

1990

RESIDENTS OF EAGLE BAY ASSOCIATION (INC.)

CONSTITUTION & RULES

NORTHMORE HALE DAVY & LEAKE

NORTHMORE HALE DAVY & LEAKE
BOX A39
GPO PERTH W.A.

6001



ASSOCIATIONS INCORPORATIONS ACT 1987
SECTION 9 (1)

Registered no. : A1000728H

CERTIFICATE OF INCORPORATION

THIS IS TO CERTIFY THAT

RESIDENTS OF EAGLE BAY ASSOCIATION (INC.)

HAS THIS DAY BEEN INCORPORATED UNDER THE ASSOCIATIONS
INCORPORATION ACT 1987.

DATED THIS 24TH DAY OF SEPTEMBER 1990




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FOR COMMISSIONER FOR
CORPORATE AFFAIRS

RESIDENTS OF EAGLE BAY ASSOCIATION (INC.)

NAME OF ASSOCIATION

1. The name of the Association is **“RESIDENTS OF EAGLE BAY ASSOCIATION (INC.)”**.

DEFINITIONS

2. In these rules, unless the contrary intention appears:-

“the Act” means the Associations Incorporation Act 1987;

“Annual General Meeting” means a meeting convened under Rule 16 (3) (b);

“any General Meeting” refers to either a General Meeting, a Special General Meeting or an Annual General meeting;

“the Association” means the Association referred to in Rule 1;

“the Chairperson” means the person presiding at meetings in accordance with Rule 11;

“the Committee” means the Committee of Management of the Association referred to in Rule 10 (1);

“Committee Meeting” means a meeting referred to in Rule 15 (1);

“Committee Member” means a person referred to in paragraphs (a), (b), (c), (d), or (e) of Rule 10(1);

“Eagle Bay” means the localities of Eagle Bay and Cape Naturaliste generally;

“financial year” has the meaning given by Section 3(1) of the Act, a reference in that Section to:-

(a) **“an incorporated association”** or **“the association”** being construed as a reference to the Association; and

(b) **“the committee”** being construed as a reference to the Committee;

“General Meeting” means any meeting of the Association other than a Committee meeting, a sub-Committee meeting, an Annual General Meeting or a Special General Meeting;

“Member” means Member of the Association;

“Ordinary Resolution” means a Resolution other than a Special Resolution;

“the President” means the President referred to in Rule 10 (1) (a);

“the Secretary” means the Secretary referred to in Rule 10 (1) (c);

“Special General Meeting” means a meeting convened under Rule 16 (3) (c) or 16 (3) (d);

“Special Resolution” has the meaning given by Section 24 of the Act;

“the Sub-Committee Chairperson” means the Sub-Committee Chairperson appointed under Rule 10 (9) (d);

“the Treasurer” means the Treasurer referred to in Rule 10 (1) (d);

“the Vice President” the Vice President referred to in Rule 10 (1) (b);

OBJECTS OF THE ASSOCIATION

- 3 (1) The objects of the Association are to preserve and enhance the interests of the Eagle Bay area in particular and Cape Naturaliste generally by:-
- (a) Ascertaining and representing the interests of the majority of Members, and to make representations on their behalf to Local, State and Federal authorities or other bodies affecting their interests both private and public.
 - (b) Monitoring developments which affect the area and informing Members by regular newsletter as necessary.

- (c) Fostering awareness of the fragility of our environment and maintaining and conserving the natural features and tranquillity of Eagle Bay and Cape Naturaliste.
 - (d) Striving to have the whole of the Meelup Reserve re-classified to “A” Class Reserve.
 - (e) Fostering awareness of fire prevention and maintaining the security of the area.
 - (f) Encouraging a community spirit and social interaction in the Eagle Bay community.
 - (g) Financing itself through Members subscriptions and other fund raising as necessary.
- (2) The property and income of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of the property or income may be paid or otherwise distributed, directly or indirectly, to Members, except in good faith in the promotion of those objects or purposes.

