

Organisation for the Rescue & Research of Cetaceans in Australia.

ORRCA: *for the rescue, research,
conservation, protection and welfare of
whales, dolphins, seals, and dugongs in
Australian waters.*

Photo by Jodie Lowe, ORRCA member.



ORRCA Inc. Constitution for Members
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ORRCA Inc. Constitution for Members

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Part 1. Preliminary

1. Interpretation

- (1) In these Rules, except in so far as the context or subject matter otherwise indicates:
- (a) **Annual General Meeting** means a general meeting of the Association to be held in accordance with Part 4 of these Rules.
 - (b) **Association** refers to ORRCA Incorporated, the Organisation for the Rescue and Research of Cetaceans in Australia (ABN 19 416 546 368).
 - (c) **Committee** means the Association's committee of management.
 - (d) **Ex-Officio** means a Member appointed to a Committee or sub-committee who may participate in the business conducted by the Committee or sub-committee but shall not have voting rights on the Committee or sub-committee.
 - (e) **Financial Member** means a Member who contributes to the Association financially in the form of payment of prescribed Membership fees.
 - (f) **Honorary Member** means a person or organisation of stature in the field of marine mammals, to whom the Committee has extended Membership gratis.
 - (g) **Member** means any person whose name appears on the Register of Members, or the representative of a family or group whose name appears on the Register of Members, and **Membership** has a corresponding meaning.
 - (h) **Ordinary Committee Member** means a Member of the Committee who is not an office-bearer of the Association.
 - (i) **ORRCA Public Gift Fund** means the public gift fund of the Association.
 - (j) **Rescue Hotline** means the Association's telephone number, on which marine mammal emergencies may be reported by various organisations and the public.
 - (k) **Special General Meeting** means a general meeting of the Association other than an Annual General Meeting.
 - (l) **Site Controller** means a Member of the Association who has been appointed to direct the Association's operations on-site during a rescue or research operation.
 - (m) **the Act** means the *Associations Incorporation Act 2009 (NSW)*.
 - (n) **the Regulation** means the *Associations Incorporation Regulation 2016 (NSW)*.
 - (o) **Supporting Member** means a Financial Member who has not completed their rescue training.

- (2) In these Rules:
 - (a) a reference to a function includes a reference to a power, authority, and duty; and
 - (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

- (3) The provisions of the *Interpretation Act 1987* (NSW) apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

2. Aims and Objects

- (1) The aims and objectives of the Association are:
 - (a) To maintain and expand a network of skilled volunteers for the rescue of distressed marine mammals, particularly cetaceans.
 - (b) To participate in and facilitate the collection of research data on marine mammals.
 - (c) To provide an effective means of receiving reports of marine mammal distress situations (e.g., strandings) and research opportunities (e.g., dead animals), via a telephone hotline.
 - (d) To conduct training sessions in rescue and research methods, for eligible Members of the Association.
 - (e) To liaise and assist in marine mammal rescue with:
 - I. the appropriate State body, for example the NSW National Parks and Wildlife Service; and
 - II. other recognised organisations and services, as deemed appropriate by the Committee.
 - (f) To contribute to the rescue, protection, and conservation of marine mammals and their habitat.
 - (g) To maintain a reference library and research archive.
 - (h) To promote public awareness:
 - I. by publicising procedures to be undertaken when sighting a distressed marine mammal;
 - II. by providing educational, research and reference material, and lecture workshops on marine mammals; and
 - III. by attracting Membership to the Association.

- (i) To carry out fund raising activities such as:
 - I. sales of promotional goods;
 - II. Membership drives;
 - III. social activities; and
 - IV. newsletter subscriptions.

- (j) To undertake the following:
 - V. acquire and maintain rescue equipment;
 - VI. research relevant to the Association's aims and objectives;
 - VII. production of the Association newsletter; and
 - VIII. management of the affairs of the Association.

Part 2. Membership

3. Membership Categories

- (1) Membership in the following categories is available to organisations based on their eligibility and the general public:
 - (a) **(Family Member)** Applicable for up to and including six Members of a family residing at the same address, with one family Member, aged 18 years or over, being nominated to represent the family;
 - (b) **(Group Member)** Applicable for schools or school classes sponsored by a principal or teacher; commercial firms; business houses; government departments or elements thereof; or any other organisation desirous of being represented as a group, with one Member of the group being nominated to represent the group;
 - (c) **(Honorary Member)** Applicable to a person or organisation of stature in the field of marine mammals, to whom the Committee has extended Membership in accordance with Rule 8, in the absolute discretion of the Committee;
 - (d) **(Individual Member)** Applicable to any person aged 18 years or over;
 - (f) **(Rescue Member)** Applicable to a person who is a Financial Member who has completed a rescue training workshop (nominated by the Committee), aged 18 years or over and has satisfied the requirements set out in Rules 5 and 6 of these Rules;
- (2) The Committee may, at its discretion, create additional Membership categories. The Committee will notify Members of any additional Membership categories within 30 days after their creation.

