

**Victorian Indigenous Nurseries Co-operative Limited
(ABN 96926702416)**

**Rules of the Co-operative
as a non-distributing co-operative without share capital**

Adopted 4 May 2024

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Part 1 Preliminary

1 Application of these rules

These rules are the rules of the Victorian Indigenous Nurseries Co-operative Limited.

2 Definitions

(1) In these rules:

ballot paper means a ballot paper in paper or electronic form.

Basic minimum financial statements means the financial statement required of a small co-operative under the National Regulations.

Board means the board of the co-operative.

CNL is a reference to the Co-operatives National Law as applying in this jurisdiction.

Director means a director of the co-operative.

Member means a member of the co-operative.

Member director and non-member director—see section 174 of the Law and rule 33.

National Regulations means the Co-operatives National Regulations as applying in Victoria.

standard postal times means the times when properly addressed and prepaid letters would be delivered in the ordinary course of post.

the co-operative means the Victorian Indigenous Nurseries Co-operative Limited or VINC.

the Law means the Co-operatives National Law (CNL) as applying in Victoria.

VINC means the Victorian Indigenous Nurseries Co-operative Limited.

VINC Environment Fund and **Fund** means the Victorian Indigenous Nurseries Cooperative Environment Fund.

(2) Except so far as the contrary intention appears in these rules, words and expressions used in these rules have the same meanings as they have, from time to time, in the Law or relevant provisions of the Law.

3 Name, purpose and activities of the co-operative

- (1) The name of the co-operative is Victorian Indigenous Nurseries Co-operative Limited.
- (2) The purpose of the co-operative is the protection and enhancement of the local natural environment through the cultivation and distribution of indigenous plants of appropriate provenance and through engagement with the community in educational and practical activities.
- (3) For the purposes of Part 2.6 of the Law, the primary activities of the co-operative are:
 - (a) To produce and make available local indigenous plants;
 - (b) To preserve, encourage and enhance local genetic diversity among indigenous plants;
 - (c) To promote the significance and use of local indigenous flora;
 - (d) To act as a resource and support for community activities that protect and enhance the natural environment;
 - (e) To promote ecologically sustainable practices within the community;
 - (f) To implement ecologically sustainable workplace practices;

- (g) To provide a safe, supportive and caring workplace;
- (h) To establish and maintain a gift fund called the VINC Environment Fund for the specific purposes of supporting the environmental aims and objectives, including the principal purpose, of the co-operative;

Part 2 Membership

Division 1 Membership generally

4 Qualifications and terms for membership

A person qualifies for membership of the co-operative if the person is able to use or contribute to the services of the co-operative.

5 Active membership provisions

Active membership requirements

- (1) Subject to subrules (2) and (3), to establish and maintain active membership of the co-operative, a member must pay the annual membership fee on or before the date that is determined by the board and published on VINC's website.
- (2) An employee of VINC is automatically an active member of the co-operative for the duration of their employment with VINC.
- (3) A person who gives voluntary services to the co-operative of at least 12 hours per month is automatically an active member of the co-operative for as long as the person gives voluntary services to VINC. This subrule (3) does not apply to a person who is a director of the Board.

6 Annual membership fees and regular subscriptions

The annual fee for membership of the co-operative is the amount determined by the board, which must be published on VINC's website.

7 Membership applications

- (1) An initial application for membership must be—
 - (a) made in the application form approved by the board and lodged at the registered office, or be sent by email to the email address for VINC that is published on VINC's website; and
 - (b) accompanied by payment of the membership fee (if applicable) set under rule 6.
- (2) Every application must be considered by the board or a delegate of the board.
- (3) If the board or the board's delegate approves the application, the applicant's name and any other information required under the Law must be entered in the Register of Members within 28 days of the board's or delegate's approval (as applicable).
- (4) The applicant must be notified in writing (by post, email or text) of the entry in the Register and the applicant is then entitled to the privileges attaching to membership.
- (5) The board may, at its discretion, refuse an application for membership.
- (6) The board need not assign reasons for the refusal. On refusal any amounts accompanying the application for membership must be refunded within 28 days without interest.

8 Cessation of membership

- (1) A person ceases to be a member in either of the following circumstances:
 - (a) if the membership ceases in any circumstances specified in section 117 of the Law;
 - (b) if the member no longer qualifies for membership under rule 5.