POWERS OF ASSOCIATION

4. The powers conferred on the Association by Section 13 of the Act are subject to the following additions, exclusions or modifications:-
- (a) limits may be imposed from time to time by the Association on the amounts that the Committee is authorised to spend on individual transactions without the approval of the Association in General Meeting.

QUALIFICATIONS FOR MEMBERSHIP OF ASSOCIATION

5. Membership of the Association is open to any owner or occupier of land within the Eagle Bay area entitled to vote for the Assembly at the State elections, as well as to any corporation holding land in that area, and who has paid the annual subscription referred to in Rule 7.

REGISTER OF MEMBERS OF ASSOCIATION

6. (1) The Treasurer shall on behalf of the Association keep and maintain the register of Members in accordance with Section 27 of the Act and that register shall be so kept and maintained at his or her place of residence.
- (2) The Treasurer shall cause the name of a person who dies or who ceases to be a Member under Rule 7 (3), 8 or 9 to be deleted from the register of Members referred to in sub-rule (1).

SUBSCRIPTIONS OF MEMBERS OF THE ASSOCIATION

7. (1) The Members shall from time to time at a General Meeting determine the amount of annual subscription to be paid by each Member.
- (2) Each Member shall pay to the Treasurer, annually on or before 1 April or such other date as the Committee from time to time determines, the amount of subscription determined under sub-rule (1).
- (3) Subject to sub-rule 4, a Member whose subscription is not paid within three months after the relevant date fixed by or under sub-clause (2) ceases on the expiry of that period to be a Member, unless the Committee decides otherwise.
- (4) A Member is a financial Member for the purposes of these rules if his or her subscription is paid on or before the relevant date fixed by or under sub-rule (2) or within 3 months thereafter,

RESIGNATION OF MEMBERS OF ASSOCIATION

8. A Member who delivers notice in writing of his or her resignation from the Association to the Secretary or another Committee Member ceases on that delivery to be a Member.

EXPULSION OF MEMBERS OF ASSOCIATION

9. (1) If the Committee considers that a Member should be expelled it should notify the Member either orally or in writing that expulsion is being considered and the reasons therefor not less than 3 weeks prior to a Committee Meeting at which the formal expulsion may take place.
- (2) The Member may make a written submission to the Committee or appear before the Committee and be given reasonable opportunity to be heard at the Committee Meeting considering the formal expulsion.
- (3) The Committee may expel a Member subject to sub-rule (1) and (2).
- (4) In the event of expulsion under sub-rule (3) the Member shall have the right to appeal the decision at a subsequent General meeting. He shall be given reasonable opportunity to be heard at or to make written submissions of a reasonable length to be heard at that meeting and a General Resolution on whether or not the expulsion should stand shall be binding.

COMMITTEE OF MANAGEMENT/SUB-COMMITTEE OFFICERS

10. (1) The affairs of the Association shall be managed exclusively by a Committee of Management consisting of:-
- (a) a President;
 - (b) a Vice President;
 - (c) a Secretary;
 - (d) a Treasurer,

all of whom, shall be Members of the association and be elected to Membership of that Committee at an Annual General Meeting or appointed under sub-rule (2) or (8); and

(e) not more than 10 other persons appointed under sub-rule (10), or such other number as may be agreed upon at the Annual General Meeting.

(2) At the next Annual General Meeting all these positions shall fall vacant and those persons shall cease to be Committee Members, but shall be eligible for re-election to Membership of the Committee.

(3) At the election of officers for each position in the Committee at each successive Annual General Meeting each Committee Member shall cease to be a Committee Member, but shall be eligible for re-election to Membership of the Committee.

(4) Subject to sub-rule (2), a person is not eligible for election to Membership of the Committee unless a Member has nominated him or her for election either by:-

(a) delivering notice in writing of that nomination, signed by the nominator at least 14 days before the date on which the Annual General Meeting is to be held; or

(b) personally nominating him or her at the Annual General Meeting.