4. Application for Membership

- (1) Membership applications will be made, by individuals, families or groups wishing to join the Association, by completing the online application form and lodging it with the Association, together with payment of the prescribed Membership fee.
- (2) When the applicant becomes a Member of the Association they will receive:
 - (a) an online receipt for the Membership fee;
 - (b) a Membership card, either in hard copy or digital form, showing the expiry date for their Membership;

- (c) a copy of these Rules and any rules, policies and codes of conduct applicable for Members;
 - (d) the most recently issued newsletter; and
 - (e) any other information about the Association that the Committee wishes to provide to the Member.
- (3) All persons admitted to Membership of the Association will be designated as Supporting Members until such time as they might become Rescue Members (in accordance with Rule 5).
- (4) The Committee may, in its absolute discretion, reject an application for Membership by providing notice in writing to the applicant. Where a Membership application is rejected by the Committee or is not approved within 45 days of its receipt, the Committee will promptly refund the subscription fee to the applicant.

5. Rescue Team Membership

- (1) Members of the Association who wish to participate in rescue work will be eligible to apply to join the rescue team operated by the Association (**Rescue Team**), if they satisfy the following criteria:
- (a) individual Members are eligible to join the Rescue Team by applying to become, and being accepted as, a Rescue Member;
 - (b) in the case of Family Membership, all Members of the family over the age of 18 will be eligible to apply to join the Rescue Team by individually applying to become, and being accepted as, Rescue Members;
 - (c) Group Members are not eligible to join the Rescue Team.

6. Entering the Rescue Team Member Register

- (1) An application to become a Rescue Member:
- (a) will be made by the Member or Family Member, via the online application form;
 - (b) requires the applicant to attend and successfully complete a rescue training workshop nominated by the Committee, in accordance with Rule 6(2);
 - (c) requires the applicant to list all information relevant to the applicant's capabilities, resources and availability;

- (d) requires the applicant to sign a rescue team commitment form, in the form that is determined by the Committee from time to time;
 - (e) requires the applicant to comply with all policies and codes of conduct that have been adopted by the Association.
- (2) The Committee will ask each applicant to enroll themselves to attend the prescribed rescue training workshop. Applicants are responsible for their own enrolment in, and completion of, the rescue training workshop.
 - (3) Once an eligible Rescue Member applicant has attended and successfully completed the prescribed rescue training workshop, the Committee will enter the name of that applicant in the register for Rescue Members, at which time the applicant becomes a Rescue Member (**Rescue Team Register**).

7. Financial Year

The Association's financial year will be from 1st November to 31st October each year.

Notes.

1. Schedule 1 to the Act provides that an Association's constitution is to address the Association's financial year.
2. Regulation 19 of the Regulation contains a substitute clause for certain associations incorporated under the *Associations Incorporation Act 2009*.

8. Honorary Membership

The Committee may offer Honorary Membership to individuals or organisations whom the Committee consider to have appropriate expertise and/or experience in fields relevant to the aims and objects of the Association, as set out in Rule 2. The Committee may, in their absolute discretion, offer the Honorary Membership on a gratis basis.

9. Fees, subscriptions, etc

- (1) A Member must, upon admission to Membership, pay to the Association the prescribed joining fee and annual Membership fee for the Membership category for which that person is applying.
- (2) A Member of the Rescue Team must, upon admission to the Rescue Team, pay to the Association the prescribed registration fee, as determined by the Committee.
- (3) An annual Membership fee will be due and payable by all Members of the Association on each anniversary of their joining of the Association. This fee will be as determined by the Committee.

- (4) For the avoidance of doubt, the Committee has the discretion to update and revise all fees payable by Members, at any time, by publishing the revised fees on the Association's website. Current fees (including for joining fees, renewal fees and Rescue Team admission) are available on the Association's website.

10. Cessation of Membership

A person ceases to be a Member of the Association if the person:

- (a) dies;
- (b) resigns from Membership;
- (c) is expelled from the Association in accordance with the terms of these Rules; or
- (d) fails to pay the prescribed annual Membership fee within 3 months after the fee is due.

11. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a Member of the Association:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the person's Membership.

12. Resignation of Membership

- (1) A Member of the Association may resign from Membership of the Association by first giving to the Committee written notice of at least 1 month (or any other period that the Committee may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a Member.
- (2) If a Member of the Association ceases to be a Member under Rule 13(1), and in every other case where a Member ceases to hold Membership, the Committee must make an appropriate entry in the Register of Members recording the date on which the Member ceased to be a Member.
- (3) For the avoidance of doubt, a Member is not entitled to a refund of any fee, or any part of any fee, that is paid by them, upon the cessation of their Membership.

13. Register of Members and Rescue Team Register

- (1) The Committee must establish and maintain a register of Members of the Association (whether in written or electronic form) specifying the name, residential address, contact number, date of birth and email address of each person who is a Member of the Association together with the date on which the person became a Member (**Register of Members**).
- (2) The Register of Members must be kept in New South Wales:
 - (a) at the main premises of the Association; or
 - (b) if the Association has no premises, at the Association's official address.

- (3) If a Member requests that any information contained on the Register of Members about the Member (other than the Member's name) not be available for inspection, that information must not be made available for inspection. Disclosure of any information in relation to a Member will also be subject at all times to the *Privacy and Personal Information Protection Act 1998* (NSW).
- (4) A Member must not use information about a person obtained from the register to contact or send material to the person, other than for:
 - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the Association or other material relating to the Association; or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (5) If the Register of Members is kept in electronic form:
 - (a) it must be readily convertible into hard copy; and
 - (b) the requirements in sub-rule (2) apply as if a reference to the Register of Members is a reference to a current hard copy of the Register of Members.
- (6) The Committee must also maintain the Rescue Team Register, which must specify the name, residential address, contact number, date of birth, email address and emergency contact details of each Rescue Member, together with the date that person became a Member of the Rescue Team and the date that they successfully completed the rescue training workshop (**Rescue Team Register**).

14. Members' liabilities

The liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of Membership of the Association as required by Rule 10.

15. Resolution of disputes

- (1) If a dispute cannot be resolved by the Committee between a Member and another Member (in their capacity as Members) of the Association, or a dispute between a Member or Members and the Association, then the parties in dispute are to be referred to a Community Justice Centre for mediation under the *Community Justice Centres Act 1983* (NSW).
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre under Rule 16(1), the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 2010* (NSW) applies to a dispute referred to arbitration.

16. Disciplining of Members

- (1) Where the Committee is of the opinion that a Member of the Association:
 - (a) has persistently refused or neglected to comply with a provision of these Rules;
 - (b) has persistently refused or neglected to comply with any policy or code of conduct of the Association; or

- (c) has persistently and wilfully acted in a manner prejudicial to the interests of the Association,
- then the Committee may, by majority resolution:
- (d) expel the Member from the Association; or
- (e) suspend the Member from Membership of the Association for a specified period, determined by the Committee in their absolute discretion.
- (2) Where the Committee passes a resolution under Rule 17(1), the Committee must as soon as practicable, issue a notice in writing to the Member:
- (a) setting out the resolution of the Committee and the grounds on which it is based;
- (b) stating that the Member may address the Committee at a meeting to be held not earlier than fourteen (14) days and no later than twenty-eight (28) days after service of the notice;
- (c) stating the date, place and time of that meeting; and
- (d) informing the Member that the Member may do either or both of the following:
- i) attend and speak at that meeting; and
- ii) submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.
- (3) At the meeting of the Committee held as referred to in sub-rule (2) the Committee will:
- (a) give to the Member an opportunity to make oral representations;
- (b) give due consideration to any written representations submitted to the Committee by the Member at or prior to the meeting; and
- (c) by resolution determine whether to confirm or to revoke the resolution regarding the Member's expulsion or suspension.
- (4) Where the Committee confirms a resolution under Rule 17(3), the Committee must, within seven (7) days after that confirmation, by notice in writing, inform the Member of the fact and of the Member's right of appeal under Rule 18.
- (5) A resolution confirmed by the Committee under Rule 17(4) does not take effect:
- (a) until after the expiration of the period within which the Member is entitled to appeal against the resolution, and where the Member does not exercise the right of appeal within that period; or
- (b) where within that period the Member exercises the right of appeal, unless and until the Association confirms the resolution pursuant to Rule 18(4).

17. Right of appeal of disciplined Member

- (1) A Member may appeal to the Association at a Special General Meeting against a resolution of the Committee under Rule 17, within seven (7) days after notice of the resolution is served on the Member, by lodging with the Committee a notice to that effect.
- (2) The notice must be accompanied by a statement of the grounds on which the Member intends to rely for the purposes of the appeal.