9 Expulsion of members

- (1) A member may be expelled from the co-operative by special resolution to the effect:
 - (a) that the member has seriously or repetitively failed to discharge the member's obligations to the co-operative under these rules or a contract entered into with the co-operative under section 125 of the Law; or
 - (b) that the member has acted in a way that has:
 - (i) prevented or hindered the co-operative in carrying out one or more of its primary activities; or
 - (ii) brought the co-operative into disrepute; or
 - (iii) been contrary to one or more of the co-operative principles as described in section 10 of the Law and has caused the co-operative harm.
- (2) Written notice of the proposed special resolution must be given to the member, sent to the most recent residential or postal address or email address given by the member, at least 28 days before the date of the meeting at which the special resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.
- (3) At the general meeting when the special resolution for expulsion is proposed the following procedures apply:
 - (a) at the meeting, the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross-examine witnesses called against the member;
 - (b) if the member fails to attend at the time and place mentioned, without reasonable excuse, the member's alleged conduct must be considered and the co-operative may decide on the evidence before it, despite the absence of the member;
 - (c) once the alleged conduct is considered, the co-operative may decide to expel the member concerned;
 - (d) the co-operative must not make a decision on the alleged conduct or on expulsion, except by vote by secret ballot of the members present, in person or represented by proxy or by attorney, and entitled to vote;
 - (e) a motion for the decision is not taken to be passed unless two-thirds of the members present, in person or represented by proxy or by attorney, vote in favour of the motion.
- (4) Expulsion of one joint member means expulsion of all members holding membership jointly with the expelled member.
- (5) An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.

10 Resignation of members

A member may resign from the co-operative by giving 14 days' notice in writing to the board or the manager.

11 Monetary consequences of expulsion or resignation

- (1) If a member is expelled or resigns from the co-operative, all amounts owing by the former member to the co-operative become immediately payable in full.
- (2) Subject to section 128 of the Law, payment to the expelled or resigning member of any amount owing by the co-operative to the former member:
 - (a) must be made at the time decided by the board but within one year from the date of expulsion or resignation; or
 - (b) may be applied at the time decided by the board, but within one year from the date of expulsion or resignation, in the manner set out in section 128 of the Law, if there is agreement by the board and former member or if the board considers that repayment would adversely affect the financial position of the co-operative.

12 Suspension of members

- (1) The co-operative may suspend a member for not more than one year, who does any of the following:
 - (a) contravenes any of these rules;
 - (b) fails to discharge obligations to the co-operative, whether under these rules or a contract;
 - (c) acts detrimentally to the interests of the co-operative.
- (2) In order to suspend a member, the procedure for expulsion of a member set out in rule 9 is to be followed as if references to expulsion were references to suspension.
- (3) During the period of suspension, the member:
 - (a) loses any rights (except the right to vote) arising as a result of membership; and
 - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the co-operative; and
 - (c) remains liable for any fine that may be imposed.

Division 2 Dispute resolution

13 Disputes and mediation

- (1) The grievance procedure set out in this rule applies to disputes under these rules between:
 - (a) A member and another member; or
 - (b) a member (including a former member) and the co-operative.
- (2) If a dispute arises, a party cannot commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this rule, except where a person seeks urgent interlocutory relief.
- (3) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days of:
 - (a) the dispute coming to the attention of each party; or
 - (b) a party giving notice, to each of the other parties involved, of the dispute or grievance.
- (4) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, the parties must, as soon as is practicable, hold a meeting in the presence of a mediator.

- (5) The mediator is, where possible, to be a person chosen by agreement between the parties, but in the absence of agreement between the parties:
 - (a) for a dispute between a member and another member, a person appointed by the board; or
 - (b) for a dispute between a member (including a former member) and the co-operative, a person appointed by a mediation service accredited by the Australian Mediation Association).
- (6) The mediator may (but need not) be a member of the co-operative, unless the member is a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must:
 - (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator cannot determine the dispute.
- (10) The mediation must be confidential and without prejudice.
- (11) The costs of the mediation are to be shared equally between the parties unless otherwise agreed.
- (12) Nothing in this rule applies to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these rules.
- (13) Nothing in this rule applies to any dispute involving the expulsion or suspension of a member or the imposition of a fine.
- (14) If the mediation process does not result in the dispute being resolved, each party may seek to resolve the dispute in accordance with the Law or otherwise at law.

Division 3 Members' liability

14 Fines payable by members

The board may not impose on a member any fines for a contravention of these rules.

15 Liability of members to co-operatives

- (1) A member is liable to the co-operative for the amount, if any, unpaid by the member in respect of annual membership fees, together with any agreed charges, payable by the member to the co-operative under these rules.

