

SEHCP Incorporated

Reg. No. A0058635Z, ABN 56 183 844 961

CONSTITUTION

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PART 2 – NAME AND PURPOSES

2. Name

The name of the incorporated association is “SEHCP Incorporated” (in this constitution, “SEHCP”).

Note: Under section 23 of the Act*, the name and registration number of SEHCP must appear in legible characters in all notices, advertisements and other official publications of SEHCP, and in all its business documents.

3. Purposes

- 3.1 The primary purpose of SEHCP is to be a health promotion charity that enables partnerships of health and social service organisations to be more effective in improving the health and wellbeing of the population.
- 3.2 The secondary purposes of SEHCP are:
- (1) to prevent health conditions and social disadvantage and vulnerability through improving social determinants of health on a population-wide basis;
 - (2) to increase the ability of carers, families and communities to prevent, respond to and support health conditions;
 - (3) to identify and support newly arising issues in our community that contribute to health or ill-health;
 - (4) through shared approaches to planning, to increase the efficiency and collective impact of organisations;
 - (5) to create and distribute effective models of practice, sponsor and translate relevant research findings, and provide multi-disciplinary and inter-sectoral education and workforce development;
 - (6) to influence the formation and implementation of government and organisational policies to increase the integration and co-ordination of services and encourage initiatives for health-related community development;
 - (7) to improve the social determinants of health and to build community and individual capacity to prevent health

conditions, respond effectively to these, and offer appropriate support; and

- (8) to raise, receive and distribute funds in a manner that best attains these purposes.

4. Legal Capacity and Powers

- 4.1 SEHCP has the legal capacity of an incorporated body.

See section 29(2) of the Act*.

- 4.2 SEHCP has power to do everything incidental or conducive to the attainment of its purposes.

See section 30(d) of the Act*.

- 4.3 SEHCP may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for its purposes.

5. Not For Profit Organisation

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

See section 33 of the Act*.

- 5.2 Clause 5.1 does not prevent SEHCP from paying its members:

- (a) reimbursement for expenses properly incurred by them, and
- (b) for goods supplied and services provided by them,

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

See section 4 of the Act*.

PART 3 – MEMBERSHIP

6. Minimum Number of Members

SEHCP must have at least 5 members.

See definition of “association” in section 3 and section 127(2)(a) of the Act*.

7. Categories and Eligibility

- 7.1 SEHCP has 2 categories of membership:

- (a) organisational members, and
- (b) associate members.

- 7.2 Any not-for-profit body that supports the purposes of SEHCP is eligible to be an organisational member.
- 7.3 Only organisational members are entitled to vote.
- 7.4 Any other individual or body that supports the purposes of SEHCP is eligible to be an associate member.
- 7.5 Associate members are not entitled to vote.
- 7.6 In clause 7.2, “not-for-profit body” includes government bodies.
- 7.7 In clauses 7.2 and 7.4, “body” includes incorporated and unincorporated bodies, and parts of incorporated and unincorporated bodies, subject to clause 7.8.
- 7.8 An unincorporated body, or part of an incorporated or unincorporated body may only become a member by nominating an individual or incorporated body to be a member on its behalf.
- 7.9 In this constitution, unless the contrary intention appears, “member” includes an unincorporated body, or part of an incorporated or unincorporated body represented by a member in accordance with clause 7.8.

8. Applications

Applications for membership must be:

- (a) in writing*, stating that the applicant:
- (i) wishes to become a member of SEHCP;
 - (ii) supports the purposes of SEHCP; and
 - (iii) agrees to comply with the constitution and regulations* (including the Code of Conduct*) of SEHCP;
- (b) signed by the applicant;
- (c) accompanied by the first subscription; and
- (d) sent or given to SEHCP.

9. Approval

- 9.1 The Board must:
- (a) by resolution approve or reject the application; and

- (b) notify the applicant in writing* whether the application has been approved or rejected.

- 9.2 No reason need be given for the rejection of an application.

- 9.3 If the Board approves the application:

- (a) the applicant becomes a member from the date of the Board meeting; and
- (b) the name and address of the new member, the category of membership and the date of becoming a member must be entered in the register of members.

- 9.4 If the Board rejects the application, it must return the subscription to the applicant.

10. Subscriptions

- 10.1 The Board must by regulation* set the subscription.
- 10.2 The amount of the subscription and the date for payment may vary according to criteria set by the Board in the regulation*, including the category of membership.
- 10.3 The voting and other rights of members who have not paid the subscription by the date for payment are suspended until the subscription is paid.
- 10.4 Except for the subscription, there are no entrance fees or other amounts to be paid in respect of membership of SEHCP.