- (3) On receipt of a notice from a Member under Rule 18(1), the Committee is to convene a Special General Meeting of the Association, to be held within 40 days after the date on which the secretary received the notice.
- (4) At a Special General Meeting of the Association convened under Rule 18(3):
 - (a) no business other than the question of the appeal is to be transacted;
 - (b) the Committee and the Member must be given the opportunity to state their respective cases orally or in writing, or both' and
 - (c) the Members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by Members of the Association.

17A. Rules for All Members

- (1) All Members, by the signing of the application form, shall understand and agree to abide by the aims and objects and Rules of the Association.
- (2) Members must, at all times, comply with the policies and rules, as determined by the Committee from time to time, relating to their Membership with the Association. Failure to comply with these policies and rules may result in disciplinary action in accordance with Rule 17.
- (3) A Member must not, without the consent of the Committee, disclose to any other Member, person or organisation any information in the Association's Membership records including, but not limited to, names, addresses, and telephone numbers. If the Committee consents to the disclosure of any such information, the Member must not make use of any such information for any purpose that is not consistent with the aims and objectives of the Association set out in Rule 2.
- (4) The name and emblem of the Association, including but not limited to the letterhead, must not be used by any person or Member without prior approval of the Committee.

17B. Rules for Rescue Members

- (1) All Rescue Members, on becoming aware of a marine mammal in distress or of marine mammal remains being found, must ensure that the Rescue Hotline is notified before they go to investigate the report.
- (2) Once on-site, Rescue Members must on an ongoing basis ensure that the Rescue Hotline is kept up to date with events at the site.
- (3) While on-site, Rescue Members must follow the directions of the Rescue Hotline, which will have overall responsibility to co-ordinate the Association's activities and to interface with other organisations during the operation.

- (4) While on-site, Rescue Members must follow the directions of any person who has been appointed by the Rescue Hotline as Site Controller for the operation, or in that person's absence any representative of the State authority (e.g., NSW National Parks and Wildlife Service).

- (5) Rescue Members must not interfere with the remains of a dead marine mammal unless authorised on that occasion by both the State authority (e.g., NSW National Parks and Wildlife Service) and the Rescue Hotline.

- (6) A Rescue Member must not participate in a marine mammal rescue operation conducted by another association or organisation of which he or she is a Member if that Association or organisation does not have explicit written authority from the State authority (e.g., National Parks and Wildlife Service) to conduct marine mammal rescues.

Part 3. The Committee

18. Powers of the Committee

Subject to the Act, the Regulation, these Rules and any resolution passed by the Association in general meeting, the Committee:

- (a) will control and manage the affairs of the Association;
- (b) may exercise all the functions that may be exercised by the Association, other than those functions that are required by these Rules to be exercised by a general meeting of the Members of the Association;
- (c) has the power to perform all the acts and do all things that appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association; and
- (d) may, at any time, introduce, adopt, repeal, revise and modify any policy, code of conduct or set of rules (other than the rules set out in this constitution) relating to the operation of the Association and the conduct of the Members.

19. Composition and Membership of Committee

- (1) The Committee will consist of:
 - (a) the office-bearers of the Association; and
 - (b) at least 3 Ordinary Committee Members,each of whom is to be elected at the Annual General Meeting of the Association under Rule 21 (Committee Members).

Note. Section 37 of the Act contains further requirements concerning eligibility for Membership and composition of the Committee.

- (2) The number of Committee Members is to be at least eight (8) but shall not exceed ten (10).
- (3) The office-bearers of the Association are as follows:
 - (a) the president;
 - (b) first vice-president;
 - (c) second vice-president;
 - (d) the treasurer; and
 - (e) the secretary.
- (4) A Committee Member may hold up to two (2) offices (other than both the offices of president and vice-president).
- (5) There is no maximum number of consecutive terms for which a Committee Member may hold office.

Note. Schedule 1 to the Act provides that an Association's constitution is to address the maximum number of consecutive terms of office of any office-bearers on the Committee.

- (6) Each Committee Member is, subject to these Rules, to hold office until immediately before the election of Committee Members at the Annual General Meeting next following the date of the Committee Member's election and is eligible for re-election.
- (7) Each Committee Member must be a Member of the Association who is in a Membership category other than Group Member or Honorary Member.