Division 4 Member cancellations

16 Forfeiture and cancellations—inactive members

The board must declare the membership of a member cancelled if:

- (a) the whereabouts of the member are not presently known to the co-operative and have not been known to the co-operative for a continuous period of at least 5 (five) years; or
- (b) if the membership ceases in any circumstances specified in section 117 of the Law.

Division 5 Deceased or incapacitated members

17 Value of interest of deceased member

The value of the interest of a deceased member is \$0 (zero).

Part 3 General meetings, resolutions and voting

18 Annual general meeting

An annual general meeting must be held each year, at a place and on a date and a time decided by the board, within 5 months after the close of the financial year of the co-operative or within the further time allowed by the Registrar.

19 Members' power to requisition a special general meeting

- (1) The board may, whenever it considers appropriate, call a special general meeting of the co-operative.
- (2) The board must call a special general meeting of the co-operative on the requisition in writing by members who together are able to cast at least 10% (*maximum 20%*) of the total number of votes able to be cast at a meeting of the co-operative.
- (3) The provisions of section 257 of the Law apply to a meeting requisitioned by members.

20 Notice of general meetings

- (1) At least 14 days' notice of a general meeting (not including the day on which the notice is served or taken to be served, but including the day for which notice is given) must be given.
- (2) Notice must be given to each member of the co-operative and any other persons who are, under these rules or the Law, entitled to receive notices from the co-operative.
- (3) The notice must state the place, day and hour of the meeting, the method (i.e. software technology) by which a member may be present at the meeting using a video link (see also rule 22(3)) and include ordinary business as specified in rule 25 and, for special business, the general nature of any special business.
- (4) The notice must also include any business that members have notified their intention to move at the meeting under subrule (6) (but only if the members' notification has been made under these rules and within time).
- (5) The notice must be served in the manner provided in the Law or rule 54.
- (6) Members who together are able to cast at least 10 % of the total number of votes that are able to be cast at a meeting of the co-operative and who have a resolution to submit to a general meeting must give written notice of it to the co-operative at least 45 days before the day of the meeting.

21 Business of general meetings

- (1) The ordinary business of the annual general meeting of a large co-operative must be:
 - (a) to confirm minutes of the last preceding general meeting (whether annual or special); and
 - (b) to receive from the board, auditors or officers of the co-operative:
 - (i) the financial reports of the co-operative for the financial year; and
 - (ii) a report on the state of affairs of the co-operative.
- (2) The ordinary business of the annual general meeting of a small co-operative must be:

- (a) to confirm minutes of the last preceding general meeting (whether annual or special); and
- (b) to receive from the board, auditors or officers of the co-operative:
 - (i) the basic minimum financial statements for the co-operative for the financial year;
 - (ii) a report on the state of affairs of the co-operative;
 - (iii) a directors' solvency resolution as to whether or not, in their opinion, there are reasonable grounds to believe that the co-operative will be able to pay its debts as and when they become due and payable.
- (3) The annual general meeting may also transact special business of which notice has been given to members under these rules.
- (4) All business of a general meeting, other than business of the annual general meeting that is ordinary business, is special business.

22 Quorum at general meetings

- (1) An item of business cannot be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
- (2) A member is present at a general meeting if they are present in person or on a video / phone link while the meeting is conducted.
- (3) A general meeting must be conducted in a way that enables an active member to be present using a video link of a commonly available type or software to be determined by the board at an ordinary meeting of the board before the general meeting is held.
- (4) Unless these rules state otherwise, 10 (ten) members present, each being entitled to exercise a vote, constitute a quorum.
- (5) If a quorum is not present within half an hour after the appointed time for a meeting, the meeting, if called on the requisition of members, must be dissolved. In any other case it must be adjourned to the same day, time and place in the next week.
- (6) If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

23 Chairperson at general meetings

- (1) The chairperson, if any, of the board may preside as chairperson at every general meeting of the co-operative.
- (2) If there is no chairperson, or if at a meeting the chairperson is either not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the members present must choose someone from their number to be chairperson (until the chairperson attends and is willing to act).
- (3) The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place. However, the only business that can be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given just as for the original meeting. Apart from this it is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

24 Attendance and voting at general meetings

- (1) The right to vote attaches to membership.