The nominee must accept either in writing in advance or orally at the Annual General Meeting that he or she is willing to stand for election. The nominee must be a financial member of the Association.

(5) A person who is eligible for election or re-election under this rule may at the Annual General Meeting concerned:-

- (a) propose or second himself or herself for election or re-election; and
 - (b) vote for himself or herself.
- (6) The Secretary shall ensure that notice of the Annual General Meeting is advertised as prescribed in Rule 16 and that the business of the Annual General Meeting includes election of officers.
- (7) If at the Annual General Meeting the number of persons nominated for each position does not exceed the number of vacancies the Chairperson shall declare those persons nominated to have been duly elected to that position.
- (8) When a casual vacancy occurs within the meaning of Rule 14, or in the event a position is not filled at the Annual General Meeting then:-
 - (a) the Committee may appoint a Member with that Member's consent to fill any vacancy on the Committee; and
 - (b) that Member appointed to the Committee shall hold office until the next Annual General Meeting, and shall be eligible for re-election at that next Annual General Meeting.
- (9) The Members at any Meeting of Members, or the Committee of Management, may appoint subcommittees of Members and even non-members to advise the Association on special issues or undertake specific tasks providing:-
 - (a) All Sub-Committee Members must be volunteers for that Sub-Committee;
 - (b) The Committee of Management may terminate the activities or a Sub-Committee or call for new representatives of that Committee at a meeting of Members of the Association.

- (c) The Sub-Committee may have such powers or authority as the Committee of Management may direct from time to time but such powers cannot exceed the powers or authority that the Committee of Management itself has.
 - (d) The sub-Committee shall elect one of their number to be the Sub-Committee Chairperson
- (10) The Committee of Management may appoint the Sub-Committee Chairperson to the Committee of Management in accordance with Sub-Rule (1) (e) providing:-
- (a) the Sub-Committee Chairperson is a financial Member of the Association;
 - (b) the Sub-Committee Chairperson agrees to serve on the Committee of Management;
 - (c) the appointment to the Committee of Management is valid only until the next election of officers under Sub-Rule (1) above, unless the newly elected officials agree to the contrary.
- (11) An auditor may be appointed by the Members at the Annual General Meeting but such auditor will not be a Member of the Committee.
- (12) To assist the Committee in the interpretation of the objects of the Association as specified in Rule 3 (1) the Association may agree on and modify from time to time at a General Meeting a list of issues and whether the Association is for or against various matters.

CHAIRPERSON

11. (1) Subject to this Rule, the President shall be the Chairperson and shall preside at any General Meeting and Committee Meetings.

- (2) In the event of the President's absence from any General Meeting:-
- (a) then the Vice-President shall preside; or
 - (b) if the Vice-President is absent then any Committee Member may be elected by the other Committee Members present at the Meeting.

SECRETARY

12. The Secretary shall:-

- (a) co-ordinate the correspondence of the Association;
- (b) keep full and correct minutes of the proceedings of the Committee of Management and of any General Meeting of the Association;
- (c) comply on behalf of the Association with:-
 - (i) Section 28 of the Act in respect of the Rules of the Association; and
 - (ii) Section 29 of the Act in respect of the record of the office holders, and any trustees, of the Association;
- (d) have custody of all books, documents, records and securities of the Association, including those referred to in paragraph (c) other than those required by Rule 13 to be kept and maintained by, or in the custody of, the Treasurer; and
- (e) perform such other duties as are imposed by these Rules on the Secretary.

TREASURER

13. The Treasurer shall:-

- (a) comply on behalf of the Association with Section 27 of the Act in respect of the register of Members of the Association;
- (b) be responsible for the receipt of all moneys paid to or received on behalf of the Association and shall issue receipts for those moneys in the name of the Association;

- (c) pay all moneys referred to in paragraph (a) into such account or accounts of the Association as the Committee may from time to time direct;
- (d) make payment from the funds of the Association with the authority of a General meeting or of the Committee and in so doing ensure that all cheques are signed by 2 Committee Members which may include himself or herself;
- (e) comply on behalf of the Association with Sections 25 and 26 of the Act in respect of the accounting records of the Association;
- (f) whenever directed to do so by the Chairperson, submit to the Committee a report, balance sheet or financial statement in accordance with that direction;
- (g) have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in paragraphs (e) and (f); and
- (h) perform such other duties as are imposed by these Rules on the Treasurer.

