

instrument is signed or a certified copy of the authority, are received in the places, fax numbers or electronic addresses at least:

- (1) 48 hours (or such other minimum period as may be prescribed by the Act from time to time); or
- (2) such lesser period specified for this purpose in the notice calling the meeting,

and for this purpose:

- (3) the place may be YHA Victoria's registered office or other place specified in the notice and a fax number or electronic address may be the fax number or electronic address at YHA Victoria's registered office or the fax number or electronic address specified in the notice; and
  - (4) the lesser period may be any time before the time set for holding the meeting or adjourned meeting.
- (h) The Directors may waive all or any of the requirements of rules 6.8(f) and 6.8(g) and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:
- (1) an oral appointment of a proxy;
  - (2) an appointment of a proxy which is not signed or executed in the manner required by rule 6.8(f); and
  - (3) the deposit, tabling or production of a copy (including a copy sent by facsimile) of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by YHA Victoria by the time and at 1 of the places at which the instrument appointing the proxy is required to be received under rule 6.8(g).
- (j) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.
- (k) A proxy and a Representative for the same Member may attend and take part in a general meeting but, if the proxy votes on any resolution, the Representative is not entitled to vote, and must not vote, as the Member's Representative on the resolution.

## **7. Directors**

### **7.1. General**

- (a) The Directors are *ex officio* the directors of YHA Ltd from time to time.
- (b) A Director is not entitled to be paid remuneration as a Director.
- (c) A Director is entitled to be paid all travelling and other expenses properly incurred by that Director in connection with the affairs of YHA Victoria.

### **7.2. No alternate directors**

A Director is not entitled to appoint an alternate director.

### 7.3. Interested Directors

- (a) A Director may hold any other office (other than auditor) in YHA Victoria or any related body corporate in conjunction with his or her Directorship and may be appointed to that office upon such terms as to tenure of office and otherwise (provided that the Director may not receive remuneration in that other capacity) as the Directors think fit.
- (b) A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by YHA Victoria or in which YHA Victoria may be interested as a shareholder or otherwise and is not accountable to YHA Victoria for any other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- (c) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by YHA Victoria in such manner in all respects as the Directors think fit (including voting in favour of any resolution appointing a Director as a director or other officer of that body corporate or voting for the payment of remuneration to the other officers of that body corporate) and a Director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that the Director is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A Director is not disqualified merely because of being a Director from contracting with YHA Victoria in any respect including, without limitation any of the following:
  - (4) selling any property to, or purchasing any property from, YHA Victoria;
  - (5) guaranteeing the repayment of any money borrowed by YHA Victoria for a commission or profit; or
  - (6) acting in any professional capacity (other than auditor) on behalf of YHA Victoria.
- (e) No contract made by a Director with YHA Victoria and no contract or arrangement entered into by or on behalf of YHA Victoria in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a Director or because of any fiduciary obligations arising out of that office.
- (f) No Director contracting with or being interested in any arrangement involving YHA Victoria is liable to account to YHA Victoria for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of any fiduciary obligations arising out of that office.
- (g) A Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
  - (1) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
  - (3) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement YHA Victoria may execute.
- (h) Rule 7.3(g) does not apply if, and to the extent that, it would be contrary to the Act (including without limitation provisions of the Act which regulate matters concerning material personal interests of directors).

- (i) The Directors may make regulations requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning YHA Victoria or a related body corporate and any regulations made under this constitution will bind all Directors.

#### **7.4. Powers and duties of Directors**

- (a) The Directors are responsible for managing the business of YHA Victoria and may exercise to the exclusion of YHA Victoria in general meeting all the powers of YHA Victoria which are not required, by the Act or by this constitution, to be exercised by YHA Victoria in general meeting.
- (b) Without limiting the generality of rule 7.4(a), the Directors may exercise all the powers of YHA Victoria to borrow or otherwise raise money, to charge any property or business of YHA Victoria and to issue debentures or give any other security for a debt, liability or obligation of YHA Victoria or of any other person.
- (c) The Directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of YHA Victoria.
- (d) The Directors may:
  - (1) appoint or employ any person to be an officer, agent or attorney of YHA Victoria for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for such period and upon such conditions as they think fit;
  - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
  - (3) subject to any contract between YHA Victoria and the relevant officer, agent or attorney and any applicable industrial law, remove or dismiss any officer, agent or attorney of YHA Victoria at any time, with or without cause.
- (e) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.