- (2) A resolution, other than a special resolution, must be decided by simple majority.
- (3) Subject to subrules (7) and (8), a question for decision at any general meeting must be decided on a show of hands of members present at the meeting.
- (4) A poll may be demanded on any question for decision.
- (5) If before a vote is taken or before or immediately after the declaration of the result on a show of hands:
 - (a) the chairperson directs that the question is to be determined by a poll; or
 - (b) at least 5 members present, in person, on a video/phone link or represented by proxy demand a poll.
- (6) The question for decision must be determined by a poll.
- (7) The poll must be taken when and in the manner that the chairperson directs.
- (8) A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
- (9) Once the votes on a show of hands or on a poll have been counted then, subject to subrule (8), a declaration by the chairperson that a resolution has been carried (unanimously or by a particular majority) or lost is evidence of that fact.
- (10) The result of the vote must be entered in the minute book.

25 Voting on a show of hands

On a show of hands at a general meeting, each member—

- (a) present; or
- (b) represented by a non-member acting under a power of attorney; or
- (c) represented by a non-member appointed under the provisions of the Law; or
- (d) represented by a proxy (but only if proxies are allowed under these rules)—

may exercise only one vote.

26 Voting on a poll

On a poll called at a general meeting, each member—

- (a) present; or
- (b) represented by a person acting under a power of attorney; or
- (c) represented by a person appointed under the provisions of the Law; or
- (d) represented by a proxy (but only if proxies are allowed under these rules)—

has one vote.

27 Determining the outcome where equality of votes

- (1) This rule applies where the votes in favour and against a resolution are equal.
- (2) If the chairperson of the meeting is a member of the co-operative, he or she may exercise a second or casting vote.
- (3) If the chairperson is not a member of the co-operative or decides not to exercise a second or casting vote, the outcome of an equality of votes is taken to have been decided in the negative.

28 Proxy votes

Voting by proxy is not permitted at a general meeting.

29 Postal ballots (other than special postal ballots)

- (1) A postal ballot must be held in respect of a special resolution where members who together are able to cast at least 10% (*or a lesser percentage which may be substituted here*) of the total number of votes able to be cast at a meeting of the co-operative may requisition the board to conduct the special resolution by postal ballot.
- (2) If a postal ballot is requisitioned by members under subrule (1), the requisition should specify whether the postal ballot is to be a secret ballot.
- (3) A postal ballot requisitioned under subrule (1) is to be conducted in accordance with the National Regulations and in the form and manner determined by the board.
- (4) The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
- (5) If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.
- (6) The board is to appoint a returning officer to conduct the postal ballot. In default of such an appointment, the secretary is the returning officer.
- (7) Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members giving:
 - (a) particulars of the business in relation to which the postal ballot is being conducted; and
 - (b) an explanation of how to lodge a valid vote and the majority required to pass the vote; and
 - (c) notice of the closing date and closing time of the postal ballot; and must be sent to members so that they arrive (assuming standard postal times) at least 21 days before the closing date of the postal ballot.
- (8) This rule does not apply in relation to special postal ballots.

30 Special postal ballots

- (1) This rule applies where a special postal ballot is required.
- (2) Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members so that they arrive (assuming standard postal times) at least 28 days before the closing date of the special postal ballot.
- (3) The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
- (4) If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.

31 Special resolutions

- (1) A special resolution is a resolution that is passed:
 - (a) by a two-thirds majority at a general meeting; or
 - (b) by a two-thirds majority in a postal ballot (other than a special postal ballot) of members; or

- (c) by a three-quarters majority in a special postal ballot of members.
- (2) A notice of special resolution is required to be given to members at least 21 days before the vote or ballot time (or 28 days' notice in the case of a special postal ballot).
- (3) The notice of special resolution must state:
 - (a) the intention to propose the special resolution; and
 - (b) the reasons for proposing the special resolution; and
 - (c) the effect of the special resolution being passed.

Part 4 Board of directors

32 Board

- (1) The business of the co-operative is to be managed by or under the direction of the board of directors, and for that purpose the board has and may exercise all the powers of the co-operative that are not required to be exercised by the co-operative in general meeting.
- (2) The board must have at least 5 (five) and no more than 9 (nine) directors.

33 Qualifications of directors

- (1) A person is not qualified to be a director of the co-operative unless the person is an individual over the age of 18 years and is:
 - (a) an active member of the co-operative or a representative of a corporation that is an active member of the co-operative; or
 - (b) not an active member but who possesses special skills in management or other technical areas of benefit to the co-operative as specified by the board from time to time; and
 - (c) in any case, is not an employee of the co-operative.
- (2) A person qualified to be a director under subrule (1)(a) is known as a "member director". A person qualified under subrule (1)(b) is known as a "non-member director".
- (3) The board of directors must have a majority of member directors.