20. Election of Committee Members

- (1) Nominations of candidates for election as office-bearers of the Association or as Ordinary Committee Members:
 - (a) must be made in writing, signed by two (2) Members of the Association who are in Membership categories other than Group Member or Honorary Member, and will be accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (b) must be delivered to the secretary of the Association at least seven (7) days before the date of the Annual General Meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated are taken to be elected and further nominations will be received at the Annual General Meeting.
- (3) If insufficient further nominations are received at the Annual General Meeting, any vacant positions remaining on the Committee will be deemed to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot will be held.
- (6) The ballot for the election of office-bearers and Ordinary Committee Members is to be conducted at the Annual General Meeting in any usual and proper manner that the Committee directs.
- (7) A person nominated as a candidate for election as an office-bearer or as an Ordinary Committee Member of the Association must be a Member of the Association.

21. President

The president will:

- (a) chair all Committee meetings and general meetings of Members;
- (b) co-ordinate the work of the Committee; and
- (c) report on the activities of the Association at the Annual General Meeting.

22. First Vice-President

The first vice-president will:

- (a) chair all general meetings of Members and Committee meetings in the absence of the president;
- (b) be responsible for the accountability and availability of the rescue equipment belonging to the Association; and
- (c) be responsible to ensure that a register of the equipment in Rule 23(b) is maintained.

23. Second Vice-President

The second vice-president will be responsible to ensure that:

- (a) the library and archives of the Association are maintained;
- (b) reports from each rescue operation are distributed, collected and presented; and
- (c) the Association newsletter is collated, prepared and distributed.

24. Secretary

- (1) The secretary of the Association must, as soon as practicable after being appointed as secretary, lodge notice with the Association their address (if the Association does not already have their address recorded).
- (2) The secretary must keep minutes (whether in written or electronic form) of:
 - (a) all appointments of office-bearers and Ordinary Committee Members;
 - (b) the names of Committee Members present at a Committee meeting, and Members present at a general meeting; and
 - (c) all proceedings at Committee meetings and general meetings of Members.

24A. Minutes of Meetings

- (1) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (2) The signature of the chairperson may be transmitted by electronic means for the purposes of Rule 25A(1).

25. Treasurer

It is the duty of the treasurer of the Association to ensure:

- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made;
- (b) that accurate accounts and books showing the financial affairs of the Association are kept, including full details of receipts and expenditure connected with activities of the Association; and
- (c) for regular Committee meetings, the following are prepared:
 - i. financial status reports;
 - ii. list of incomings (i.e., Memberships fees); and
 - iii. list of accounts paid and due to be paid on approval and, in time for certification for the Annual General Meeting, the financial report of the Association for the year.

26. Casual vacancies of the Committee

- (1) In the event of a casual vacancy occurring in the Committee, the Committee may appoint a Member of the Association to fill the vacancy and the Member so appointed is to hold office, subject to these Rules, until the Annual General Meeting next following the date of the appointment.
- (2) A casual vacancy in the office of the Committee occurs if the Committee Member:
 - (a) dies;
 - (b) ceases to be a Member of the Association;
 - (c) is or becomes bankrupt for the purposes of the *Bankruptcy Act 1966* (Cth);
 - (d) resigns from office by notice in writing given to the Committee;
 - (e) is removed from office under Rule 28;
 - (f) becomes a mentally incapacitated person, as determined by a medical professional;
 - (g) is absent without the consent of the Committee from three (3) consecutive meetings of the Committee;
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three (3) months;
 - (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* (Cth);
 - (j) fails, without an excuse which, in the opinion of the president of the Association, is a reasonable excuse, to attend the Annual General Meeting or any Special General Meeting of the Association; or
 - (k) has been expelled as a Member of the Association in accordance with Rule 17.

27. Removal of Committee Members

- (1) The Association in general meeting may by resolution remove any Committee Member from office before the expiration of the Committee Member's term of office, and may by resolution appoint another person to hold office until the expiration of that removed Committee Member's term of office.
- (2) If a Committee Member to whom a proposed resolution referred to in Rule 28(1) relates makes representations in writing (not exceeding a reasonable length) to the president (or where the relevant Committee Member is the president, to the secretary) and requests that the representations be notified to the Members of the Association, the president or the secretary (as applicable) may send a copy of the representations to each Member of the Association or, if the representations are not so sent, the Committee Member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

28. Committee meetings and quorum

- (1) The Committee must meet at least three (3) times in each period of twelve (12) months at the place and time that the Committee may determine.
- (2) Additional meetings of the Committee may be convened by the president or by any Committee Member.
- (3) Oral or written notice of a meeting of the Committee must be given by an office bearer to each Committee Member at least 48 hours (or any other period that may be unanimously agreed on by the Committee Members) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under Rule 29(3) shall specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Committee Members present at the meeting unanimously agree to treat as urgent business.
- (5) Any five (5) Committee Members constitute a quorum for the transaction of the business of a meeting of the Committee.
- (6) No business is to be transacted by the Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the Committee:
 - (a) the president or, in the president's absence, the first vice-president is to preside or, in the first vice-president's absence, the second vice-president is to preside; or
 - (b) if the president, the first vice-president and the second vice-president are absent or unwilling to act, one of the remaining Committee Members chosen by the Committee Members present at the meeting is to preside.