11. Rights, Obligations and Liability

- 11.1 The rights of organisational members include:
- (a) to submit items of business for consideration at general meetings under clause 20.3;
 - (b) to receive notice of general meetings under clause 20;
 - (c) to participate in general meetings under clause 25;
 - (d) to elect the Board under clause 29; and
 - (e) to have access to the records of SEHCP under clause 59.

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

- 11.2 The rights of associate members include:

- (a) to receive notice of general meetings under clause 20;

- (b) to participate in general meetings under clause 25; and
- (c) to have access to the records of SEHCP under clause 59.

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

- 11.3 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 14.
- 11.4 By becoming and remaining members, members agree to support the purposes of SEHCP.
- 11.5 Members agree that all intellectual property created by them while participating in SEHCP belongs to SEHCP and must not be used without its permission.
- 11.6 Members must at all times comply with the constitution and regulations* (including the Code of Conduct*).
- 11.7 This constitution is an enforceable contract between SEHCP and each member.
See sections 46 and 67 of the Act*.
- 11.8 Members (including Board members) are not liable to contribute to the debts and liabilities of SEHCP only because of their membership.
See section 52(1) of the Act*.

12. Disciplinary Action

- 12.1 The Board may by resolution passed by an absolute majority* reprimand, suspend or expel a member for:
 - (a) failing to comply with the constitution or regulations*; or
 - (b) conduct prejudicial to SEHCP.
- 12.2 The Board must not pass a resolution under clause 12.1 unless the member concerned has been:
 - (a) informed of the grounds for the proposed disciplinary action; and
 - (b) given a reasonable opportunity to be heard.

See section 54(3)(a) of the Act*.
- 12.3 The Board:
 - (a) may delegate its powers under this clause to a disciplinary committee appointed by the Board; and

- (b) must do so if any Board member is biased against (or in favour of) the member concerned.

See section 54(3)(b) of the Act*.

12.4 The members of the disciplinary committee:

- (a) need not be Board members or members of SEHCP; but
- (b) must not be biased against (or in favour of) the member concerned.

See section 54(3)(b) of the Act*.

12.5 Clauses 12.1 and 12.2 apply to the disciplinary committee in the same way as the Board.

12.6 The disciplinary procedure under this clause must be completed as soon as is reasonably practicable.

See section 54(3)(c) of the Act*.

12.7 The Board must not take disciplinary action under this clause against a member who is a party to the grievance procedure under clause 16 until the grievance procedure has been completed.

12.8 SEHCP may not fine members.

13. Resignation

- 13.1 Members may resign in writing* given to SEHCP.
- 13.2 Members whose subscriptions are more than 1 year in arrears are taken to have resigned.

14. Cessation

- 14.1 Members cease to be members on resignation, expulsion, death or winding up.
- 14.2 If a member ceases to be a member:
 - (a) the date of ceasing to be a member must be entered in the register of members; and
 - (b) the address, category of membership and date of becoming a member of the former member must be removed from the register of members;

within 14 days.

See sections 56(3) and 56(4) of the Act*.

15. Register of Members

15.1 The Board must ensure that a register is kept containing:

- (a) in the case of current members:
 - (i) the name of the member,
 - (ii) the address for notices last given by the member,
 - (iii) category of membership, and
 - (iv) the date of becoming a member; and
- (b) in the case of former members:
 - (i) the name of the member, and
 - (ii) the date of ceasing to be a member.

See section 56 of the Act*.

15.2 Members may inspect and obtain copies of the register in accordance with clause 59.

See section 57 of the Act*.

16. Grievance Procedure

16.1 The grievance procedure in this clause applies to disputes under this constitution between:

- (a) a member and another member, and
- (b) a member and the Board or SEHCP.

16.2 The parties must first attempt to resolve the dispute themselves.

16.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).

16.4 The conciliator:

- (a) must not have a personal interest in the dispute;
- (b) must not be biased in favour of or against any party;
See section 55(3)(b) of the Act*.
- (c) may be a member or former member of SEHCP; and
- (d) if possible, must be appointed with the agreement of all parties.

16.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.

See section 55(3)(a) of the Act*.

16.6 The parties must in good faith attempt to resolve the dispute by conciliation.

16.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.

16.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.

16.9 A determination of a conciliator under clause 16.8 is binding on the parties and all members.

16.10 A party may appoint another person to act on its behalf in the grievance procedure.

See section 55(2) of the Act*.

16.11 A member who is the subject of a disciplinary procedure under clause 12 must not initiate the grievance procedure under this clause until the disciplinary procedure has been completed.

See section 54(4) of the Act*.

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

PART 4 – GENERAL MEETINGS

17. Annual General Meeting

17.1 The Board must convene* an annual general meeting each year.

See section 63(1) of the Act*.