CASUAL VACANCIES IN MEMBERSHIP OF COMMITTEE

14. A casual vacancy occurs in the office of a Committee Member and that office becomes vacant if the Committee Member:-
- (a) dies;
 - (b) resigns by notice in writing delivered to the President or, if the Committee Member is the President, to a Vice-President;
 - (c) is convicted of an offence under the Act;
 - (d) is permanently incapacitated by mental or physical ill-health;
 - (e) is absent from more than;
 - (i) 3 consecutive Committee Meetings; or

- (ii) 3 Committee Meetings in the same financial year of which he or she has received notice without tendering an apology to the person presiding at each of those Committee Meetings; or
- (f) ceases to be a Member of the Association.

PROCEEDINGS OF COMMITTEES

15. (1) The Committee shall meet together for the despatch of business as often as they shall consider necessary and the President may at any time convene a meeting of the Committee.
- (2) Each Committee Member has a deliberative vote.
- (3) A question arising at a Committee Meeting shall be decided by a majority of votes, but, if there is an equality of votes, the person presiding at the Committee Meeting shall have a casting vote in addition to his or her deliberative vote.
- (4) At a Committee Meeting 6 Committee Members constitute a quorum.
- (5) Subject to these Rules, the procedure and order of business to be followed at a Committee Meeting shall be determined by the Committee Members present at the Committee Meeting.
- (6) A Committee Member having a direct or indirect pecuniary interest referred to in Section 21 or 22 of the Act shall comply with that section.
- (7) The President is automatically a Member of each Sub-Committee. With the approval of the President the procedures of Sub-Committees shall be such as the Members of those Sub-Committees agree.

GENERAL MEETINGS

16. (1) Those matters requiring Special Resolution in accordance with Section 24 of the Act are:-

- (a) where necessary in accordance with Sections 17, 18 & 19 of the Act including any change in these Rules, name or objects of the Association.

All other matters may be resolved by Ordinary Resolution.

- (2) Where a Notice of Meeting published in a local newspaper in accordance with Sub-Rule (5) it shall not be necessary to include details of any Resolution proposed except:-

- (a) if the Resolution is a Special Resolution and separate notice has not been given to each Member in accordance with Sub-Rule (4) then the full wording of the proposed Special Resolution shall be advertised.
- (b) if the Resolution is an Ordinary Resolution relating to an intention to borrow money in accordance with the power granted to the Association under Section 13 (1) (d) of the Act.
- (c) if the Resolution is pursuant to a request relating to Sub-Rule (3)
 - (c) (i).
- (d) in the case of Sub-Rules (b) and (c) it shall be sufficient if the notice gives the subject matter and intention without all detail.

- (3) The Committee:-

- (a) may convene regular General Meetings on a fixed or ascertainable day of each month at a time and place agreed to from time to time at any General Meeting.
- (b) shall convene Annual General Meetings within the time limits provided for the holding of Annual General Meetings by Section 23 of the Act; and

- (c) shall, if no regular meeting under paragraph (a) is scheduled, within 30 days of:-
 - (i) receiving a request in writing to do so from not less than 10 members for the purpose specified in that request; or
 - (ii) the Secretary receiving a notice under Rule 9 (4), convene a Special General Meeting for the purpose of dealing with the appeal to which the notice relates. If a regular General Meeting under paragraph (a) is being held then the next such regular Meeting can be the Special General Meeting for this purpose, or if any period of required notice precludes it being dealt with at that meeting, then at the following regular General Meeting;
- (d) may at any time convene a Special General Meeting.
- (4) Subject to Sub-Rule (5) the Secretary shall give to all Members not less than 21 days notice of a General Meeting at which a Special Resolution is to be proposed.
- (5) The Secretary may give notice under this Rule by:-
 - (a) having it served on Members personally; or
 - (b) sending it by post to a Member at the address of the Member appearing in the Register of Members kept and maintained under Section 27 of the Act; or
 - (c) advertising in the public notices section of the Busselton-Margaret River Times or such other papers as is approved by a Meeting of Members.

