



Constitution of the Australian Peacekeeping Memorial Project Incorporated

(Incorporated in the ACT)

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1. Naming

The name of this body shall be the Australian Peacekeeping Memorial Project and it will be referred to hereafter as APMP.

2. Preliminary

Vision

To create a living national memorial that will appropriately acknowledge the sacrifice of Australian peacekeepers in the service of international peace and security and to be the focus for the continuing positive contribution by Australia to international peacekeeping.

2.1 Objectives of the APMP:

To erect a Memorial on ANZAC Parade, Canberra by 14th September 2009 that appropriately recognizes the sacrifice and continuing contribution of Australians to international peacekeeping.

To develop appropriate design criteria and guidelines that meet the requirement of the Canberra National Memorials Committee, and fittingly represents Australia's past and present peacekeeping role in the world.

To develop, monitor and adjust as appropriate the publicity, marketing and fund raising activities associated with APMP to best meet the APMP vision in a changing environment.

To encourage contributions to the APMP Fund of any kind whatsoever as the Committee may deem advisable.

To provide effective and efficient management of the APMP, its assets and all associated resources.

2.2 Application of income and property of APMP

Subject to article 2.3, the income and property of APMP must be applied solely towards the promotion of the objects set out above. No part of the income or property may be paid or transferred directly or indirectly by way of dividend bonus or otherwise to APMP Members. The APMP shall be deemed as a Not-For-Profit Organisation.

2.3 Permitted Payments

Subject to article 10.6, nothing in this Constitution prevents the payment in good faith of remuneration to any Officer or Member of APMP in return or:

- (a) goods supplied in the ordinary and usual way of business;
- (b) the payment of reasonable interest on moneys borrowed; or
- (c) reasonable rent for premises leased by APMP

2.4 Distribution of surplus property

If APMP is wound up any surplus property must not be paid to or distributed amongst the APMP Members but paid or transferred:

- (a) An Organisation having objects similar to those of APMP (and prohibiting the distribution of income and property amongst its or their APMP Members to a comparable extent as is imposed on APMP) as determined by the APMP Members at or before the time of dissolution; or
- (b) failing any such determination to a designated Veterans' Trust Corporation to be used for the advancement of Veterans welfare in Australia.
- (c) Refer to Section 19.1.

2.5 Replaceable Rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution.

2.6 Amendment of Constitution

This Constitution may be modified or repealed by special resolution of APMP in general meeting. A special resolution modifying or repealing this constitution has no effect unless approved in writing by the ATO which approval will not be unreasonable withheld.

3. Committee

The APMP Committee (APMPC) is to be comprised of representatives of various Ex-

Service Organisations, Police and interested individuals or Organisations.

3.1 Executive Officers

The Executive Officers of the APMPC are elected to the positions by APMP Members and are to be comprised of the following:

- (a) The Chairman;
- (b) The Vice Chairman;
- (c) The Secretary; and
- (d) The Treasurer.

3.2 APMP Committee Members

The Committee Members of the APMPC are appointed to the APMP by the Executive. They are to be the following:

- (a) Assistant Treasurer;
- (b) Membership Secretary;
- (c) The Project Officer;
- (d) A nominated ADF Representative;
- (e) A nominated AFP Representative;
- (f) A nominated RSL Representative;
- (g) The Webmaster and IT Officer; and
- (h) Other Committee APMP Members, who will be tasked outside the responsibilities of the above, or to assist the Executive Officers.

3.2.1 Appointment of Patron(s)

The Committee may appoint up to three (3) Patrons who are deemed suitable to represent the interests of the APMPC;

Ideally the Patron(s) would be of a high stature within the community, holding the values and ethos of current and ex-serving ADF and Police Members.

Patrons may be nominated to the Committee and subsequently voted. The Chairman is to advise the accepted Patrons in writing.

3.3 Membership

It is proposed to encourage wide membership of the APMP to include individuals, the Australian Defence Force, Federal and State Police organisations, the Ex Services Organisations, other interested groups and organizations, and Australian Corporate industry. Membership will be by application and approval by the APMP Committee. There will be a nominal membership fee to cover the administrative costs of the APMP.

Categories of Membership:

Individual;

Group/Organisation;

Honorary; and

Corporate.

3.3.2 Fees.

Individual (\$20);

Group/Organisation (\$50);

Honorary (free); and

Corporate (\$1,000 or as negotiated).

3.4 Cessation of APMP Membership

A person (or group) ceases to be an APMP Member:

- (a) on resigning their APMP Membership by written notice to APMPC;
- (b) on death;
- (c) on APMP in general meeting removing for discipline reasons that person (or group) as a APMP Member by passing a special resolution to that effect; and
- (d) Upon completion of the Project.

3.5 Limited Liability of APMP Members

The liability of an APMP Member is limited to their undertaking to contribute to the property of APMP (in the event of APMP being wound up while they are a APMP Member or within 1 year after ceasing to be a APMP Member) for payment of the debits and liabilities of APMP (contracted before that person ceases to be a APMP Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding twenty dollars (\$20.00).