17.2 The annual general meeting must be held within 5 months after the end of SEHCP’s financial year under clause 52.

See section 63(4) of the Act*.

17.3 At the annual general meeting, the Board must submit to the members:

- (a) the financial statements for the last financial year prepared in accordance with clause 55, and
- (b) if required by clause 56 – the accompanying review or audit report.

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

17.4 The ordinary business of the annual general meeting is:

- (a) to verify the minutes of:
 - (i) the last annual general meeting, and

(ii) any special general meetings since the last annual general meeting;

(b) to consider the annual report of the Board on the activities of SEHCP during its last financial year; and

(c) to consider the financial statements and any accompanying review or audit report

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

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

(a) the Board member attended the annual general meeting; and

(b) the financial statements were submitted to the members at the annual general meeting.

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

17.7 The Secretary must lodge with the Registrar*:

(a) an annual statement in the form approved by the Registrar*;

(b) the financial statements and any accompanying review or audit report, and

(c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,

within 1 month after the annual general meeting.

See section 102 of the Act*.

18. Special General Meetings

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

18.2 The Board must convene* a special general meeting on the request in writing* of at least 25% of members entitled to vote.

18.3 The request:

(a) must state the business to be considered at the meeting, including any resolution to be proposed;

(b) may consist of multiple copies of the same document;

(c) must include the names, addresses and signatures of the members making the request; and

(d) must be given to SEHCP.

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

18.5 A special general meeting convened by members under clause 18.4:

(a) must be held within 3 months of the original request having been made; and

(b) may only consider the business stated in the original request.

18.6 SEHCP must reimburse all reasonable expenses incurred by the members convening a special general meeting under clause 18.4.

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

19. Membership Forums

The Board may convene and conduct general meetings (or parts of general meetings) informally in the form of membership forums.

20. Notice

20.1 At least 21 days notice in writing* of general meetings must be given to each member.

Compare section 60 of the Act*.

20.2 The notice must state:

(a) the date, time and place (or places) of the meeting,

See section 60(a) of the Act*.

(b) if the meeting is to be held at more than 1 place – the technology that will be used,

(c) the general nature of each item of business to be considered, and

(d) if a special resolution* is to be proposed:

(i) the proposed resolution in full, and

- (ii) the intention to propose the resolution as a special resolution*.

See section 64(3) of the Act*.

- 20.3 The notice must include under clause 20.2(c) any item of business that any organisational member has requested in writing* be considered at least 21 days before the notice is sent.
- 20.4 The notice must also include:
- (a) a statement that members that are incorporated bodies may appoint a representative to attend on their behalf in accordance with clause 21, and
 - (b) a copy of clause 21.
- 20.5 The notice may include a form of appointment for the purposes of clause 21, but members are not required to use the form.
- 20.6 Despite clause 20.1, the accidental omission to give notice of the meeting to a member or members, or the non-receipt by a member or members of notice of the meeting does not invalidate the meeting.

21. Representatives

- 21.1 Members that are incorporated bodies may appoint individuals to represent them at general meetings.
- 21.2 Appointments of representatives must be:
- (a) in writing*, naming the individual (or individuals, in order) appointed;
 - (b) sealed by, or signed on behalf of, the member making the appointment; and
 - (c) given to the chair of the meeting before or at the commencement of the meeting.
- 21.3 Representatives may exercise all the rights of members under this Part.

22. Use of Technology

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

See section 62 of the Act*.

23. Quorum

- 23.1 The quorum for consideration of the ordinary business of the annual general meeting is the presence in person or by representative of at least 5 members entitled to vote.
- 23.2 The quorum for consideration of a proposed resolution (including a special resolution) recommended by the Board is the presence in person or by representative of at least 10% of members entitled to vote.
- 23.3 The quorum for the consideration of all other business at general meetings is the presence in person or by representative of at least 25% of members entitled to vote.
- 23.4 If a quorum is not present within 30 minutes from the time of the meeting of which notice has been given, the meeting must not proceed.

24. Chairing

- 24.1 The Chair is entitled to chair general meetings.
- 24.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.
- 24.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the meeting must elect another member to chair.
- 24.4 The chair of the meeting does not have a casting vote.

25. Participation

- 25.1 All members are entitled to attend general meetings.
See section 61 of the Act*.
- 25.2 Only organisational members are entitled to speak and vote at general meetings.
See section 61 of the Act*.
- 25.3 Clauses 25.1 and 25.2 do not apply to members whose rights have been suspended under clause 10.3 or 12.1.
See section 61 of the Act*.

26. Voting

- 26.1 Each organisational member has 1 vote.

