

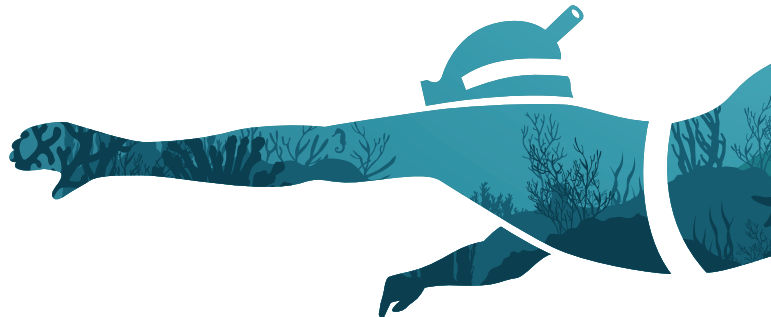
Annexure A: The constitution of

Experiencing Marine Sanctuaries Inc.

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EMS

experiencing
marine sanctuaries



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1 Name

The name of the incorporated association is 'Experiencing Marine Sanctuaries' referred to herein as 'the association'.

2 Definitions

'committee' means the committee of management of association

'general meeting' means a general meeting of members of the association' convened in accordance with these rules

'members' means a member of the association

'the act' means the *Association Incorporation Act 1985*

'special resolution' means a special resolution defined in the Act

'month' shall mean a calendar month.

3 Objects Or Purposes Of The Association

The objects of the association are to;

- i) foster appreciation and conservation of the marine environment.
- ii) promote the establishment, effective monitoring and management of marine sanctuaries.
- iii) inspire people to become citizen scientists and actively participate in marine conservation.
- iv) educate and engage through experience in the marine environment.
- v) demonstrate the value of marine sanctuaries.

4 Powers Of The Association

The Association shall so long as it is acting in pursuit of its objects have all powers conferred by Section 25 of the Act, and without limiting the generality thereof shall have the following specific powers:

- 4.1 To apply for and obtain grants or other assistance from any Government or Governmental or statutory authority or private sector that address the priority factors identified in the objectives above;
- 4.2 To employ and to remunerate such servants agents employees consultants and contractors as the committee thinks fit;
- 4.3 To enter into contracts agreements arrangements and understandings considered necessary by the committee;

- 4.4 To invest any moneys not immediately required for the purposes of the Association in accordance with the Act;
- 4.5 To do all things necessary or considered desirable by the Association for the purpose of achieving or carrying into effect any of the foregoing.

5 Membership

5.1 Type of membership.

- a) Any person who supports the objects of the association, is involved solely to support marine conservation and agrees to be bound by its rules and who applies for membership of the association shall be proposed by one member and seconded by another member. The application for membership shall be made in writing and signed by the applicant and the proposer and seconder. Upon the acceptance of the application by the committee the applicant shall be a member of the association.
- b) are a representative of any government or governmental or statutory authority who has applied in writing to be a member and has been approved by the committee; or
- c) are a representative of an Association which has common aims and objectives to the Association and who has applied in writing and whose membership has been approved by the committee.

5.2 Members are entitled to attend and vote at annual general and special general meetings.

5.3 Each member of the Association may nominate a proxy in the event of their or their nominees' non-availability at any annual general or special general meeting.

5.2 Subscriptions.

- a. The subscription fees for membership shall be such sum (if any) as the members shall determine from time to time in general meetings
- b. The subscription fees shall be payable annually on 1 July or at any time that the committee determines.

5.3 Resignations

A member may resign from membership of the association by giving written notice to the secretary or public officer of the association.

5.4 Expulsion of a member

- a. Subject to giving a member an opportunity to be heard or to make a written submission, the committee may resolve to expel a member upon a charge of misconduct detrimental to the interests of the association.
- b. Particulars of the charge shall be communicated to the member at least one month before the meeting of the committee at which the matters will be determined.
- c. The determination of the committee shall be communicated to the member, and in the event of an adverse determination the member shall, (subject to 5.4d below), cease to be a member 14 days after the committee has communicated its determination to the member.
- d. It shall be open to a member to appeal the expulsion to the association at a general meeting. The intention to appeal shall be communicated to the secretary or public officer of the association within 14 days after the determination of the committee has been communicated to the member.
- e. In the event of an appeal under 5.3d above, the appellant's membership of the association shall not be terminated unless the decision of the committee to expel the member is upheld by the members of the association in a general meeting after the appellant has been heard by the members. In such an event membership will be terminated at the date of the general meeting at which the decision of the committee is upheld.

5.5 Register of members

A register of members must be kept and contain:

- i) the name and address of each member
- ii) the date of which each member was admitted to the association, and
- iii) if applicable, the date of and reason(s) for termination of membership.

