attendance at such Council meeting.

One third of the number of Councillors shall form a quorum at Council Meetings.

19.6 Quorum:

If a quorum for any meeting be not present twenty minutes after the appointed time for the meeting to commence, then the Chair may permit discussion on the business without resolution. The Chair shall then adjourn the said meeting not more than 14 days and direct that a further notice be sent as provided, drawing attention to the fact that the prior meeting had adjourned for want of a quorum and in the event of a quorum not being present at the adjourned meeting, then the number of Councillors present shall be the quorum required for the adjourned meeting and the business shall be decided, determined or resolved.

19.7 Resolutions:

At any meeting (other than as provided in Rule 19.3 "Removal of Officer-bearers" and Rule 19.2 "Special Meetings"), unless a poll is required by these rules or is demanded, a declaration by the Chair that a resolution has been carried or lost and an entry to that effect in the Minutes or Report of the meeting shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 19.8 If a poll be demanded or necessary, then every member shall have one vote and a simple majority shall determine the result of the poll, and such result shall be deemed to be the resolution.

In cases where a poll is demanded or necessary, then the Executive Director shall be responsible for the issue of initialled ballot papers.

- 19.9 Election of Executive Officers or Representatives of the Association:

The following method shall be used to determine the election of Executive Officers, where more than two nominations are received for any one position.

Councillors shall record their preference for the candidates by marking their ballot papers with consecutive numbers (1, 2, 3 and so on).

The result shall be determined in the following manner -

Each candidate shall receive a number of votes by treating numerical preference as the candidate's total from each ballot paper (i.e., a number three preference counts as three votes). The candidate receiving the lowest sum total of votes shall be declared elected.

By resolution this method of voting may be used by the Council or its committees or an annual or special meeting of the Association to elect a delegate or other representative for the Association, where more than two nominations are received for the position.

- 19.10 In ballots other than those referred to in Rules 14 and 18.2.3 two or more scrutineers may be appointed at the meeting to assist in conducting and determining the ballot.

20 - ADMINISTRATION OF ASSOCIATION FUNDS, ETC.

- 20.1 Financial Year: The financial year of the Association shall commence on the 1st July in each year and end on the 30th June following.

- 20.2 Fees: The fees and other charges on members levied pursuant to Rule 3.22 payable by members shall be determined by the Council from time to time.

- 20.3 Recovery of Fees and Other Amounts Due to the Association: Any member failing to pay fees or other charges imposed pursuant to Rule 20.2 or any fine imposed pursuant to these Rules in full within three months of their becoming due shall be notified by mail or by facsimile transmission of such default and at the same time the Executive Director may suspend all services to the said member and report the suspension to the Executive. In the event of the said member so notified not having paid the fees within thirty days of the date of such notification, the Executive Director shall report the fact to the Executive.

- 20.4 In the event of no written explanation having been received from the member in default, the Executive may forthwith terminate the membership of such defaulting member. The Executive may direct that the fees outstanding and any other monies owed to the Association be recovered or may direct that same be "written off" as a bad debt. All such terminations shall be reported to the next meeting of the Council. Any monies (including but not confined to those monies described in Rule 3.21) payable but not paid by a former member of the Association in relation to a period before the member's resignation from or cessation of membership of the Association 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.

- 20.5 In the event of a written explanation having been received from the member in default and with respect to whom the Executive Director has determined that services should be suspended, the Executive may and at its absolute discretion, extend the time for such member to meet its obligations by a period not exceeding three months; during this period no services shall be made available to such member. At the expiration of the extended time if payment has not been made, then Rule 20.4 above shall be given effect to.
- 20.6 Any member failing to meet any other liability in full, due and payable to the Association, within three months of same becoming due, shall be reported by the Executive Director (if the Executive Director considers it appropriate to do so) to the Executive, who may direct that such liability be recovered and may also direct the Executive Director to charge such member under Rule 29.
- 20.7 Levies: By recommendation of the Council, the Association in Special Meeting may impose such levies or other contributions as are deemed advisable for the purpose of carrying on the work and objects of the Association. The Special Meeting may impose a lesser amount on or exempt or exclude any member, group of members or class of member from such levy or contribution. Such levies or contributions as may be resolved, shall be due and payable within thirty days of the notification to members of the decision to impose same, and may be recovered, as provided in this Rule. Member, for the purposes of this Rule, does not include Life Member, Past Service Member, Honorary Member or additional Representative.
- 20.8 Application and Control of Funds: The funds of the Association shall be applied to the maintenance of the Association and the furtherance of its aims and objects. However, the Council by a three-fourths majority may apply a portion of the funds to charity or to the recognition of special services rendered to the Association, or in honorariums to recompense a member for special duty to the Association.