34 Chief executive officer or Manager

- (1) The board may, if it considers appropriate, appoint a person to be responsible for the day to day management of the co-operative. The person may be a member of the co-operative or some other person.
- (2) The appointed person is the chief executive officer of the co-operative and may be called the Manager.
- (3) The conditions and the period of appointment including termination must be decided by the board.
- (4) The Manager is not entitled to be present or to vote at a meeting of directors on a motion concerning the conditions of his or her own appointment, conditions of service or termination of service.
- (5) The Manager cannot be required to be an active member of the co-operative.
- (6) In the event of any conflict between the terms of the appointment of a person as the Manager and that person's obligations or privileges under the Law, the terms of the Law prevail over the terms of appointment.

35 First directors and election of directors

- (1) The first directors are elected by poll at the formation meeting of the co-operative (except as provided by section 173(2)(b) of the Law).
- (2) The term of office of the first directors is to be not more than 3 (three) years ending on the day of the third annual general meeting after the formation meeting.
- (3) The term of office of an elected director is to commence from the annual general meeting at which they are elected and ends on the day of the first, second or third annual general meeting, thereafter, depending on whether the director is appointed for 1 (one), 2 (two) or 3 (three) years, respectively.
- (4) A person must not hold the position of director for more than 9 (nine) consecutive years and there must be a gap of at least 2 (two) years after any period of appointment of 9 (nine) consecutive years before the person can hold the position of director again.
- (5) The members of the board are to be elected in the manner specified in this rule.
- (6) At an annual general meeting at which a director retires, the vacated office may be filled in the following manner:
 - (a) At least 6 weeks before an annual general meeting, the board must:
 - (i) notify all members of the number of directors retiring at the annual general meeting; and
 - (ii) advise the members of:
 - (A) their eligibility to nominate as a director; and
 - (B) which appointment/s of director will be for a period of 1 (one), 2 (two) or 3 (three) years, to enable rotational retirement across the board; and
 - (C) the duties and responsibilities of a director; and
 - (D) the anticipated remuneration (if any); and
 - (E) the nomination and election procedures.
 - (b) A notice must also be displayed at the place of business of the co-operative inviting nominations of nominees to serve as directors.
 - (c) A nomination must:
 - (i) be signed by 2 or more members; and
 - (ii) provide details of the qualifications and experience of the person nominated; and
 - (iii) be accompanied by a notice in writing signed by the nominee consenting to their nomination.
 - (d) The nomination and the notice of consent must be lodged with the secretary of the co-operative at least 30 days before the annual general meeting.
 - (e) The secretary, or an officer nominated by the board, must give details of each person who has been nominated to members with the notice of the annual general meeting. Details to be provided to members must include:
 - (i) the nominee's name; and
 - (ii) the nominee's qualifications and experience; and
 - (iii) the nominee's length of any previous service as a director of the co-operative or with any other co-operative.

- (7) If the number of nominees equals the number of vacancies, the nominees must be declared elected at the annual general meeting.
- (8) If there are insufficient nominees to fill all vacancies, the nominees to be declared elected at the annual general meeting and nominations for people to fill the remaining vacancies are to be called from the floor and a ballot held if required.
- (9) If the number of nominees exceeds the number of vacancies, the election of directors must be conducted at the meeting by ballot as follows:
 - (a) A returning officer is elected at the meeting. The directors, the secretary and anyone who has an interest in the election are not eligible to be the returning officer.
 - (b) All nominees are to be listed on the ballot form in alphabetical order of each person's family name.
 - (c) The returning officer is responsible for determining the validity of and counting of the votes.
 - (d) If there is an equality of votes, the outcome must be determined by lot.
 - (e) The returning officer is to declare the election results.
- (10) If any vacancies remain at the end of the meeting, the vacancies are to be casual vacancies and must be filled in accordance with rule 38

36 Removal from office of director

The co-operative may by resolution under section 180 of the Law, with special notice as required by that section, remove a director before the end of the director's period of office, and may by a simple majority appoint another person in place of the removed director. The person appointed must retire when the removed director would otherwise have retired.

37 Vacation of office of director

In addition to the circumstances set out in the Law, a director vacates office if the director dies.