- 26.2 Organisational members may only vote in person or by representative. There is no voting by proxy.
- 26.3 Unless a poll is demanded:
- (a) voting is by show of hands; and
 - (b) the declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.
- See section 65 of the Act*.
- 26.4 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

27. Polls

- 27.1 In this clause, a “poll” means where votes are cast in writing.
- 27.2 Any member entitled to vote (including the chair of the meeting) may demand a poll before or immediately after the declaration of the result on a show of hands.
- See section 65(3) of the Act*.
- 27.3 The poll must be taken as directed by the chair of the meeting.

PART 5 – THE BOARD

28. Membership

- 28.1 The Board has:
- (a) 4 elected Board members – 2 elected each year under clause 29, with staggered 2 year terms; and
 - (b) up to 3 co-opted Board members – appointed under clause 31.
- 28.2 Employees of SEHCP are not eligible to be elected or appointed as Board members.

29. Election

- 29.1 The notice of each annual general meeting must include a call for nominations for 2 Board members.
- 29.2 Only individuals who are organisational members or the representatives of organisational members entitled to vote at the annual general meeting are eligible:
- (a) to be elected as Board members; and
 - (b) to nominate candidates and second nominations.

- 29.3 Nominations must be signed by:
- (a) the nominator and seconder, and
 - (b) the candidate, consenting to the nomination.
- 29.4 The Board may by regulation* prescribe a nomination form for the purposes of clause 29.3, in which case nominations must be in the prescribed form.
- 29.5 Nominations (or an emailed or faxed copy) must be received by SEHCP no later than 4.00 p.m. 2 weeks before the annual general meeting.
- 29.6 If there are only 2 nominations, those candidates are elected.
- 29.7 If there are more than 2 nominations, a postal ballot must be held before the annual general meeting in accordance with clause 30.
- 29.8 If there are fewer than 2 nominations, any candidate who has nominated is elected, and the Board must fill the remaining vacancy or vacancies in accordance with clause 32.8.

30. Ballot

- 30.1 The Board must appoint a returning officer to conduct the ballot (who may be the Executive Officer*).
- 30.2 The candidates may submit with their nomination a statement of up to 200 words in support of their election.
- 30.3 The election must be by secret postal ballot.
- 30.4 The returning officer must send each organisational member:
- (a) a ballot paper with the names of the candidates listed in an order decided by lot, and
 - (b) the statements (if any) submitted by the candidates.
- 30.5 Voters must cross off the names of those candidates they do not wish to vote for, leaving the names of those candidates they do wish to vote for.
- 30.6 Voters must cross off sufficient names so that the number of candidates whose names have not been crossed off is 2 or fewer.
- 30.7 Ballot papers that do not comply with clause 30.6 are informal.

- 30.8 Each formal ballot paper where the name of a candidate has not been crossed off counts as 1 vote for that candidate.
- 30.9 Ballot papers must be returned to the returning officer no later than 4.00 p.m. the day before the annual general meeting.
- 30.10 The returning officer must declare elected the 2 candidates who receive the most votes, subject to clause 30.11.
- 30.11 If 2 or more candidates receive the same number of votes, and 1 or some but not all of those candidates are to be elected, the returning officer must decide by lot which is to be elected.

31. Co-option

- 31.1 The Board may:
- (a) at its first meeting after the annual general meeting each year, and
 - (b) at any subsequent meeting,
- co-opt up to 3 individuals as Board members.
- 31.2 Co-opted Board members must be, or become, members of SEHCP.
- 31.3 The Board may by resolution decide when the term of office of a co-opted Board member is to begin and end.
- 31.4 Before co-opting Board members, SEHCP may call for expressions of interest, by advertisement or otherwise.

32. Term of Office

- 32.1 Elected Board members hold office:
- (a) from the end of the annual general meeting held immediately after they are elected,
 - (b) until the end of the second annual general meeting after that meeting,
- subject to clauses 32.3–32.7.
- 32.2 Co-opted Board members hold office:
- (a) from the time they are co-opted,
 - (b) until the end of the annual general meeting after they are co-opted,
- subject to clauses 31.3 and 32.3–32.7.
- 32.3 Board members may be re-elected and co-opted again.