The Council may also invite members to subscribe, voluntarily to a fund for charitable or special purposes and in such cases shall apply such funds in full to the purpose for which they were subscribed.

In the event of any such fund officially closing prior to all such subscribed moneys being received by the Association, or in the case of a special purpose, the purpose ceasing to exist, then the Council shall determine whether such late receipts or any surplus shall be deposited in a special account to be used for a similar purpose to the one for which such funds were collected or be distributed as the Council deems advisable.

- 20.9 The current funds of the Association shall be deposited in such bank as the Council shall from time to time direct in the name of the Association. All moneys received shall be deposited in such bank. Provided that an amount as may be determined from time to time by the Council shall be retained in cash in the Association's registered office for the purpose of petty cash.
- 20.10 All payments shall be certified by the Executive Officer appointed pursuant to Rule 18.5 and approved or confirmed by the Council.

All cheques shall be signed by the Executive Officer appointed pursuant to Rule 18.5, or in the absence of the Executive Officer appointed pursuant to Rule 18.5 the President, the Deputy-President or a Vice-President, and counter-signed by the Executive Director, or such additional counter-signing officer, being an employee of the Association, as the Council may authorise by resolution. Provided that, from time to time, the Council, on recommendation from the Executive, may authorise the signing of cheques (to a limit set by the Council) by any two of the Executive Director and two other authorised signing officers (being employees of the Association).

All financial records of the Association shall be kept in the form required by any statute governing the registration of the Association and in conformity with any other statutory requirements binding the Association.

- 20.11 Investment of Funds: Any portion of the Association's current funds may by resolution of the Council, be invested for the benefit of the Association and on behalf of the Association, in the name of the Association.
- 20.12 Appointment of Auditors and Audit: The Council shall at its regular meeting in August of each year appoint an auditor or auditors who shall be registered public accountants.
- 20.13 The auditor or auditors so elected shall hold office from the time of their appointment until the date of the August meeting of Council in the next ensuing year, at which time they shall retire with effluxion of time. The retiring auditor or auditors shall be eligible for re-election.
- 20.14 In the event of a vacancy occurring for any reason in the position of auditor or auditors, then such vacancy shall be filled at the next regular meeting of the Council after the date of the vacancy occurring.
- 20.15 The fees of the auditor or auditors shall be approved by the Council.
- 20.16 The auditors shall conduct a yearly audit after the 30th June in each year, and shall report the result of their audit to the Executive Officer appointed pursuant to Rule 18.5 and Executive Director. The result of the annual audit together with a copy of the Balance Sheet and all revenue statements shall be presented at the Annual Meeting and also circulated to all members of the Association.

The auditors shall also certify all financial returns required by law and requiring certification by such law.

The auditor or auditors shall, for audit purposes only, at all reasonable times have access to the books, minutes and accounts of the Association and the Executive Director shall make same available and the said auditor or auditors shall be entitled to examine the Office-Bearers, members of the Council the Executive Director and the employees of the Association with regard thereto, and to require such information or explanation as may appear necessary or proper, and may report from time to time to the Council with regard to such books and accounts.

- 20.17 Examining Books, Records and Accounts by Members: All persons having an interest in the funds of this Association who are desirous of examining or investigating or inspecting all or any book, lists of members of the Association, documents, or records (with the exception of turnover declarations) on application to and with the authority of the Council, shall be permitted to have free access to the same for such purpose on any ordinary working day between the hours of 10 to 4 in the daytime, or at such times as may be arranged with the applicant and such inspection shall be at the Registered Office and in the presence of the Executive Director or such member of the staff of the Association as the Executive Director may delegate to be present.