38 Casual vacancies and alternate directors

- (1) The board may appoint a qualified person to fill a casual vacancy in the office of director until the next annual general meeting.
- (2) The board may appoint a person to act as a director (an **alternate director**) in the place of an absent director.
- (3) A person is not qualified to be appointed as an alternate director for:
 - (a) A member director—unless the person is qualified for appointment as a member director; or
 - (b) a non-member director—unless the person is qualified for appointment as a non-member director.
- (4) An alternate director holds office until the next annual general meeting or until the next general meeting held to elect directors to fill any vacancies (whichever is earlier).
- (5) An alternate director for a director (the **principal director**) vacates office:
 - (a) in similar circumstances or cases to those in which the principal director would vacate office (and for that purpose the provisions of these rules and Division 1 of Part 3.1 of the Law accordingly apply in relation to the alternate director); or
 - (b) if the alternate director is removed from office by the board as alternate director for failure, without its leave, to attend a meeting of the board at which the principal director is absent (and

for that purpose the provisions of section 179(2)(b) of the Law do not apply in relation to the alternate director).

39 Remuneration etc of directors

- (1) Directors' remuneration must comply with the provisions of the Law.
- (2) A director of the co-operative must not be paid any remuneration for services as a director other than—
 - (a) paying a director for goods or services they have provided the co-operative (other than the service of being a director of the co-operative);
 - (b) reimbursing a director for fair and reasonable expenses they have properly incurred if the goods or services were provided or the expenses were incurred under the approval of the Board at a general meeting of the cooperative or with the prior written consent of the chairperson and the Manager.

40 Proceedings of the board

- (1) Meetings of the board (including meetings conducted outside board meetings pursuant to section 176 of the Law) are to be held as often as may be necessary for properly conducting the business of the co-operative and must be held at least every 3 months.
- (2) A meeting may be held with one or more of the directors participating by using a form of communication that allows reasonably contemporaneous and continuous communication between the directors taking part in the meeting.
- (3) Questions arising at a meeting must be decided by a majority of votes.
- (4) If votes are equal, the chairperson, if a member director, has a second or casting vote.
- (5) Other than in special circumstances decided by the chairperson, at least 48 hour's notice must be given to the directors of all meetings of the board, without which the meeting cannot be held.

41 Quorum for board meetings

- (1) The quorum for a meeting of the board is 50% of the number of directors (or if that percentage of the number of directors is not a whole number, the whole number next higher than one half).
- (2) For a quorum, the number of member directors must outnumber the non-member directors by at least one.

42 Chairperson of board

- (1) The chairperson of the board is to be elected by the board for the period of time determined by the board.
- (2) If no chairperson is elected or the chairperson is not present within 15 minutes after the time fixed for holding the meeting or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting until the chairperson attends and is willing to act as chairperson.
- (3) The chairperson may be removed, and a new chairperson elected, by:
 - (a) ordinary resolution of the board, unless paragraph (b) applies; or
 - (b) ordinary resolution at a general meeting, if these rules provide that the chairperson is elected at a general meeting of the co-operative.

43 Delegation to a person or board committee

- (1) The board may by resolution delegate to—
 - (a) a director; or
 - (b) a committee of 2 or more directors; or
 - (c) a committee of members of the co-operative; or
 - (d) a committee of members of the co-operative and other persons if members form the majority of persons on the committee; or
 - (e) a committee of directors and other persons—

the exercise of the board’s powers specified in the resolution other than this powers of delegation and the board’s powers under—

 - (i) rule 7(5) (refusal of an application for membership);
 - (ii) rules 9 and 12 (expulsion or suspension of members);
 - (iii) rule 19(1) (calling a special general meeting);
 - (iv) Rules 29 and 30 (postal ballots and special postal ballots)
 - (v) rule 34 (appointment of the Manager);
 - (vi) rule 36 (removal of a director);
 - (vii) rule 38 (fill a casual vacancy on the board);
 - (viii) rule 39 (remuneration of a director);
 - (ix) rule 42 (appoint a chairperson); and
 - (x) rule 44 (appoint members to committees).
- (2) The co-operative or the board may by resolution revoke all or part of the delegation.
- (3) A power delegated under this rule may, while the delegation remains unrevoked, be exercised from time to time in accordance with the delegation. A delegate must report regularly to the board on each instance of the delegate exercising the delegated power. The frequency of reporting is to be determined by the board and specified in the instrument of delegation to the delegate.
- (4) A delegation under this rule may be given on conditions limiting the exercise of the power delegated, or time or circumstances.
- (5) Despite any delegation under this rule, the board may continue to exercise the power delegated.
- (6) If a power is exercised by a director (alone or with another director) and the exercise of the power is evidenced in writing, signed by the director in the name of the board or in his or her own name on behalf of the board, the power is taken to have been exercised by the board. This is so whether or not a resolution delegating the exercise of the power to the director was in force when the power was exercised, and whether or not any conditions mentioned in subrule (3) were observed by the director exercising the powers.