- 32.4 Board members may resign in writing* given to the Board.
- See section 78(2)(a) of the Act*.
- 32.5 Board members cease to be Board members if they:
- (a) cease to be members of SEHCP;
 - (b) become an employee of SEHCP;
 - (c) become insolvent under administration; or
- See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
- (d) become a represented person under the Victorian *Guardianship and Administration Act 1986*.
- See section 78(2) of the Act*.
- 32.6 The Board may by resolution passed by an absolute majority* remove:
- (a) a co-opted Board member, or
 - (b) an elected Board member who has failed to attend all Board meetings for 3 months or more without leave of absence under clause 49.
- 32.7 A general meeting may by resolution passed by a simple majority:
- (a) remove any Board member; and
 - (b) fill the resulting vacancy.
- Compare section 78(2)(b) of the Act*.
- 32.8 If there is a vacancy in its membership (including a vacancy in accordance with clause 32.7(a) not filled under clause 32.7(b)), the Board may appoint an individual who would be eligible to be elected under clause 29.2 to fill the vacancy for the remainder of the term of office.
- 32.9 The Board may continue to act despite any vacancy in its membership.
- 32.10 Even if it is subsequently found that a person who has acted as a Board member was not properly elected or appointed, the validity of:
- (a) the acts of that person as a Board member, and
 - (b) decisions of Board meetings in which that person has participated,
- is not affected.

33. Responsibility and Powers

- 33.1 The Board is responsible for both the governance and management of SEHCP.
- 33.2 The Board must by regulation* delegate the management of SEHCP to the Executive Officer*.
- 33.3 The Board may exercise all powers of SEHCP on its behalf.
- 33.4 The Board may by resolution:
- (a) establish committees with such membership and terms of reference as it considers appropriate; and
 - (b) delegate its powers as it considers appropriate.
- 33.5 No delegation by the Board under this clause limits the duties and liability of each Board member.

34. Regulations

- 34.1 The Board may by resolution passed by an absolute majority* make regulations to give effect to this constitution.
- 34.2 The Board must by regulation* prescribe a code of conduct for members (in this constitution, the “Code of Conduct”).
- 34.3 Members must at all times comply with the regulations (including the Code of Conduct*) as if they formed part of this constitution.

35. Public Statements

- 35.1 The Board may by regulation* or resolution authorise the Chair, the Secretary or another person to make public statements on behalf of SEHCP.
- 35.2 No person may make any public statement on behalf of SEHCP unless authorised by the Board.

36. Duties

- 36.1 Board members and former Board members must not make improper use of:
- (a) their position, or
 - (b) information acquired by virtue of holding their position,
- so as:
- (c) to gain an advantage for themselves or any other person; or

- (d) to cause detriment to SEHCP.

See section 83 of the Act*.

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

See section 84 of the Act*.

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

- (a) in good faith in the best interests of SEHCP; and

- (b) for a proper purpose.

See section 85 of the Act*.

37. Indemnity

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

See section 87 of the Act*.

PART 6 – OFFICE-BEARERS

38. Positions

- 38.1 The office-bearers of SEHCP are:

- (a) the Chair,
- (b) the Deputy Chair, and
- (c) the Secretary,

subject to clause 38.2.

- 38.2 The Board may by regulation* establish other office-bearer positions.

39. Election

- 39.1 The Board must at its first meeting after the annual general meeting each year elect the office-bearers (except the Secretary) from among the Board members.

- 39.2 Office-bearers may be re-elected.

40. Term of Office

- 40.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 40.2–40.5.

- 40.2 Office-bearers may resign in writing* given to the Board.

- 40.3 Office-bearers who cease to be Board members, other than by the expiry of their term of office, cease to be office-bearers.

- 40.4 Office-bearers may be removed by resolution of the Board passed by an absolute majority*.
- 40.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.
- 40.6 This clause does not apply to the Secretary.

41. Secretary

- 41.1 The Executive Officer* is the Secretary of SEHCP, subject to clauses 41.5–41.7 and 41.10.
- 41.2 The Secretary is the secretary of SEHCP for the purposes of the Act*.
- 41.3 The Secretary must notify the Registrar* within 14 days of appointment.
See section 74 of the Act*.
- 41.4 The Secretary whose appointment was last notified to the Registrar* remains the secretary of SEHCP in some circumstances under the Act* until the appointment of a new Secretary is notified.
See section 215 of the Act*.
- 41.5 The Secretary may resign in writing* given to the Board.
See section 78(2)(a) of the Act*.
- 41.6 The Secretary ceases to be the Secretary if they:
- (a) become insolvent under administration;
See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
 - (b) become a represented person under the Victorian *Guardianship and Administration Act 1986*; or
 - (c) cease to reside in Australia.
See section 78(2) of the Act*.
- 41.7 A general meeting may by resolution passed by a simple majority:
- (a) remove the Secretary; and
 - (b) fill the resulting vacancy.
Compare section 78(2)(b) of the Act*.
- 41.8 The Board must fill any vacancy in the position of Secretary within 14 days (except for a vacancy already filled under clause 41.7(b)).
See section 73 of the Act*.

- 41.9 The Secretary is not a Board member in that capacity, but must attend all Board meetings, unless excused or requested not to by the Board.
- 41.10 If there is no Executive Officer*, the Board must appoint another individual as Secretary or acting Secretary.