#### **7.5. Authority to act in the best interests of a holding body corporate**

For so long as YHA Ltd is the only member of YHA Victoria, each Director is authorised to act in the best interests of YHA Ltd, and if a Director acts in good faith in the best interests of YHA Ltd and YHA Victoria is not insolvent at the time the Director acts and does not become insolvent because of the Director's act, the Director is taken to act in good faith in the best interests of YHA Victoria.

#### **7.6. Proceedings of Directors**

- (a) The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means (allowing reasonable interaction between them) of a number of the Directors sufficient to constitute a quorum, constitutes a meeting of the Directors and all the provisions in this constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by telephone or other electronic means.
- (c) A Director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.

- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chair of the meeting provided that at least 1 of the Directors involved was at that place for the duration of the meeting.

#### **7.7. Convening of meetings of Directors**

- (a) The Chair or any 2 or more Directors may, whenever they think fit, convene a meeting of the Directors.
- (b) A secretary must, when requested by the Chair or on the requisition of any 2 Directors, convene a meeting of the Directors.

#### **7.8. Notice of meetings of Directors**

- (a) Subject to this constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Directors.
- (b) A notice of a meeting of Directors:
  - (1) must specify the time and place of the meeting;
  - (2) should where practicable state the nature of the business to be transacted at the meeting;
  - (3) may be given immediately before the meeting; and
  - (4) may be given in person or by post, or by telephone, fax or other electronic means.
- (c) In the absence of special circumstances, at least 48 hours notice of a meeting of the Directors should be given.
- (d) A Director may waive notice of any meeting of Directors by notifying YHA Victoria to that effect in person or by post, or by telephone, fax or other electronic means.
- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) before or after the meeting, the Director:
    - (A) has waived or waives notice of that meeting under rule 7.8(d); or
    - (B) has notified or notifies YHA Victoria of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
  - (3) the Director attended the meeting.
- (f) Attendance by a person at a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

#### **7.9. Quorum at meetings of Directors**

- (a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present during the time the business is dealt with.
- (b) A quorum consists of the greater of:

- (1) 3; and
  - (2) the number of Directors equal to half the number of Directors in office at the relevant time (rounded-down if the number of Directors in office at the relevant time is an odd number), plus 1 Director,
- present at the meeting of Directors.

#### **7.10. Chair**

- (a) The Chair has such powers and duties as set out in this constitution and as determined by the Directors.
- (b) The Chair must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chair at each meeting of Directors.
- (c) If at a meeting of Directors:
  - (1) there is no Chair;
  - (2) the Chair is not present within 10 minutes after the time appointed for the holding of the meeting; or
  - (3) the Chair is present within that time but is not willing to act as chair of the meeting,the Vice-Chair must, if present and willing to act, preside as chair, failing which the Directors present must elect 1 of themselves to chair the meeting.
- (d) Despite anything in rule 7.10(c), if the Chair and/or Vice-Chair later attends a meeting of Directors, the more senior of them from time to time who is willing to act must take over as chair of the meeting.

#### **7.11. Vice-Chair**

The Vice-Chair has such powers and duties as set out in this constitution and as determined by the Directors.

#### **7.12. Decisions of Directors**

- (a) A meeting of Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this constitution.
- (b) Questions arising at a meeting of Directors are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes a determination of the Directors.
- (c) other than in relation to the election of a chair under rule 7.10(c), in the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to his or her deliberative vote, has a casting vote.

#### **7.13. Written resolutions**

- (a) If:
  - (1) all of the Directors have received reasonable notice of a proposed act, matter, thing or resolution; and
  - (2) such number of Directors who are eligible to consider the act, matter, thing or resolution and who together are sufficient to constitute a quorum, assent

to a document containing a statement to the effect that the act, matter or thing has been done or resolution has been passed,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the Directors.

- (b) For the purposes of rule 7.13(a):
  - (1) the meeting is to be taken as having been held on the day on which, and at the time at which, the document was last assented to by 1 of those constituting that quorum;
  - (2) Two or more separate documents in identical terms each of which is assented to by 1 or more of the relevant Directors are to be taken as constituting one document; and
  - (3) a Director may signify assent to a document by signing the document or by notifying YHA Victoria of the Director's assent in person or by post, or by telephone, fax or other electronic means.
- (c) Where a Director signifies assent to a document otherwise than by signing the document, the Director must by way of confirmation sign the document at the next meeting of the Directors attended by that Director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