44 Committees

- (1) The board may by resolution appoint committees of members or other persons or both, to act in an advisory role to the board and to committees of directors and to undertake any actions on behalf of the board that are set out in the committee’s terms of reference.

- (2) A committee may elect a chairperson of their meetings. If no chairperson is elected, or, if at a meeting the chairperson is not present within 15 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.
- (3) A committee may meet and adjourn as it thinks appropriate. Questions arising at a meeting must be decided by a majority of votes of the members present and voting and if the votes are equal, the chairperson has a second or casting vote.
- (4) The quorum for a meeting of a committee is half the number of committee members or, if half is not a whole number, the whole number next higher than one half.
- (5) A Committee must keep minutes of each committee meeting and submit a copy of the minutes, or must report verbally, to the next meeting of the board.

45 Minutes

- (1) The board must keep minutes of meetings and, in particular, of:
 - (a) any appointment of officers and employees made by the Board; and
 - (b) the names of the directors present at each meeting of the board and of a committee of the board; and
 - (c) all resolutions and proceedings at all meetings of the co-operative and of directors and of committees of directors.
- (2) Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate was held.
- (3) The minutes are to be endorsed by the directors, with or without amendments, at the next meeting of the board.

Part 5 Rules

46 Amendments and copies of rules

- (1) Any amendment of the rules must be approved by special resolution. However, if model rules are adopted in the manner specified under section 65(a) of the Law, any amendments to the model rules as notified by the Registrar are included in the co-operative's rules without the need for a special resolution.

required before the change is put to a special resolution vote.
- (2) A proposal to amend the rules of the co-operative must be made in a form approved by the board which clearly shows the existing rule or rules concerned and any proposed amendment to the rules.
- (3) The board must keep a copy of the co-operative's rules published on VINC's website.

Part 6 Administrative matters

47 Seal

- (1) This rule applies if the co-operative chooses to authenticate a document under the common seal of the co-operative.
- (2) The co-operative's name and registration number must appear on its common seal and any official seal. The common seal must be kept at the registered office in the custody that the board directs.

- (3) The co-operative may have one or more official seals for use outside the State or Territory in place of its common seal. Each of the additional seals must be a facsimile of the common seal with the addition on its face of the name of the place where it is to be used.
- (4) The seal of the co-operative must not be affixed to an instrument other than under a resolution of the board. Two directors, or one director and the secretary, must be present and must sign all instruments sealed while they are present.

48 Inspection of records and registers

- (1) Members of the co-operative must have free access to the records and registers referred to in section 214(1) of the Law and they may make a copy of any entry in the registers free of charge.
- (2) Members do not have access to the minutes of board or committee meetings, but members may request access to any such minutes in writing addressed to the board.

49 Safe keeping of securities

Shares, debentures, charges and any other certificates or documents or duplicates of them pertaining to securities must be safely kept by the co-operative in the way and with the provision for their security as the board directs.

50 Notices to members

- (1) This rule applies in addition to section 611 of the Law regarding how a notice or other document may be: given to a person who is a member of the co-operative or given to a director of the board or a member of a committee of the board who is not a member of the co-operative.
- (2) A notice or other document required to be given to a person under this rule may be given by the co-operative by any form of technology (for example, by fax or email), where the person member has notified the co-operative of the relevant contact details.
- (3) If a notice is sent by post, service is taken to be effected at the time at which the properly addressed and prepaid letter would be delivered in the ordinary course of post. In proving service by post, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (4) A notice forwarded by some other form of technology is taken to have been served, unless the sender is notified of a malfunction in transmission, on the day of transmission if transmitted during business hours on a business day, otherwise on the next following business day.

Part 7 Accounting and financial matters

51 Financial year

The financial year of the co-operative ends on 31 December of each year.