PART 7 – BOARD MEETINGS

42. Convening

- 42.1 The Secretary, Chair or any 3 Board members may convene* a Board meeting.
- 42.2 Ordinary Board meetings must be held at least 6 times each year.
- 42.3 At its first meeting after the annual general meeting each year the Board must by resolution set the dates, times and places of ordinary Board meetings until the next annual general meeting.
- 42.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

43. Notice

- 43.1 Each Board member must be given at least 7 days notice in writing* of Board meetings, subject to clause 43.4.
- 43.2 Notice may be given of more than 1 Board meeting at the same time.
- 43.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.
- 43.4 In cases of urgency a meeting may be held without the notice required by clause 43.1, provided that:
- (a) as much notice as practicable is given to each Board member by the quickest practicable means; and
 - (b) resolutions may only be passed by an absolute majority*.

44. Use of Technology

- 44.1 Board meetings may be held at more than 1 place, provided that the technology used enables each Board member present at all places the meeting is held to clearly and simultaneously communicate with every other such Board member.
See section 79 of the Act*.

44.2 Without limiting clauses 43.4(a) and 44.1, Board meetings may be convened* and held by telephone.

45. Quorum

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

46. Chairing

46.1 The Chair is entitled to chair Board meetings.

46.2 If the Chair is not present, or does not wish to chair the meeting, the Deputy Chair is entitled to chair.

46.3 If neither the Chair nor the Deputy Chair is present, or if neither wishes to chair the meeting, the Board must elect another Board member to chair.

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

47. Voting

47.1 Each Board member has 1 vote.

47.2 There is no voting by proxy.

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

48. Conflict of Interest

48.1 Board members who have a material personal interest in a matter that is being considered at a Board meeting must:

- (a) disclose the nature and extent of their interest:
 - (i) to the Board as soon as they become aware of the interest; and
 - (ii) at the next general meeting;
- (b) not be present while the matter is being considered at the meeting; and
- (c) not vote on the matter.

See sections 80 and 81 of the Act*.

48.2 Clause 48.1 does not apply to material personal interests that:

- (a) exist only because the Board member is a member of a class of persons for whose benefit SEHCP is established; or

(b) the Board member has in common with all or a substantial proportion of the members of SEHCP.

See sections 80 and 81 of the Act*.

49. Leave of Absence

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

49.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board member concerned to seek leave of absence in advance.

50. Resolutions without Meeting

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

50.2 In clause 50.1, “all Board members” does not include those Board members who:

- (a) would be prohibited by clause 48.1(c) from voting on the matter at a Board meeting; or
- (b) have leave of absence from Board meetings under clause 49.

PART 8 – FINANCIAL AND LEGAL

51. Sources of Funds

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

52. Financial Year

The financial year of SEHCP is from 1 July to 30 June.

53. Management of Funds

53.1 The Board is responsible for the management of the funds of SEHCP.

53.2 SEHCP must keep financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared in accordance with clause 55.

See section 89(1) of the Act*.

53.3 All money received by or on behalf of SEHCP must be deposited without delay into a bank account in the name of SEHCP.

54. Payments

54.1 All payments by SEHCP must be:

- (a) specifically authorised in writing*, and
- (b) in the case of cheques – signed,

by at least 2 persons nominated by the Board by regulation* or resolution.

54.2 The Board may nominate a list of individuals or positions for the purposes of clause 54.1.

54.3 Signatories must not sign cheques until the payee and amount have been written in.

55. Financial Statements

55.1 In this clause and clause 56:

- (a) “tier one association” means an incorporated association that has a total revenue of less than \$250,000;
- (b) “tier two association” means an incorporated association that has a total revenue of between \$250,000 and \$1 million;
- (c) “tier three association” means an incorporated association that has a total revenue of more than \$1 million; and
- (d) “total revenue” means the total income of the incorporated association during its last financial year from all the activities of the association before any expenses, including the cost to the association of goods sold by it, are deducted.

See section 90 of the Act*.

55.2 Despite clause 55.1, if SEHCP is required to be audited as a condition of funding by a government or philanthropic body, SEHCP is taken to be tier three association for the purposes of this clause and clause 56.

55.3 As soon as practicable after the end of SEHCP’s financial year under clause 52, the Board must cause financial statements of SEHCP for that year to be prepared in accordance with this clause.

See sections 92(1), 95(1) and 98(1) of the Act*.

55.4 For tier one associations, the financial statements must give a true and fair view of the financial position and performance of the association during and at the end of its last financial year.

See section 92(2)(a) of the Act*.