All financial records, books of account and securities (or copies such securities - if they have been used themselves as security for borrowings or other purposes approved by the Council) shall be kept at the Association's registered office.

- 20.18 Loans, Grants and Donations : A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the Association unless the Council -

(a) has satisfied itself -

- (i) that the making of the loan, grant or donation would be in accordance with the other rules of the Association; and
 - (ii) 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; and
- (b) has approved the making of the loan, grant or donation.

21 - REGISTER OF MEMBERS

- 21.1 The Executive Director shall cause to be kept and maintained using data storage in a fashion approved by the Council from time to time and in a manner required by law, a register of all members of the Association capable of being reproduced in strict, alphabetical order in classes of membership and each individual entry shall show not less than the following particulars:
- 21.1.1 The name and postal address of such member;
 - 21.1.2 The date upon which the name of such member was entered in the register as a member;
 - 21.1.3 The class of membership of such member;
 - 21.1.4 The Division, Regional and Sector Group to which such member has been allocated;
 - 21.1.5 The names of each representative of such member, where applicable;
 - 21.1.6 The date upon which the member ceased to be a member, provided that in this case then all similar individual entries may be grouped together in the register.
- 21.2 If such register is maintained using electronic data storage of any type approved by Council, it shall be held in a fashion which permits its retrieval by Division, Region, Sector or Class of member.

22 - COMMON SEAL

The Common Seal of the Association shall be in the following form:

ASSOCIATION EMBLEM AT PRESENT IN USE

It shall be in the custody of the Executive Director and shall not be used or affixed to any document except as authorised by the Council, and every document to which such seal is affixed shall be countersigned by the President and/or Executive Director or the person or persons for the time being acting in their stead in accord with these Rules. Provided that agreements fixing the fees of any member by a contract for a period of time not exceeding three years pursuant to Rule 3.2.2 may be signed and the seal affixed by the Executive Director alone.

23 - ASSOCIATION EMBLEM

The Association Emblem shall be in the following form:

ASSOCIATION EMBLEM AT PRESENT IN USE

It shall be used on Association Stationery and all Association Publications as well as that of the Divisions, Regions and Sector Groups. It may be used for publicity purposes by the Association and its Divisions, Regions and Sector Groups. Its use or reproduction by members is not permitted except as provided for under guidelines approved by the Council.

24 - PROHIBITION OF COLLUSIVE TENDERING

Members of the Association will not engage in collusion in tendering. For the purposes of these Rules, collusion is defined as:

- * Agreements between tenderers as to who should be the successful tenderer;
- * Any meeting of tenderers to discuss tender price prior to the submission of their tenders if the client is not present;
- * Exchange of information between tenderers about their tender price;
- * Agreement between tenderers for the payment of money or the securing or reward or benefit for unsuccessful tenderers by the successful tenderer;
- * Agreement between tenderers to fix prices or commissions without the consent of the client;
- * Any assistance to any tender to submit a cover tender (that is, a tender submitted as genuine but which has been deliberately priced in order not to win the contract);
- * Any agreement between tenderers prior to submission of tenders to fix the rate of payment of industry association fees where the payment of such fees is conditional upon the tenderer winning the contract.

If it is suspected that any member has engaged in collusive practices, appropriate disciplinary action will be commenced pursuant to Rule 29.

Any breach of this rule shall be construed as if it were a breach of Rule 29.1.3.

25 - UNAUTHORISED USE OF ASSOCIATION SEAL OR EMBLEMS

Where any member makes reproduction of or use of the design of any emblem of the Association without the authority of the Council or outside such guidelines for use of any emblem as may be adopted by the Council or of the common seal then such member shall be guilty of a breach of these Rules and shall be proceeded against under Rule 29.

Where any person not being a member makes or causes to be made reproduction of or use of the design of the Common Seal of the Association, any Association emblem without the express written authority of the Council through the Executive Director then the Executive Director shall see legal advice on such steps as may be taken by law to prevent such unauthorised or improper reproduction or use and may report such advice to the Council who shall thereupon direct that such advice be given effect to should it so decide.