#### **7.14. Committees of Directors**

- (a) The Directors may, by adoption of a charter, establish a committee or committees:
  - (1) consisting of such number of Directors (being at least 2) as they think fit (but the Chair may not be a member of any audit or similar committee);
  - (2) consisting of such non-Directors and non-Members as they think fit;
  - (3) the chair of which must be a Director unless the relevant charter requires or allows otherwise; and
  - (4) with such persons including non-Directors and non-Members as observers, as they think fit.
- (b) Any:
  - (1) employee of YHA Victoria, YHA Ltd or a related body corporate of either who is a member of a committee may not vote on that committee; and
  - (2) non-Director or non-Member who is a member of a committee may only vote on that committee if the relevant charter permits.
- (c) The Directors may, in the relevant charter or by resolution, delegate any of their powers to a committee or committees.
- (d) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (e) The provisions of this constitution applying to meetings and resolutions of Directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of Directors.

#### **7.15. Delegation to individual Directors**

- (a) The Directors may delegate any of their powers to 1 Director.

- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.

#### **7.16. Validity of acts**

An act done by a person acting as a Director or by a meeting of Directors or a committee of Directors attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

### **8. Officers**

#### **8.1. Secretaries and other officers**

- (a) The Directors must appoint at least 1 secretary.
- (b) The Directors may employ officers.

#### **8.2. Provisions applicable to all officers**

- (a) A reference in this rule 8.2 to an executive officer is a reference to a secretary or officer appointed under rule 8.1.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (c) Subject to any contract between YHA Victoria and the relevant executive officer and any applicable industrial law, any executive officer of YHA Victoria may be removed or dismissed by the Directors at any time, with or without cause.
- (d) The Directors may:
  - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
  - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
  - (3) authorise the executive officer to delegate all or any of the powers, Discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to be a Member to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
  - (1) a defect in the person's appointment as an executive officer; or
  - (2) the person being disqualified to be an executive officer,If that circumstance was not known by the person when the act was done.

## **9. Indemnity and insurance**

### **9.1. Persons to whom rules 9.2 and 9.5 apply**

Rules 9.2 and 9.5 apply to each Official.

### **9.2. Indemnity**

Subject to rule 9.3, YHA Victoria must indemnify each Official on a full indemnity basis and to the full extent permitted by law against all Liabilities incurred by the Official as an Official, including without limitation:

- (a) a liability for negligence; and
- (b) A liability for reasonable legal costs.

### **9.3. Limit on indemnity**

- (a) The indemnity in rule 9.2 does not operate in relation to any Liability which:
  - (1) is a Liability to YHA Victoria or any of its related bodies corporate;
  - (2) is a Liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H, section 1317HA or section 1317HB of the Act; or
  - (3) arises out of conduct of the Official which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,

Provided that this rule 9.3 does not apply to a Liability for legal costs.

- (b) The indemnity in rule 9.2 does not operate in relation to legal costs incurred by the Official in defending an action for a Liability if the costs are incurred:
  - (1) in defending or resisting proceedings in which the Official is found to have a Liability referred to in rule 9.3(a);
  - (2) in defending or resisting criminal proceedings in which the Official is found guilty;
  - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
  - (4) in connection with proceedings for relief to the Official under the Act in which the court denies the relief.
- (c) If there is any appeal in relation to any proceedings referred to in rule 9.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 9.3(b).
- (d) The indemnity in rule 9.2:
  - (1) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
  - (2) does not operate in respect of any Liability of the Official to the extent that Liability is covered by insurance.

#### **9.4. Extent of indemnity**

The indemnity in rule 9.2:

- (a) is enforceable without the Official having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Official even though the Official may have ceased acting in the relevant role for YHA Victoria or its related bodies corporate; and
- (c) applies to Liabilities incurred both before and after the Adoption Date.

#### **9.5. Insurance**

YHA Victoria may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Official against any Liability incurred by the Official as an Official including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

#### **9.6. Savings**

Nothing in rule 9.2 or 9.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) Limits the capacity of YHA Victoria to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

#### **9.7. Deed**

YHA Victoria may enter into a deed with any Official to give effect to the rights conferred by rules 9.1 to 9.6, or the exercise of a discretion under rules 9.1 to 9.6 on such terms as the Directors think fit which are not inconsistent with rules 9.1 to 9.6.