3.6 Register of APMP Members

The APMP Membership Secretary must keep and maintain a register of APMP Members containing:

- (a) The name and address of each APMP Member; and
- (b) The date on which each APMP Member's name was entered in the register.
- (c) The register is available for inspection free of charge by any APMP Committee Member upon request.
- (d) Only Two (2) copies of the APMP Membership are to be maintained one is to be held by the APMP Membership Secretary and one by The Chairman.
- (e) Unless the APMP Member grants express permission, at no time are APMP Member's details to be released to other than APMPC.

4. General Meetings

4.1 Annual General Meetings

Annual general meetings of APMP are to be held in accordance with the Australian Corporations Act 2001.

4.2 Power to convene general meeting

The Executive Committee must convene and arrange to hold a general meeting of APMP when requisitioned by APMP Members in accordance with the Corporations Act 2001.

The Executive may also convene an Extraordinary General Meeting (EGM), whenever it thinks fit.

4.3 Notice of committee meetings

Except where shorter notice is permissible under the Corporations Act 2001, at least 21 days notice must be given of a meeting of the APMPC Members, exclusive of the day on which the notice is served on deemed to be served and of the day for which notice is given.

4.4 Notice of general meeting

A notice of a meeting must be given in accordance with the Corporations Act 2001.

4.5 Notice of special resolution

If a special resolution is to be proposed, the notice of meeting must be set out an intention of purpose the special resolution and state the resolution.

4.6 Consent of notice

A notice of convening a meeting of APMP must:

- (a) Specify the place, date and time of the meeting, state the general nature of the business to be dealt with at the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting; and
- (b) state that:
 - i. an APMP Member, entitled to attend and vote is entitled to appoint a proxy by both standard and electronic mail (EMAIL); and
 - ii. A proxy need not be an APMP Member.

4.7 Auditor's right to attend general meetings

The Auditor or an agent authorised by the Auditor in writing for the purpose, is entitled:

- (a) to attend any general meeting, to receive all notices of and other communications relating to any general meeting which an APMP Member is entitled to receive; and

- (b) to be heard at any general meeting on any part of the business of the meeting which concerns the Auditor in that capacity, notwithstanding that the Auditor may retire at that meeting or a resolution to remove the Auditor from office is passed at that meeting.

4.8 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Executive Committee it may, whenever it thinks fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by it but must give prior written or by Electronic Mail notice of cancellation or postponement to all persons entitled to receive notices of general meetings.

4.9 Business of postponed meeting

The only business that may be transacted at a general meeting which is postponed is the business specified in the notice convening the meeting.

4.10 Accidental omission

The accidental omission to give notice of meeting or of cancellation or postponement of a meeting to, or the non-receipt of any such notice by any person entitled to notice does not invalidate the meeting, cancellation or postponement or any resolution passed at a meeting.

4.11 Effect of adjournment or postponement on proxy etc

Where;

- by the terms of an instrument appointing a proxy or attorney, a proxy or attorney is authorised to attend and vote at a general meeting to be held on specified date or at a general meeting or general meetings to be held on or before a specified date; and

- the meeting is adjourned or the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy or power of attorney,

Then, by force of this article, the later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or power of attorney unless the APMP Member appointing the proxy or attorney gives to the APMPC Secretary notice in writing

to the contrary not less than 48 hours before the time to which the holding of the meeting has been adjourned or postponed, this may be achieved by both standard and electronic mail (EMAIL).

5 Proceedings at general meetings

5.1 Business of annual general meeting

The business of an annual general meeting is to:

- (a) receive and consider the financial statements and the reports of the Committee and of the Auditor on the financial statements, and
- (b) elect Executive APMP Members in place of those retiring.

All other business which is transacted at an annual general meeting and all business transacted at any other general meeting is special business.

5.2 Quorum for Meetings

- (a) Any ten (10) APMP Members, including proxy given to attendees, constitute a quorum for the conduct of the business of any meeting of the committee.
- (b) No business may be conducted unless a quorum is present.
- (c) If within half an hour of the time appointed for the meeting a quorum is not present:-

In the case of a special meeting, the meeting lapses;

In any other case, the meeting shall stand adjourned to the same place and the same time and day in the following week.

- (d) The committee may act notwithstanding any vacancy on the committee.

5.3 Requirement for quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting, it is to be deemed present throughout the meeting unless the Chairman of the meeting on the Chairman's own motion or at the instance of an APMP Member, proxy or attorney, who is present, otherwise declares.

5.4 Quorum and time

If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

if convened on requisition of APMP Members, is dissolved; and

in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Committee appoints by notice to the APMP Members and others entitled to notice of the meeting.

5.5 Quorum at adjourned meeting

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

5.6 Chairman

The Chairman is entitled to preside at general meetings, but if the Chairman is not present and able and willing to act within 30 minutes after the time appointed for a meeting or has signified an intention not to be present or inability or unwillingness to act, the following may preside (in order of Entitlement): the Vice-Chairman; APMP Members chosen by a majority of the Committee present; an APMP Member, proxy or attorney chosen by a majority of the APMP Members present in person or by proxy or attorney.