26 - INDEMNITY OF MEMBERS OFFICERS AND EMPLOYERS

Every Executive Officer, Councillor, Member, or employee of the Association shall be indemnified against

(and it shall be the Association's duty out of its funds to pay) all costs, losses, charges and expenses which any such Executive Officer, Councillor Member, or employee of the Association may incur or become liable for by reason of any contract entered into, or act or deed done by him in the discharge of any duty in accordance with these Rules.

27 - DIVISIONS, REGIONAL AND SECTOR GROUPS

27.1 As provided by Rule 17, the Council shall have power to create Divisions within the Association in various locations for the purpose of acting as an Advisory Committee to Council and providing a forum for membership networking and social events.

The rights, privileges and powers of each Division shall be as resolved by the Council, provided that such rights and powers shall not exceed its advisory role and not place a Division within the definition of "Committees" under the provisions of Section 195 of the Australian Industrial Relations Act, nor place the Offices of Divisions within the definition of Sub-Section 4(1)(b) of Section 195 of the Act. The financial operation and management of each Division shall be as resolved by its Committee of Management.

The membership of members shall be allocated according to the nature and locality of that member's business to one of the following Sector Groups and one of the Regional Groups.

The members of each Division shall meet at least once per year provided that the Council may, on recommendation of Executive, determine that any Division shall not be required to so meet if the Council and the Executive are satisfied that such meeting is not needed or appropriate under the circumstances of that Division.

Regional or Sector Groups shall have the responsibilities set out below:

- 27.1.1 General Contracting and Civil Engineering Sector Group which shall represent persons who operate principally as main contractors in building, construction, civil engineering works or engineering construction.
 - 27.1.2 Housing Sector Group which shall represent persons engaged in the construction and housing for domestic purposes including the provision of services to that housing.
 - 27.1.3 Specialist Contractor Sector Group which shall represent persons who operate principally as sub-contractors within the Construction or Housing Industries.
 - 27.1.4 Materials Manufacturing/Supply Sector Group which shall represent persons engaged in the manufacture or supply of building materials or products which are or may be used in the Construction or Housing Industries.
 - 27.1.5 Such Regional Groups as shall be established by the Council of Management to represent members of the Association in a specific geographic area.
- 27.2 A Regional or Sector Group shall be responsible to the Executive Committee and shall deal with such matters and have such powers as the Executive Committee shall from time to time delegate. Subject to any resolution of the Council and subject to these matters which touch and concern more than one Regional or Sector Group, as far as practicable each Region or Sector Group shall operate autonomously.
- 27.3 The Council may vary the responsibilities of any Regional or Sector Group and may create additional Regional or Sector Groups or decrease the number of Regional or Sector Groups provided that the number of Regional or Sector Groups shall, each, not be less than 4.

27.4 Members of each Regional Group shall meet at least once per year after the Annual General Meeting of the Association and at that meeting elect a Committee comprising at least eight of its members to deal with the day to day matters referred to it pursuant to Rule 27.2 above provided that Council may, on recommendation of the Executive, determine that any Region shall not be required to so meet and elect a Committee if the Council and the Executive are satisfied that such meeting and election are not needed or appropriate under the circumstances of that Region.

The Committee at that meeting shall elect a Chairperson who shall be one of the Regional Group Councillors elected pursuant to Rule 14.

27.5 Members of each Sector Group shall meet at least once per year after the Annual General Meeting of the Association and at that meeting elect a Committee comprising at least eight persons to deal with the day to day matters referred to it pursuant to Rule 27.2 above. The Committee at that meeting shall elect a Chairperson who shall be one of the Sector Group Councillors elected pursuant to Rule 14. For the purpose of this sub-rule, "persons" shall mean any member of the Association whose business activities include those related to the Sector.

27.6 Copies of Minutes of Meetings of each Regional or Sector Group shall be forwarded to the Council.

28 - POLICY MISCELLANEOUS

The policy of the Association shall be determined by the Council, the Annual Meeting or a Special Meeting from time to time.