### **10. Winding-up and Member's guarantee**

- (a) If, on the winding-up or dissolution of YHA Victoria any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to another organisation with similar purposes (whether or not a Member) and which has rules prohibiting the distribution of its assets and income to its members, as the majority of the Members present at a general meeting called for that reason decide by resolution, and in the absence of them making such a decision at that general meeting, as the Supreme Court of New South Wales decides.
- (b) Every Member undertakes to contribute to the property of YHA Victoria in the event of it being wound-up while the Member is a Member, or within 1 year after the Member ceases to be a Member, for payment of the debts and liabilities of YHA Victoria (contracted before the Member ceases to be a Member) and of the costs, charges, and expenses of winding-up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$20.

## **11. Minutes and records**

### **11.1. Minutes of meetings**

The Directors must ensure minutes of proceedings and resolutions of general meetings and of meetings of the Directors (including committees of the Directors) are recorded in books kept for that purpose, within 1 month after the relevant meeting is held.

### **11.2. Minutes of resolutions passed without a meeting**

The Directors must ensure that minutes of resolutions passed by Directors (and committees of Directors) without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed.

### **11.3. Signing of minutes**

- (a) The minutes of a meeting must be signed within a reasonable time by the chair of the meeting or by the chair of the next meeting.
- (b) The minutes of the passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution is passed.

### **11.4. Minutes as evidence**

A minute that is recorded and signed under rules 11.1 and 11.2 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

### **11.5. Inspection of records**

- (a) The Directors must ensure the minute books for general meetings are open for inspection by Members free of charge.
- (b) Subject to rule 11.5(a), the Directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, financial records and other documents of YHA Victoria or any of them will be open to the inspection of Members (other than Directors).
- (c) A Member (other than a Director) does not have the right to inspect any books, records or documents of YHA Victoria except as provided by law or authorised by the Directors.

### **11.6. Document retention and archives**

YHA Ltd must establish, maintain and administer policies as it sees fit for the retention and archiving of the minute books, financial records and other documents of YHA Victoria, consistent with:

- (a) legal requirements;
- (b) historical records preservation priorities;
- (c) confidentiality restrictions;
- (d) privacy considerations; and
- (e) other relevant matters.

## **12. Accounts and audit**

### **12.1. Accounts**

YHA Victoria must prepare and deal with such accounts as required by the Act.

## **12.2. Audit**

YHA Victoria must appoint a properly qualified auditor whose duties will be regulated in accordance with the Act.

## **13. Notices**

### **13.1. Notices by YHA Victoria to Members**

- (a) A notice may be given by YHA Victoria to a Member by serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the register of Members, or by:
  - (1) sending it to the fax number or electronic address, or such other address the Member has supplied to YHA Victoria for the giving of notices; or
  - (2) making a copy of it accessible electronically on a website of or relating to YHA Victoria.
- (b) The fact that a person has supplied a fax number or electronic address for the giving of notices does not:
  - (3) require YHA Victoria to give any notice to that person by fax or electronic means; or
  - (4) prevent YHA Victoria from giving any notice to that person in the manner envisaged by rule 13.1(a)(2).
- (c) A signature to any notice given by YHA Victoria to a Member under this rule 13.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.
- (d) A certificate signed by a Director or secretary of YHA Victoria to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

### **13.2. Notices by YHA Victoria to Directors**

Subject to this constitution, a notice may be given by YHA Victoria to any Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the fax number or electronic address, or such other address as the Director has supplied to YHA Victoria for the giving of notices.

### **13.3. Notices by Members or Directors to YHA Victoria**

Subject to this constitution, a notice may be given by a Member or Director to YHA Victoria by serving it on YHA Victoria at, or by sending it by post in a prepaid envelope to, the registered office of YHA Victoria or by sending it to the principal fax number or principal electronic address of YHA Victoria at its registered office.

### **13.4. Time of service**

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
  - (5) in the case of a notice of a general meeting – on the Business Day after the date of its posting; or
  - (6) in any other case – 3 Business Days after it is sent.
- (b) Where a notice is sent by fax or electronic means service of the notice is to be taken to be effected on the Business Day after the date it is sent.

#### **9.4. Extent of indemnity**

The indemnity in rule 9.2:

- (a) is enforceable without the Official having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Official even though the Official may have ceased acting in the relevant role for YHA Victoria or its related bodies corporate; and
- (c) applies to Liabilities incurred both before and after the Adoption Date.