39. Appointment of Association Members as Committee Members to constitute quorum

- (1) If at any time the number of Committee Members is less than the number required to constitute a quorum for a Committee meeting, the existing Committee Members may appoint a sufficient number of Members of the Association as Committee Members to enable the quorum to be constituted.
- (2) A Member so appointed is to hold office, subject to these Rules, until the Annual General Meeting next following the date of the appointment.
- (3) This Rule does not apply to the filling of a casual vacancy to which Rule 27 applies.

30. Use of technology at Committee meetings

- (1) A Committee meeting may be held at two (2) or more venues using any technology approved by the Committee that gives each of the Committee Members a reasonable opportunity to participate.
- (2) A Committee Member who participates in a Committee meeting using that technology is taken to be present at the meeting and, if the Committee Member votes at the meeting, is taken to have voted in person.

31. Delegation by Committee to sub-committee

- (1) The Committee may, by instrument in writing, delegate to one or more sub-committees (consisting of the Committee Members or Members of the Association that the Committee thinks fit) the exercise of any of the functions of the Committee that are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Committee by the Act or by any other law.
- (2) The exercise of a function which has been delegated to a sub-committee under this Rule 32 may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this Rule 32 may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.
- (4) Despite any delegation under this Rule 32, the Committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this Rule 32 has the same force and effect as it would have if it had been done or suffered by the Committee.
- (6) The Committee may, by instrument in writing, revoke wholly or in part any delegation under this Rule 32.
- (7) A sub-committee may meet and adjourn as it thinks proper, or as specified in the instrument of delegation.

32. Voting and decisions

- (1) Questions arising at a meeting of the Committee or of any sub-committee appointed by the Committee must be determined by a majority of the votes of Committee Members or sub-committee Members present at the meeting.
- (2) Each person present at a meeting of the Committee or of any sub-committee appointed by the Committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a casting vote.
- (3) Subject to Rule 29(5), the Committee may act despite any vacancy on the Committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Committee or by a sub-committee appointed by the Committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any Committee Member or sub-committee Member.
- (5) The Committee Members may pass a resolution without a Committee meeting being held if at least 50% of all Committee Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The document may be signed by electronic means.

Part 4. General meetings

33. Annual General Meetings - holding of

The Association must hold its Annual General Meetings:

- (a) within six (6) months after the close of the Association's financial year; or
- (b) within any later time that may be allowed or prescribed under section 37(2)(b) of the Act.

34. Annual General Meetings - calling of and business at

- (1) The Annual General Meeting of the Association is, subject to the Act, and to Rule 34, to be convened on the date and at the place and time that the Committee thinks fit.
- (2) In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting is to include the following:
 - (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting;
 - (b) to receive from the Committee reports on the activities of the Association during the last preceding financial year;
 - (c) to elect office-bearers of the Association and Ordinary Committee Members; and
 - (d) to receive and consider any financial statement or report required to be submitted to Members under the Act.
- (3) An Annual General Meeting must be specified as that type of meeting in the notice convening it.

35. Special General Meetings - calling of

- (1) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association.
- (2) The Committee must, on the requisition of at least 5% of the total number of Members, convene a Special General Meeting of the Association.
- (3) A requisition of Members for a Special General Meeting:
 - (a) must be in writing;
 - (b) must state the purpose or purposes of the meeting;
 - (c) must be signed by the Members making the requisition;
 - (d) must be lodged with the secretary; and
 - (e) may consist of several documents in a similar form, each signed by the Members making the requisition.
- (4) If the Committee fails to convene a Special General Meeting to be held within one (1) month after the date on which a requisition of Members for the meeting is lodged with the

secretary, any one or more of the Members who made the requisition may convene a Special General Meeting to be held not later than three (3) months after that date.