Unless otherwise directed by the Council, the Executive Director shall advise all members in the next edition of Executive Newsbrief of such determination and such determination shall be binding upon all members until such time as the determination is rescinded or amended by a like meeting that determined the policy originally.

Without in any way limiting the powers of the Council or an Annual or Special Meeting to determine further matters as the policy of the Association, the following shall be the declared policy of the Association on the matters set out:

28.1 Legal Assistance: Except as provided by Rule 26, no member shall be entitled to funding for externally provided Legal Assistance from the Association or assistance toward the expenses of same unless the matter being litigated is one of principle which may affect other members. Provided always that the Council (or if time does not permit the placing of the matter upon which assistance is sought before the Council, then in such case, the Executive Committee) shall determine whether or not legal assistance shall be afforded to such member. Provided always that assistance, legal or otherwise, shall not be available to any member whose difficulties are caused by departure from Association policy, advice, or use of a form of contract which has not been approved by the Council.

28.2 Members' Assent to Rules: The Constitution and Rules of the Association, duly registered in accordance with the law of the Commonwealth and the State of New South Wales, shall be kept at the Association office. Every member on notification of admittance to membership shall be forwarded by post, a copy thereof.

29 - DISCIPLINARY POWERS

29.1 If it is brought or comes to the notice of the Executive Committee that any member:-

- 29.1.1 Has been convicted of a felony or an offence under any Act, regulation, ordinance, industrial award or other law arising out of or in the course of the conduct of his business, or
- 29.1.2 Has been convicted of a felony or an offence under any Act, Regulation or Ordinance or other Law where such conviction could bring the Association into disrepute whether or not such conviction arose out of or in the course of conduct of his business, or
- 29.1.3 Has committed or is committing a breach of the Code of Tendering or the Code of Ethics and Good Business Practice adopted by the Council pursuant to Rule 3.4
- 29.1.4 Has committed or is committing a breach of the Constitution and Rules or by-laws of the Association, or
- 29.1.5 Has engaged in or published or been party to or permitted or supported any untrue or misleading communication statement advertisement signed document or paper either on its own behalf of or as an officer or representative or member of the Association:

The Executive Director shall report to the Executive on such matter.

- 29.2 If any member of the Executive or any other member of Association draws to the attention of the Executive Director any matters which would, by virtue of Rule 29.1, constitute conduct within that Rule, the Executive Director shall furnish to the Executive a report of the matters so brought or come to the Executive Director's notice at the first regular meeting of the Executive thereafter or at a meeting of the Executive convened for the purpose of receiving and considering such report. If the Executive finds the allegations so reported to constitute a prima facie case for such member to answer, the President shall instruct the Executive Director to inform such member and to furnish the member with a copy or statement of the allegations and to summon the member to appear before the Council on a day and a time to be fixed by the Executive to answer the allegations and the Executive Director shall carry out such instructions.
- 29.3 If a majority of the members present at such Council Meeting shall decide and resolve that the member summoned to appear has been guilty of the conduct act or acts alleged against it the Council may impose a fine upon such member of a sum not exceeding Ten Thousand Dollars (\$10,000) or may expel it or suspend it for a period not exceeding six months from membership or may impose both a fine and expulsion or suspension such penalties provided however that a resolution expelling such members must be passed by a three-fourths majority of the members of the Council present at the meeting.
- 29.4 The member so dealt with may appeal to a special meeting of the Association against the Council's decision or resolution by lodging a notice of appeal with the Executive Director within fourteen days where-upon the Executive Director shall convene a Special Meeting of the Association to hear and determine such appeal and the decision of such Special Meeting or such appeal shall be final and binding on such member. Provided that any decision or resolution of such Special Meeting to expel such member or to confirm any expulsion already imposed must be passed by a three-fourths majority of the general members present and entitled to vote at such meeting.
- 29.5 All fines shall go to the general funds of the Association and shall be paid to the Executive Director within seven days after notice thereof shall have been given by registered letter to the person liable to pay the same.
- 29.6 Should any such member fail to appear before the Council or a Special Meeting, as the case may be when summoned to appear, the Council or the Special Meeting may proceed ex parte and such

failure to appear without reasonable written excuse on the part of the member shall in itself be conduct which may be dealt with under this Rule.