#### **9.5. Insurance**

YHA Victoria may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Official against any Liability incurred by the Official as an Official including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

#### **9.6. Savings**

Nothing in rule 9.2 or 9.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) Limits the capacity of YHA Victoria to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

#### **9.7. Deed**

YHA Victoria may enter into a deed with any Official to give effect to the rights conferred by rules 9.1 to 9.6, or the exercise of a discretion under rules 9.1 to 9.6 on such terms as the Directors think fit which are not inconsistent with rules 9.1 to 9.6.

### **10. Winding-up and Member's guarantee**

- (a) If, on the winding-up or dissolution of YHA Victoria any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to another organisation with similar purposes (whether or not a Member) and which has rules prohibiting the distribution of its assets and income to its members, as the majority of the Members present at a general meeting called for that reason decide by resolution, and in the absence of them making such a decision at that general meeting, as the Supreme Court of New South Wales decides.
- (b) Every Member undertakes to contribute to the property of YHA Victoria in the event of it being wound-up while the Member is a Member, or within 1 year after the Member ceases to be a Member, for payment of the debts and liabilities of YHA Victoria (contracted before the Member ceases to be a Member) and of the costs, charges, and expenses of winding-up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$20.

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- (c) A Member (other than a Director) does not have the right to inspect any books, records or documents of YHA Victoria except as provided by law or authorised by the Directors.

### **11.6. Document retention and archives**

YHA Ltd must establish, maintain and administer policies as it sees fit for the retention and archiving of the minute books, financial records and other documents of YHA Victoria, consistent with:

- (a) legal requirements;
- (b) historical records preservation priorities;
- (c) confidentiality restrictions;
- (d) privacy considerations; and
- (e) other relevant matters.

## **12. Accounts and audit**

### **12.1. Accounts**

YHA Victoria must prepare and deal with such accounts as required by the Act.

## **12.2. Audit**

YHA Victoria must appoint a properly qualified auditor whose duties will be regulated in accordance with the Act.

## **13. Notices**

### **13.1. Notices by YHA Victoria to Members**

- (a) A notice may be given by YHA Victoria to a Member by serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the register of Members, or by:
  - (1) sending it to the fax number or electronic address, or such other address the Member has supplied to YHA Victoria for the giving of notices; or
  - (2) making a copy of it accessible electronically on a website of or relating to YHA Victoria.
- (b) The fact that a person has supplied a fax number or electronic address for the giving of notices does not:
  - (3) require YHA Victoria to give any notice to that person by fax or electronic means; or
  - (4) prevent YHA Victoria from giving any notice to that person in the manner envisaged by rule 13.1(a)(2).
- (c) A signature to any notice given by YHA Victoria to a Member under this rule 13.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.
- (d) A certificate signed by a Director or secretary of YHA Victoria to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

### **13.2. Notices by YHA Victoria to Directors**

Subject to this constitution, a notice may be given by YHA Victoria to any Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the fax number or electronic address, or such other address as the Director has supplied to YHA Victoria for the giving of notices.

### **13.3. Notices by Members or Directors to YHA Victoria**

Subject to this constitution, a notice may be given by a Member or Director to YHA Victoria by serving it on YHA Victoria at, or by sending it by post in a prepaid envelope to, the registered office of YHA Victoria or by sending it to the principal fax number or principal electronic address of YHA Victoria at its registered office.

### **13.4. Time of service**

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
  - (5) in the case of a notice of a general meeting – on the Business Day after the date of its posting; or
  - (6) in any other case – 3 Business Days after it is sent.
- (b) Where a notice is sent by fax or electronic means service of the notice is to be taken to be effected on the Business Day after the date it is sent.

- (c) Where YHA Victoria gives a notice under rule 13.1(a)(2), service of the notice is to be taken to be effected when the notice was 1st so made accessible.

#### **13.5. Other communications and documents**

Rules 13.1 to 13.4 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

#### **13.6. Notices in writing**

A reference in this constitution to a notice or other communication in writing includes a notice given by fax or electronic means.

### **14. General**

#### **14.1. Submission to jurisdiction**

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

#### **14.2. Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

### **15. Transitional provisions**

- (a) On and from the Adoption Date the secretary in office at that time holds that position under this constitution.
- (b) On and from the Adoption Date the Directors will be those persons described in rule 7.1(a).
- (c) On and from the Adoption Date until 1 March 2012 the existing by-laws and regulations of YHA Victoria remain in place, but they are revoked with effect on 1 March 2012.
- (d) Prior to completion of the Transition Process, no amendment to this constitution is of any effect unless it has been approved in writing by YHA Ltd.
- (e) On the 1st anniversary of the Adoption Date, this rule 15 ceases to have effect and is removed from this constitution.