52 Accounts

- (1) Subject to the rules in Part 9 for the VINC Environment Fund, the board must have at least one financial institution account, electronic or otherwise, in the name of the co-operative, into which all amounts received by the co-operative must be paid as soon as possible after receipt.
- (2) All cheques drawn on the accounts, and all drafts, bills of exchange, promissory notes and other negotiable instruments, of the co-operative must be signed by 2 authorised persons.
- (3) The operation of any electronic accounts must be restricted so that there is a requirement for authorisation by 2 authorised persons.
- (4) For the purposes of this rule, an **authorised person** is:

- (a) the Manager;
- (b) any person approved by the board.

53 Appointing an auditor or reviewer for small co-operative (optional rule)

- (1) The co-operative must appoint a reviewer *in* respect of its financial statements.
- (2) A reviewer appointed under this rule is to conduct a review of the co-operative's financial statements as presented to members.
- (3) The appointment of a reviewer under this rule is to be made at an annual general meeting.
- (4) The co-operative may appoint another reviewer at a subsequent annual general meeting if there is a vacancy in the office of the reviewer.
- (5) The provisions of section 300(2) of the Law apply to a reviewer appointed under this rule in the same way (but with any necessary adaptations) as they apply to an auditor appointed for a large co-operative.

54 Appointing an auditor or reviewer for a small co-operative if there is a direction under the Law

- (1) If a small co-operative is directed to prepare a financial report under section 271 or 272 of the Law and the direction requires that the financial report be audited or reviewed, the board must appoint an auditor or reviewer (as the case may) within one month of the direction.
- (2) An auditor or reviewer appointed under this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed and sent to members.

55 Disposal of surplus funds during a financial year

- (1) The board may retain all or part of the surplus arising in any year from the business of the co-operative, to be applied for the benefit of the co-operative.
- (2) No part of the surplus may be paid or transferred directly or indirectly, by way of profit, to members, directors or members of a committee of the co-operative.

56 Provision for loss

The board must make appropriate provision for losses in the co-operative's accounts and when reporting to members is to indicate whether the loss is expected to continue and whether there is any real prejudice to the co-operative's solvency.

57 Financial reports to members

The co-operative must prepare financial reports and statements in accordance with the Law, the National Regulations and these rules.

Part 8 Winding up

58 Winding up

- (1) The winding up of the co-operative must be in accordance with Part 4.5 of the Law.
- (2) If, on the winding-up or dissolution, there remains after the satisfaction of all its debts and liabilities any property as well as any surplus assets of the VINC Environment fund, this must not be paid to or distributed among the members, directors or members of a committee of the co-operative but must

be given or transferred to the Merri Creek Environment Fund of the Merri Creek Management Committee (ABN: 13 025 599 242).

- (3) If the entity specified in subrule (2) does not exist at the time of the winding up or dissolution of the co-operative, any surplus property after the satisfaction of all its debts and liabilities must be given or transferred to an institution or institutions:
- (a) that is a deductible gift fund, authority or institution with objectives or purposes similar to those of the co-operative; and
 - (b) whose constitution prohibits the distribution of its property among its members; and
 - (c) chosen by the members of the co-operative at or before the dissolution or, in default, by a judge of the court with jurisdiction in the matter.

PART 9 VINC Environment Fund

Background: The VINC Board has established a public fund called the Victorian Indigenous Nurseries Cooperative Environment Fund for the specific purpose of supporting the environmental purposes of VINC and to receive all gifts of money or property for this purpose.

59 Management of the VINC Environment Fund

- (1) The Board is not permitted to use the Fund, or allow the Fund to be used, as a conduit for the donation of money or property to other organisations, bodies or persons other than in accordance with Part 8 of the Rules for winding up of VINC.
- (2) The requirements of the Board, when managing the Fund, are to—
 - (a) operate the Fund on a not-for-profit basis;
 - (b) open and maintain a separate bank account to deposit money donated to the Fund, including interest accruing thereon, and to keep any gifts to the Fund separate from other funds of VINC;
 - (c) invite members of the public to make gifts of money or property to the Fund for VINC's environmental purposes, including to market the Fund on social media, community engagements and through other methods;
 - (d) deposit all monetary donations, money from interest on donations into the Fund;
 - (e) deposit any income derived from donated property and money from the sale of donated property into the Fund;
 - (f) use any donated property only for, or for the benefit of, VINC's environmental purposes;
 - (g) ensure that receipts are issued in the name of the Fund and ensure that proper accounting records and procedures are kept and used for the Fund;
 - (h) consult with the Board regarding the application of the Fund's holdings to VINC's environmental purposes; and
 - (i) comply with subdivision 30-E of the *Income Tax Assessment Act 1997* (Cth).