- 29.7 A summons to appear in accordance with this rule shall be served personally by the Executive Director or by A.R. certified post, on the member concerned.

30 - LEGAL REPRESENTATION

The Association may be represented in any proceedings before any Court or other Tribunal established by statute in defence of the trade interests of the members or for any other purpose permitted by these Rules by any persons whom the Council or the President may from time to time appoint, through the Executive Director.

31 - AUTHORISED AGREEMENTS

- 31.1 No industrial agreement, or other instrument, shall be executed by or on behalf of the Association unless there shall be present at the meeting of the Council with respect thereto, at least three-fourths of the members of such Council, and a resolution to that effect has been passed, and in execution the Common Seal of the Association shall be affixed to such agreement or other instrument.
- 31.2 In the case of any Industrial Agreement; it shall first be approved by a Special Meeting of members.

32 - ALTERATION OF RULES

- 32.1 These Rules may be amended, added to or repealed in the following manner.
- 32.1.1 It shall be competent for any member, or group of members, acting as a Committee appointed by the Council, to give notice in writing of its requests for an alteration to these Rules, setting out in full the desired alteration and the reasons for the request.
- 32.1.2 The Executive may also place before the Council any changes to the Rules which the Executive considers in the interests of the Association.
- 32.1.3 The Council shall then direct that the matter be referred to a Special Meeting of members. If three-quarters of the members present at such Special Meeting of members vote in favour of the proposed amendment, then the Rules shall be amended accordingly provided that such amendment is in accordance with any law under which the Association is registered.
- 32.1.4 In the event of the adopted amendment not complying with the said law, then such refusal to register the said amendment under law shall be referred back to the Council, who shall have power to frame the proposed amendment in order that it shall comply with the said laws for registration.
- 32.1.5 These Rules may be amended by a resolution of the Council where such amendments are required by the Industrial Registrar to effect compliance with the provisions of the said laws for registration.
- 32.1.6 Where Council determines that amendments are required to the Rules so as to:-
- (a) provide clarity;

- (b) remove anomalies;
- (c) improve grammar;
- (d) utilise Rule numbers the provisions of which have been deleted by previous rule changes;
- or
- (e) reflect the alterations required consequential to renumbering of rules;

then the rules may be so amended by a resolution of the Council.

32.1.7 The amendment of the Rules, upon registration, shall be advised to all members in writing by the Executive Director.

33 - DISSOLUTION OF THE ASSOCIATION

- 33.1 The members of the Association are not partners.
- 33.2 The liability of members to contribute, in the event of the affairs of the Association being wound up or dissolved, shall be limited to the equivalent of the subscription for one year.
- 33.3 In the event of the membership of the Association being reduced to 20 then the Association may be dissolved in the following manner:
 - 33.3.1 Any seven members may give notice to the Council of their desire to move that the Association be dissolved and the funds of the Association distributed in a manner clearly set forth to the satisfaction of the Council.
- 33.4 The Council may, by resolution adopted by not less than three quarters of all the members of the Council, at any time and for any reasons deemed fit by the Council, convene a Special Meeting of members to consider a resolution to dissolve the Association and if three-fourths of the members present at the meeting are in favour of the dissolution, the Association thereup be dissolved.
- 33.5 The Council shall then convene a Special Meeting of all members to determine the matter, and if three-fourths of the members present at the Special Meeting are in favour of the dissolution, the Association shall thereupon be dissolved. Prior to the dissolution or distribution of funds, it shall be imperative, so far as there are funds available, to make provision for satisfying all and every legitimate claim against the Association.
- 33.6 The Executive Director shall then give such notice of the dissolution as may be required by the laws under which the Association is registered, and shall cause notice of the dissolution to be published in two daily Sydney newspapers. Upon completion of these acts the Executive Director shall cease to be personally responsible for any other acts of whatsoever nature in respect of the Association or its activities up to the date of the notifications of dissolution as required by law.

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END OF RULES