6 The Committee

6.1 Powers and duties

- a. The affairs of the association shall be managed and controlled by a committee which in addition to any powers and authorities conferred by these rules may exercise all such powers and do all such things as are within the objects of the association and are not by the act or by these rules required to be done by the association in general meetings.
- b. The committee has the management and control of the funds and other property of the association.
- c. The committee shall have authority to interpret the meanings of the rules and any other matter relating to the affairs of the association on which these rules are silent.
- d. The committee shall have the power to appoint such officers and employees as are required to carry out the objects of the Association and may discuss or delegate any of its powers to such officers and employees.
- e. The committee shall appoint a public officer who shall notify the Corporate Affairs Commission of such appointment and who shall file other returns and notices as shall be required by law. The public officer shall hold office until the committee appoints another person to the position.
- f. The committee shall appoint an executive officer to provide executive support to the committee. The executive officer shall hold office until the committee appoints another person to the position.
- g. A member of the Association shall be eligible to stand for election if nominated by a member of the Association by delivering the nomination to the executive officer of the Association before Annual General Meeting.
- h. Nominations must be signed by the proposer, seconder and by the nominee to signify a willingness to stand for election.

Notice of appointment and change in the identity or address of the public officer are to be lodged within a month after the change (form 10) with Consumer and Business Services(CBS), Chesser House, 91-97 Grenfell Street, Adelaide 5000 postal address: Box 1719 Adelaide 5001.

6.2 Appointment

- a. The committee shall be of a President, Vice President, Secretary, Treasurer and six ordinary holding committee members.
- b. A committee member shall be a natural person.

- c. The first committee of the association shall be appointed from the promoters of the association or be comprised of such person as hold office prior to incorporation. The first committee shall hold office until the first annual general meeting after incorporation. At this time one half of the members of the committee who shall be chosen by ballot shall retire from the committee. At each subsequent annual general meeting one half of the members of the committee being the longest serving members shall retire.
- d. A retiring committee member shall be eligible to stand for re-election without nomination. Any member of the Association may nominate for a post on the committee.
- e. The committee may appoint a person to fill a casual vacancy and such a committee member shall hold office until the next annual general meeting of the association and shall be eligible for election to the committee without nomination.

6.3 Proceedings of the committee

- a. The committee shall meet together for the dispatch of business at least quarterly. The President to chair meeting. If the President is absent then the Vice President will chair the meeting. If Vice President also absent then members may choose a committee member or one of their own number to be chairperson of the meeting.
- b. Questions arising at any meeting of the committee shall be decided by a majority of votes and in the event of equality of votes the President shall have a casting vote in addition to a deliberative vote.
- c. A quorum for a meeting of the committee shall be more than one half of the members of the committee.
- d. A member of the committee having a direct or indirect pecuniary interest in a contract or proposed contract with the association, must disclose the nature and extent of that interest to the committee as required by the Act and shall not vote with respect to that contract or proposed contract. The member of the committee must disclose the nature and extent of his or her interest in the contract at the next annual general meeting of the association.
- e. Voting via electronic means is acceptable.
- f. An employee of the Association may attend meetings and participate in discussions, but may not vote.
- g. Any member of the committee who has any direct pecuniary interest in a contract or proposed contract made by or in the contemplation of the committee:
 - a) shall as soon as they become aware of their interest disclose the nature and extent thereof to the committee; and
 - b) may, subject to the majority agreement of the committee, take part in deliberations with respect to that contract, but shall not take part in any votes of the committee with respect thereto.

A general notice that a member of the committee is a member of any Corporation or other organisation and is to be regarded as interested in all matters relating to that Corporation or other organisation shall be sufficient declaration under these rules. The executive officer shall record in the minutes any declaration made or general notice given as aforesaid by the member.

6.4 Disqualification of committee members

The office of a committee member shall become vacant if a committee member is:

- disqualified from being a committee member by the Act
- expelled as a member under these rules
- permanently incapacitated by ill health
- absent without apology from more than four meetings in a financial year
- no longer the duly appointed representative of a corporate member.

7 The Seal

The association shall have a common seal upon which its corporate name shall appear in legible characters.

The seal shall not be used without the express authorisation of the committee and every use of the seal shall be recorded in the minute book of the Association. The affixing of the seal shall be witnessed by the chairperson..

8 General Meetings

8.1 Annual general meetings.

- a. The committee shall call an annual general meeting in accordance with the Act and these rules.
- b. The first annual general meeting shall be held within 18 months after the incorporation of the association and thereafter within five months after the end of its financial year.

- c. The order of the business at the meeting shall be:
 - i) The confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting
 - ii) the consideration of the accounts and reports of the committee and the auditor's reports (if auditor's report is required)
 - iii) the election of committee members
 - iv) the appointment of auditors (if required see rule 11.5)
 - v) any other business requiring consideration by the association in general meetings.

8.2 Special General Meetings

- a. The committee may call a special general meeting of the association at any time.
- b. Upon a requisition in writing of not less than 10% of the total number of members of the association the committee shall within one month of the receipt of the requisition convene a special general meeting for the purpose specified in the requisition.
- c. Every requisition for special general meeting shall be signed by the relevant members and shall state the purpose of the meeting.
- d. If a special general meeting is not convened within one month as required by 8.2b above the requisitionists or at least 50% of their numbers may convene a special general meeting. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the committee and for this purpose the committee shall ensure that the requisitionists are supplied free of charge with particulars of the members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the association.