Where notice is advertised of any Meeting no more than 7 days notice is needed including a Meeting at which a Special Resolution is proposed if the full wording of that proposed Special Resolution is included in the notice. Such advertised notice should be in accordance with Sub-Rule (2) and all Notices of Meeting shall indicate the time and place of the Meeting.

- (6) When a notice is sent by post under Sub-Rule (5) (b) sending of the notice shall be deemed to be properly affected if the notice is sufficiently addressed and posted to the Member concerned by ordinary prepaid mail.
- (7) The Members making a request referred to in Sub-Rule (3) (c) (i) shall:-
 - (a) state the purpose for which the Special General Meeting is required; and
 - (b) sign that request.
- (8) If in accordance with Sub-Rule (3) (c) a Special General Meeting is not convened within the relevant period referred to:-
 - (a) in Sub-Rule (3) (c) (i), the Members who made the request may themselves convene a Special General Meeting as if they were the Committee; or
 - (b) in Sub-Rule (3) (c) (ii), the Member who gave the notice may himself convene a Special General Meeting as if he or she were the Committee.
- (9) When a Special General Meeting is convened under Sub-Rule (8) (a) or (b):-
 - (a) the Committee shall ensure that the Members or Member convening the Special General Meeting are supplied free of charge with particulars of all Members; and

- (b) the Association shall pay the reasonable expenses of convening and holding the Special General Meeting.
- (10) In the case of an Annual General meeting, the order in which business is to be carried out is:-
- (a) first, the consideration of the accounts and reports of the Committee;
 - (b) second, the election of Committee Members to replace outgoing Committee Members; and
 - (c) third, any other business requiring consideration in a General Meeting.

QUORUM AND PROCEEDINGS AT GENERAL MEETINGS

17. (1) At any General Meeting 7 financial Members present or by proxy constitute a quorum.
- (2) If within 30 minutes after the time specified for the holding of any General Meeting in a notice given under Rule 16:-
- (a) for any meeting other than an Annual General Meeting a quorum is not present the General Meeting lapses; or
 - (b) in the case of an Annual General Meeting a quorum is not present, the Meeting shall stand adjourned until a day and time fixed by the Committee not being later than the end of the following month. Notice in accordance with Rule 16 is to be given of this adjourned meeting.
- (3) If within 30 minutes of the time appointed by Sub-Rule (2) (b) for the resumption of the adjourned meeting a quorum is not present, the Members

who are present or represented by proxy may nevertheless proceed with the business of that Annual General Meeting as if a quorum were present.

- (4) The Chairperson may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by any Annual General Meeting, adjourn that General Meeting from time to time and from place to place.
- (5) There shall not be transacted at an adjourned meeting any business other than business left unfinished or on the Agenda at the time when the General Meeting was adjourned.
- (6) When any General Meeting is adjourned for a period of 30 days or more, the Secretary shall give notice under Rule 16 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.
- (7) At any General Meeting:-
 - (a) an Ordinary Resolution put to the vote shall be decided by a majority of votes cast on a show of hands; and
 - (b) a Special Resolution put to the vote shall be decided in accordance with Section 24 of the Act.
- (8) A declaration by the Chairperson at any General Meeting that a Resolution has been passed as an ordinary or Special Resolution thereof shall be evidence of that fact unless, during the General Meeting at which the Resolution is submitted, a poll is demanded in accordance with Sub-Rule (9).
- (9) At a General Meeting, a poll may be demanded by the Chairperson at the General Meeting or by 3 or more Members present and, if so demanded, shall be taken in such manner as the Chairperson directs.