- (5) A Special General Meeting convened by the Members as referred to in Rule 36(4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee.
- (6) For the purposes of Rule 36(3):
 - (a) a requisition may be in electronic form; and
 - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

36. Notice

- (1) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary must, at least fourteen (14) days before the date fixed for the holding of the general meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) Notice may be issued to Members electronically, provided that the Member has provided an email address to the Association, or has otherwise consented to receive Notices from the Association electronically.
- (3) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary must, at least twenty-one (21) days before the date fixed for the holding of the general meeting, cause notice to be given to each Member specifying, in addition to the matter required under Rule 37(1), the intention to propose the resolution as a special resolution.

Note. A special resolution must be passed in accordance with section 39 of the Act.

- (4) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted under Rule 35(2).
- (5) A Member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting.

37. Quorum for general meetings

- (1) No item of business is to be transacted at a general meeting unless a quorum of Members entitled under these Rules to vote is present during the time the meeting is considering that item.
- (2) Five (5) Members present (being Members entitled under these Rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If a quorum is not present within half an hour after the appointed time for the commencement of a general meeting, the meeting:
 - (a) if convened on the requisition of Members—is to be dissolved, and
 - (b) in any other case—is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the

person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.

- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being at least four (4)) are to constitute a quorum.

38. Presiding Member

- (1) The president or, in the president's absence, the first vice-president or, in the first vice-president's absence, the second vice-president is to preside as chairperson at each general meeting of the Association.
- (2) If the president, the first vice-president and the second vice-president are absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

39. Adjournment

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for fourteen (14) days or more, the secretary must give written or oral notice of the adjourned meeting to each Member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in Rules 40(1) and 40(2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

40. Making of decisions

- (1) A question arising at a general meeting of the Association is to be determined by:
 - (a) a show of hands or, if the meeting is one to which Rule 46 applies, any appropriate corresponding method that the Committee may determine; or
 - (b) if on the motion of the chairperson or if 50% or more Members present at the meeting decide that the question should be determined.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) Rule 41(2) applies to a method determined by the Committee under 41(1)(a) in the same way as it applies to a show of hands.

41. Special resolutions

A special resolution may only be passed by the Association in accordance with section 39 of the Act.

42. Voting

- (1) Subject to Rules 43(3) and (4), on any question arising at a general meeting of the Association, each Member has one vote, and in the case of Family Members and Group Members, only one person may exercise a vote on behalf of the Family Member or Group Member (as applicable). Any vote in excess of one vote received from the same Family Member or Group Member will be disregarded.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a casting vote.
- (3) A Member is not entitled to vote at any general meeting of the Association unless all money due and payable by the Member to the Association has been paid.
- (4) A Member is not entitled to vote at any general meeting of the Association if the Member is under 18 years of age.

43. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Note. Schedule 1 to the Act provides that an Association's constitution is to address whether Members of the Association are entitled to vote by proxy at general meetings.

44. Postal or electronic ballots

- (1) The Association may hold a postal or electronic ballot (as the Committee determines) to determine any issue or proposal (other than an appeal under Rule 18).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

45. Use of technology at general meetings

- (1) A general meeting may be held at two (2) or more venues using any technology approved by the Committee that gives each of the Association's Members a reasonable opportunity to participate.
- (2) A Member of an Association who participates in a general meeting using that technology is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

Part 5. Miscellaneous

46. Insurance

The Association may effect and maintain insurance.

47. Funds - source

- (1) The funds of the Association are to be derived from entrance fees and annual subscriptions of Members, donations, sales of merchandise and, subject to any resolution passed by the Association in a general meeting, any other sources that the Committee determines.
- (2) All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank or other authorised deposit-taking institution account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

48. Funds - management

- (1) The funds and assets of the Association must be applied solely in pursuance of the objects of the Association, and no portion shall be distributed directly or indirectly to the Members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

Subject to any resolution passed by the Association in general meeting, the funds of the Association are to be used solely in pursuance of the objects of the Association in the manner that the Committee determines.

- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two (2) authorised signatories (or any other persons nominated by the Committee in their absolute discretion).

49. Association is non-profit

Subject to the Act and the Regulation, the Association must apply its funds and assets solely in pursuance of the objects of the Association and must not conduct its affairs so as to provide a pecuniary gain for any of its Members.

Note. Section 5 of the Act defines **pecuniary gain** for the purpose of this Rule.

50. Distribution of property on winding up of Association

- (1) Subject to the Act and the Regulations, in a winding up of the Association, any surplus property of the Association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual Members.

- (2) In this clause, a reference to the surplus property of an Association is a reference to that property of the Association remaining after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of the winding up of the Association.