55.5 For tier two associations and tier three associations, the financial statements must be prepared in accordance with the Australian Accounting Standards.

See sections 95(2)(a) and 98(2)(a) of the Act*.

55.6 The financial statements must contain particulars of:

- (a) the income and expenditure of SEHCP during and at the end of its last financial year,
- (b) the assets and liabilities of SEHCP at the end of its last financial year,
- (c) the mortgages, charges and securities of any description affecting any property of SEHCP at the end of its last financial year,
- (d) the same particulars in respect of each trust of which SEHCP was trustee during any part of its last financial year, and
- (e) any trust, held on behalf of SEHCP by a person or body other than SEHCP, in which funds or assets of SEHCP are placed.

See section 101(1) of the Act*.

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

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

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

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

55.9 The Board must submit the financial statements (including the attached certificate) to the annual general meeting under clause 17.3(a).

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

55.10 If different amounts are prescribed under the Act*, the amounts in clause 55.1 are varied accordingly.

See section 90 of the Act*.

56. Review and Audit of Accounts

56.1 For tier two associations, the Board must:

- (a) have the financial statements reviewed in accordance with the Act*; and
- (b) submit the review report to the annual general meeting under clause 17.3(b).

See sections 96 and 97(2)(c) of the Act*.

56.2 For tier three associations, the Board must:

- (a) have the financial statements audited in accordance with the Act*; and
- (b) submit the audit report to the annual general meeting under clause 17.3(b).

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

56.3 For tier one associations, if a majority of the members present at a general meeting vote to have the financial statements reviewed, the financial statements must be reviewed as if it were a tier two association.

See section 93 of the Act*.

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

See sections 106 and 107 of the Act*.

57. Minutes

57.1 The Board must ensure that minutes are taken and kept of all general meetings and Board meetings (including resolutions without meeting).

See item 14 of Schedule 1 of the Act*.

57.2 The minutes of annual general meetings must include a copy of the financial statements and any accompanying review or audit report submitted at the meeting in accordance with clause 17.3.

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

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

See item 15 of Schedule 1 of the Act*.

57.4 Members may inspect and obtain copies of minutes in accordance with clause 59.

58. Retention of Records

58.1 The Board must provide for the safe keeping of the records of SEHCP.

58.2 SEHCP must keep its financial records for at least 7 years after the transactions covered by the records are completed.

See section 89(2) of the Act*.

58.3 SEHCP must keep the financial statements submitted to the annual general meeting for at least 7 years after the annual general meeting.

See section 105(1) of the Act*.

58.4 SEHCP must keep the certificate referred to in clause 17.6 for at least 7 years after the certificate was signed.

See section 105(2) of the Act*.

58.5 SEHCP must keep all its other records for at least 7 years after the record was created.

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

See section 88 of the Act*.

59. Access to Records

59.1 Members may on request inspect:

- (a) the register of members,
- (b) the minutes of general meetings,
- (c) a copy of any trust deed referred to in clause 55.6(e), and
- (d) subject to clause 59.2, the other records of SEHCP, including the minutes of Board meetings,

at any reasonable time.

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

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

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

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

See section 53 of the Act*.

59.4 The Board must within 7 days of request make copies of:

- (a) the register of members (subject to clause 59.5), and
- (b) the minutes of general meetings, available to members without charge.

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

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

See section 59 of the Act*.

60. Use of Register of Members

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

See section 58 of the Act*.

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

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

See section 58 of the Act*.

61. Signing of Documents

61.1 SEHCP may sign contracts and other documents either:

- (a) by using a common seal – refer clause 62; or
- (b) by having the document signed by 2 Board members.

See section 38 of the Act*.

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

62. Common Seal

62.1 SEHCP may have a common seal.

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

62.2 Clauses 62.3–62.7 only apply if SEHCP has a common seal.

62.3 The name of SEHCP must appear in legible characters on the common seal.

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

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

62.5 The sealing must be witnessed by the signatures of at least:

- (a) 2 Board members, or
- (b) 1 Board member and the Secretary, nominated by the Board by regulation* or resolution.

62.6 The Board may nominate a list of individuals or positions to be signatories for the purpose of clause 62.5.

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

63. Registered Address

63.1 SEHCP must have a registered address for the service of documents on SEHCP.

See sections 28 and 217 of the Act*.

63.2 The registered address of SEHCP must be the address of the principal office of SEHCP, unless the Board by resolution nominates a different address.

63.3 SEHCP must notify the Registrar* within 14 days of any change of registered address.

See section 28(3) of the Act*.

64. Amendment of Constitution

64.1 This constitution may only be amended by special resolution*.

See section 50(1) of the Act*.

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

See section 50(2) of the Act*.

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

See section 50(3) of the Act*.