- (10) If a poll is demanded and taken under Sub-Rule (9) in respect of an Ordinary Resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.
- (11) A poll demanded under Sub-Rule (9) on the election of a person to preside over a General Meeting or on the question of an adjournment shall be taken forthwith on that demand being made.

MINUTES OF MEETINGS OF THE ASSOCIATION

18. (1) The Secretary shall cause proper minutes of all proceedings of any General Meeting to be taken and then to be entered within 30 days after the holding of each General Meeting or Committee Meeting, as the case requires, in a minute book kept for that purpose.
- (2) The Chairperson shall ensure that the minutes taken of any General Meeting under Sub-Rule (1) are checked and signed as correct by the Chairperson of the General Meeting or Committee Meeting to which those minutes relate or of the next General Meeting or Committee Meeting, as the case requires.
- (3) When minutes have been entered and signed as correct under this Rule, they shall, until the contrary is proved, be evidence that:-
- (a) the General Meeting or Committee Meeting to which they relate (in this Sub-Rule called “the Meeting”) was duly convened and held;
 - (b) all proceedings recorded as having taken place at the Meeting did in fact take place thereat; and
 - (c) all appointments or elections purporting to have been made at the Meeting have been validly made.

VOTING RIGHT OF MEMBERS OF THE ASSOCIATION

19. (1) Subject to these rules, each Member present in person or by proxy, at a General Meeting is entitled to a deliberative vote.
- (2) A Member which is a body corporate may appoint in writing a natural person, whether or not he or she is a Member, to represent it at a particular General Meeting or at all General Meetings.
- (3) An appointment made under Sub-Rule (2) shall be so made by a Resolution of the Board or other governing body of the Body Corporate concerned:-
- (a) which Resolution is authenticated under the common seal of the Body Corporate; and
- (b) a copy of which Resolution is lodged with the Secretary.
- (4) A person appointed under the Sub-Rule (2) to represent a Member which is a Body Corporate shall be deemed for all purposes to be a Member until the appointment is revoked by the Body Corporate or, in the case of an appointment in respect of a particular General Meeting, which appointment is not so revoked, the conclusion of that General Meeting.

PROXIES OF MEMBERS OF ASSOCIATION

20. (1) A member (in this rule called “the Appointing Member”) may appoint in writing another Member who is a natural person to be the proxy of the Appointing Member and to attend, and vote on behalf of the Appointing Member at, any General Meeting.
- (2) Members who are Members of the Committee or of Sub-Committees may give proxies to another Member to vote for and on their behalf at Committee or Sub-Committee Meetings. Such proxies should be signed

and dated and should specify the issue to be voted on to which it relates and may specify which way the proxy is to vote.

RULES OF THE ASSOCIATION

21. (1) The Association may alter or rescind these Rules, or make Rules additional to these Rules, in accordance with procedures set out in Sections 17, 18 and 19 of the Act.
- (2) These Rules bind every Member and the Association to the same extent as if every Member and the Association had signed and sealed these Rules and agreed to be bound by all their provisions.

COMMON SEAL OF ASSOCIATION

22. (1) The Association shall have a common seal on which its corporate name shall appear in legible characters.
- (2) The common seal of the Association shall not be used without the express authority of the Committee and every use of that common seal shall be recorded in the minute book referred to in Rule 18.
- (3) The affixing of the common seal of the Association shall be witnessed by any two of the President, the Vice-President, the Secretary and the Treasurer.
- (4) The common seal of the Association shall be kept in the custody of the Secretary or of such other person as the Committee may from time to time decide.

INSPECTION OF RECORDS, ETC OF THE ASSOCIATION

23. A Member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF THE ASSOCIATION

24. If, on the winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of winding up, that property shall be distributed:-
- (a) to another incorporated association having objects similar to those of the Association; or
 - (b) for charitable or benevolent purposes,
- which incorporated association or purposes, as the case requires, shall be determined by Resolution of the Members when authorising and directing the committee under Section 33 (3) of the Act to prepare a distribution plan for the distribution of the surplus property of the Association.