8.3 Notice Of General Meetings

- a. Subject to 8.3b at least 14 days notice of any general meeting shall be given to members. The notice shall set out where and when the meeting shall be held and particulars of the nature and order of the business to be translated at the meeting.
- b. Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.
- c. A notice may be given by the association to any member by serving the member with the notice personally or by sending it by post to the address appearing in the register of members. (See rule 5.5)
- d. Where a notice is sent by post:
 - i) the service is effected by properly addressing prepaying and posting a letter or packet containing the notice and
 - ii) unless the contrary is proved service will be taken to have effected at the time at which the letter or packet would be delivered in the ordinary course of post.

8.4 Proceedings at the general meetings

- a. Five members present personally or by proxy shall constitute a quorum for the transaction of business at the general meeting (to be reviewed at the first general meeting)
- b. If within 30 minutes after the time appointed for the meeting a quorum of members is not present, a meeting convened upon the requisition of members shall lapse. In any other case the meeting shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting, the members present shall form a quorum.
- c. Subject to 8.4d, the President shall preside as chairperson at a general meeting of the association.
- d. If the President is not present within five minutes after the time appointed for holding the meeting or he or she is present but declines to take or retires from the chair, the Vice President will chair the meeting. If Vice President also absent, then members may choose a committee member or one of their own number to be the chairperson of that meeting.

8.5 Voting At General Meetings

- a. Subject to these rules every member of the association has only one vote at a meeting of the association.
- b. Subject to these rules a question for decision at a general meeting other than a special resolution must be determined by a majority of members who vote in person or where proxies are allowed by proxy at that meeting.
- c. Unless a poll is demanded by at least five members a question for decision at a general meeting must be determined by a show of hands.
- d. A member being a body corporate shall be entitled to appoint one person who shall not be a member of the association to represent it at a particular general meeting or at all general meetings of the association. That person shall be appointed by the corporate member by a resolution of its board which may be authenticated under its seal. Such a person shall be deemed to be a member of the association for all purposes until the authority to represent the corporate member is revoked.

8.6 Poll at general meetings

- a. If a poll is demanded by at least five members it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- b. A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately but any other poll may be conducted at the time before the close of the meeting.

8.7 Special and ordinary resolutions

- a. A special resolution is defined in the Act.
- b. An ordinary resolution is a resolution passed by a simple majority at a general meeting.

8.8 Proxies

A member shall be entitled to appoint in writing a natural person who is also a member of the association to be their proxy and attend and vote at any general meeting of the association.

9 Minutes

- a. Proper minutes of all proceedings of general meetings of the association and of the meetings of the committee shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- b. The minutes kept pursuant to this rule must be confirmed by the members of the association of the members of the committee (as relevant) at a subsequent meeting.
- c. The minutes kept pursuant at this rule shall be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the succeeding meeting at which the minutes are confirmed.
- d. Where minutes are entered and signed they shall until the contrary is proved be evidence that the meeting was convened and duly held that all proceedings held at the meeting shall be deemed to have been duly held and that all appointments made at a meeting shall be deemed to be valid.

10 Dispute Resolution

- a. The dispute resolution procedure set out in this rule applies to disputes under these rules between:
 - i) a member and another member
 - ii) a member and the association
- b. The parties to the dispute must meet and discuss the matter in dispute and if possible resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- c. If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- d. In this rule 'members' include any person who was a member not more than six months before the dispute occurred.

11 Financial Reporting

11.1 Financial year

The first financial year of the association shall be the period ending on the next 30th June following incorporation and thereafter a period of 12 months commencing on the 1st July and ending on the 30th June of each year.

11.2 Accounts to be kept

The association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the association in accordance with the Act. Refer to regulations 8 of the Association's Regulations.

12 Prohibition Against Securing Profits For Members

The income and capital of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members of their associates as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the association.

13 Winding Up

The association may be wound up in the manner provided for in the Act.

14 Application of surplus assets

- a. If after the winding up of the association there remains 'surplus assets' as defined in the Act such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.
- b. Such organisation or organisations be identified and determined by a resolution of members in general meetings.

15 Rules

- a. These rules may be altered (including an alteration to the association's name) by special resolution of the members of the association. This includes revision or replacement by substitute rules.
- b. The alterations shall be registered with CBS, Corporate Affairs Commission as required by the Act.

- c. The registered rules shall bind the association and every member to the same extent as if they have respectively signed and sealed them and agreed to be bound by all of the provisions thereof.

Acknowledgement: The programs of the association are modelled on programs (with permission). of the New Zealand Experiencing Marine Reserves (EMR) Program- www.emr.org.nz

An agreement has been signed between EMR and EMS that stipulates that EMS models all programs on those run by EMR NZ.