65. Winding Up

65.1 SEHCP may be wound up voluntarily by special resolution*.

See section 125 of the Act*.

65.2 If SEHCP is:

- (a) wound up voluntarily or otherwise; or
 - (b) its incorporation is cancelled;
- the surplus assets of SEHCP must not be distributed to any member.

See section 132(4) of the Act*.

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

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

subject to clauses 65.5, 66.2(e) and 66.2(f).

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

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

See section 132(3) of the Act*.

66. Tax Deductibility

66.1 In this clause:

- (a) “contributions” and “fund-raising event” have the same meaning as in Division 30 of the Tax Act;
- (b) “DGR” means a deductible gift recipient under Division 30 of the Tax Act;

(c) “gift funds” means:

- (i) gifts and contributions to SEHCP, and
- (ii) money received by SEHCP because of such gifts and contributions; and

(d) “the Tax Act” means the Commonwealth *Income Tax Assessment Act 1997*.

66.2 If SEHCP has been endorsed as a DGR:

- (a) receipts for gifts to SEHCP must include:
 - (i) the name and ABN of SEHCP, and
 - (ii) the fact that the receipt is for a gift;
- (b) receipts for contributions to SEHCP in relation to a fund-raising event must include:
 - (i) the name and ABN of SEHCP, and
 - (ii) the other information required by section 30-228 of the Tax Act;
- (c) SEHCP must keep records that record and explain all transactions and other acts it engages in relevant to its status as a DGR for at least 5 years;
- (d) the records must show that SEHCP uses gift funds only for the principal purpose of SEHCP;
- (e) on winding up of SEHCP or revocation of its endorsement (whichever occurs earlier), any surplus gift funds must be transferred to another DGR; and
- (f) on winding up or dissolution of SEHCP its surplus assets other than any surplus gift funds must also be given to another DGR.

67. Notices

67.1 Members must give SEHCP their address for notices, and any change in that address.

67.2 The address for notices may include an email address and a fax number.

67.3 SEHCP must enter any change in the address of a member in the register of members without delay.

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

- 67.5 In this constitution a period of notice of a meeting expressed in days:
- (a) does not include the day on which notice is given; but
 - (b) includes the day on which the meeting is held.
- 67.6 Notices sent by prepaid post are taken to have been given on the second day after posting that is not a Saturday, Sunday or public holiday at that address.
- 67.7 Notices sent by email or fax are taken to have been given on the first day after sending that is not a Saturday, Sunday or public holiday at that address.
- 67.8 In this clause, “member” includes a Board member.

68. Interpretation

- 68.1 In this constitution, unless the contrary intention appears:
- (a) “absolute majority” means a majority of the votes of all Board members entitled to vote at the time, whether or not those Board members are present, and whether or not they vote;
 - (b) “the Act” means the Victorian *Associations Incorporation Reform Act 2012*;
 - (c) “Code of Conduct” has the meaning given in clause 34.2;
 - (d) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
 - (e) “the Executive Officer” means the senior employee of SEHCP;
 - (f) “member” has the extended meanings given in clauses 7.9 and 21.3;
 - (g) “the Registrar” means the Registrar of Incorporated Associations under the Act*;
 - (h) “regulations” means regulations of SEHCP made under clause 34, and “regulation” has a corresponding meaning;
 - (i) “SEHCP” has the meaning given in clause 2;

- (j) “special resolution” means a resolution:
 - (i) to amend this constitution;
 - (ii) to change the name of SEHCP;
 - (iii) to amalgamate SEHCP with another association incorporated under the Act*; or
 - (iv) to wind up SEHCP;which may only be passed at a general meeting where:
 - (v) at least 21 days notice of the proposed resolution has been given to all members entitled to vote;
 - (vi) the notice specifies that it is intended that the resolution be proposed as a special resolution; and
 - (vii) at least three-quarters of those members who vote at the meeting (whether in person or by representative), vote in favour; and

See section 64 of the Act*.

- (k) “in writing” includes emails and documents sent electronically.

- 68.2 Where this constitution requires a document to be signed, in the case of an incorporated body the document must either be sealed, or signed on its behalf.
- 68.3 The headings form part of this constitution.
- 68.4 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.
- 68.5 This constitution is to be interpreted in accordance with the Victorian *Interpretation of Legislation Act 1984* as if this constitution were an Act of the State of Victoria, unless the contrary intention appears.
- 68.6 The Board is responsible for the interpretation of the constitution and regulations*.
- 68.7 The provisions of this constitution are the rules of SEHCP for the purposes of the Act*.
- 68.8 This constitution is intended to make provision for all matters required by the Act*, with the intention that none of the model rules prescribed under the Act* apply to SEHCP.

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

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