Note. Section 65 of the Act provides for distribution of surplus property on the winding up of an Association.

51. Change of name, objects and constitution

An application for registration of a change in the Association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a Committee Member.

52. Alteration of Objects and Rules

The statement of objects and these Rules may be altered, rescinded or added to only by a special resolution of the Association, and in accordance with Part 2 Division 2 of the Act.

53. Authorised signatories

The office-bearers of the Association are authorised to sign documents on the Association's behalf. All documents that require execution by the Association must be signed by two (2) authorised signatories, unless the document to be signed specifies that one (1) signatory is sufficient.

54. Custody of records etc

Except as otherwise provided by these Rules, all records and other documents relating to the Association must be kept in New South Wales:

- (a) by electronic means, and be readily available and accessible, with hard copies of all records or other documents being readily produced as and when required; or
- (b) at the main premises of the Association, in the custody of the Committee or a Member of the Association (as the Committee determines), or if the Association has no main premises, in the custody of a Committee Member.

55. Inspection of records etc

- (1) The following documents must be open to inspection, free of charge, by a Member of the Association at any reasonable hour:
 - (a) records, books and other financial documents of the Association;
 - (b) these Rules; and
 - (c) minutes of all Committee meetings and general meetings of the Association.
- (2) A Member of the Association may obtain a copy of any of the documents referred to in Rule 56(1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite Rules 56(1) and 56(2), the Committee may refuse to permit a Member of the Association to inspect or obtain a copy of records of the Association that relate to

confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

56. Service of notices

- (1) For the purpose of these Rules, a notice may be served on or given to a person:
 - (a) by delivering it to the person personally;
 - (b) by sending it by pre-paid post to the address of the person; or
 - (c) by sending it by email transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of these Rules, a notice is taken, unless the contrary is proved, to have been given or served:
 - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee;
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
 - (c) in the case of a notice sent by email transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

Part 6. ORRCA PUBLIC GIFT FUND

57. GIFT FUND Creation

The ORRCA Public Gift Fund (hereafter referred to as 'the Fund') will be set up under the Rules of the Association.

58. GIFT FUND Compliance

The Fund will comply with all laws applicable to it from time to time, including *1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*.

59. GIFT FUND Authorisation to establish

The Association's Committee will be the sole body authorised to establish the Fund to receive donations eligible for tax deductibility.

60. GIFT FUND Use of Donations

Donations to the Fund must be used solely for purposes specified in the aims and objects of ORRCA, as set out in Rule 2. The Fund will not be used as a conduit to other organisations or persons.

61. GIFT FUND Receipt of Donations

The Fund will receive donations invited from members of the public made aware of the eligibility for tax deductibility.

62. GIFT FUND Bank Account

A separate bank account will be kept for donations made to the Fund.

63. GIFT FUND Records

Records of the Fund will be kept in a manner that conforms with the constitutional and legal requirements of the Association.

64. GIFT FUND Administration

The Association's Committee will appoint a sub-committee to administer the Fund (Gift Fund Committee), made up of Members of the Association (including the Treasurer), a majority of whom have a degree of responsibility to the community, as defined by the requirements of the



Register of Environmental Organisations (a Commonwealth tax-deductibility scheme for environmental organisations enabled under the *Income Tax Assessment Act 1997* (Cth)).

65. GIFT FUND Transferability

None of the monies or properties accumulated by the Gift Fund Committee shall be transferred to Members of the Association, or the Gift Fund Committee, except for validated administrative costs.

66. GIFT FUND Operation

The Fund will be operated on a non-profit basis.

67. GIFT FUND Wind Up

If the Fund is wound up or if the endorsement (if any) of the Association as a deductible gift recipient for the operation of the Fund is revoked, any surplus assets of the Fund remaining after the payment of liabilities attributable to it, shall be transferred to a fund, authority or institution with objects similar to the objects of the Association to which income tax-deductible gifts can be made, that is on the Register of Environmental Organisations. The recipient of any such surplus will be determined by the Committee.

68. GIFT FUND Secretary

The Gift Fund Committee shall elect a secretary by simple majority, whose duty shall be to keep the minutes of meetings of the Fund and to inform the Register of Environmental Organisations of any changes to the rules of the Fund and Members of its Committee.



The ORRCA Inc. Constitution is for ORRCA members only.
It is reviewed and updated by the ORRCA Committee Management Team as needed and required based on updates published by the Department of Fair Trading.

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ORRCA Inc.

The **O**rganisation for the **R**escue and **R**esearch
of **C**etaceans in **A**ustralia

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