5.7 Voting

If there is an equality of voters, whether on a show of hands or on a poll, the Chairman of the meeting is entitled to a casting vote in addition to any votes to which the Chairman is entitled as an APMP Member or proxy or attorney. The Chairman has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

5.8 How questions are decided

Every question submitted to a meeting is to be decided by a show of hands, unless a poll is demanded:

- (a) before the vote is taken;
- (b) before the voting results on the show of hands are declared; or
- (c) immediately after voting results on the show of hands are declared by:
 - (i) the Chairman of the meeting; or

- (ii) any APMP Member present in person or by proxy or attorney and having the right to vote at the meeting,
- (d) the demand for the poll is not withdrawn.

5.9 Declaration of results

On a show of hands, a declaration by the Chairman of the meeting is conclusive evidence of the result.

5.10 Questions decided by majority

Subject to the requirement of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

5.11 Poll

If a poll is properly demanded and the demand is not withdrawn, it must be taken in such manner as the chairman of the meeting determines and the result of the poll is to be deemed the resolution of the meeting at which the poll was demanded.

5.11 Adjournment

The Chairman of a meeting may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to a new time, day or place, but the only business that may be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

5.12 Notice of adjournment

If a meeting is adjourned for more than 14 days notice of the adjournment must be given in accordance with article 4.3.

6 Votes of APMP Members

6.1 Voting rights

At a general meeting each (Fully financial) person present as an APMP Member, proxy or attorney of an APMP Member has one vote on a show of hands. On a poll each person present as proxy or attorney of an APMP Member has one vote for each APMP Member that the person represents, in addition to any vote they can exercise as an APMP Member in their own right.

6.2 Right to appoint proxy

Subject to the Corporations Act 2001, an APMP Member entitled to attend at a meeting of APMP is entitled to appoint the Chairman or another APMP Member as proxy to attend in the APMP Member's place at the meeting. A proxy has the same right as the APMP Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.

6.3 Right to appoint attorney

An APMP Member may, by power of attorney, appoint an attorney to act on the APMP Member's behalf at all or any meetings of APMP.

To be effective, an instrument appointing an attorney under this article, together with any evidence of non-revocation that the Committee requires must be received by APMPC at least 48 hours before the meeting.

7 Committee

7.1 Committee Structure

- (a) The Executive Officers shall consist of the Chairman, Vice-Chairman, Secretary and Treasurer hereafter called The Office Bearers. Office Bearers shall be elected and other Committee members appointed at the AGM;
- (b) All APMP Committee Members must be financial Members of the APMP;
- (c) Should any vacancy occur in the committee or office bearers, other in the normal course of elections, the committee shall fill such vacancy from the financial APMP Members and such APMP Member elected shall hold office for the unexpired portion of the predecessor's term;
- (d) The committee shall meet as often as may be required to conduct the business of the APMP with a minimum of three (3) times a year; and
- (e) All notices of committee meetings shall be in writing and posted to APMP Committee Members at least fourteen (14) days before the date of such meeting. The accidental omission to give any APMP Member or the non-receipt by any APMPC Member, of any notice required by this constitution shall not invalidate or affect any proceedings at such meetings.

7.2 Committee of Management

The affairs of the APMP shall be managed by the committee of management (Elected Office Bearers and Committee Members).

The committee:-

- i. Shall control and manage the daily business and affairs of the APMP;
- ii. May, subject to these Rules, the Act and the Regulations, exercise all such powers and functions as may be exercised by the APMP other than those powers and functions that are required by these Rules to be exercised by APMPC or by General Meetings of the APMP Members of the APMP; and
- iii. Subject to these Rules, the Act and the Regulations, has power to perform all such acts and things as appear to the committee to be essential for the proper management of this business and affairs of the APMP. (30 Subject to section 22 of the Act, the committee shall consist of the Executive Officers of the APMPC.
- iv. Each of whom shall be elected at the annual general meeting of the APMP in each year

7.3 Office Holders

(a) The officers of the APMP Shall be:-

- i. A Chairman;;
 - ii. A Vice-Chairman;
 - iii. A Secretary; and
 - iv. A Treasurer.
- (b) The provisions of rule 22, so far as they are applicable and with the necessary modifications, apply to and in relation to the election of persons to any of the offices referred to in sub-rule(1).
- (c) Each officer of the APMP shall hold office until the expiry of his or her term up to the general meeting next after the expiry of his or her election but is eligible for re-election.
- (d) In the event of a casual vacancy by an Office Bearer referred to in sub-rule (1), the committee may appoint one of its APMP Members to the vacant office. The APMP Member appointed may continue in office up to and

including the conclusion of a meeting next following the date of the appointment.

7.4 Election of officers and ordinary committee APMP Members

Nominations of candidates for election as officers of the APMP or as ordinary APMP Members must be:-

Made in writing, signed by two APMP Members and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); plus candidacy may be accepted by electronic mail (EMAIL);

Nominators and candidates must be financial members of the APMP; and

Delivered to the Returning Officer of the APMP no less than seven (7) days before the date fixed for the holding of the annual general meeting.

A candidate may only be nominated for one office, or as an ordinary APMP Member of the committee, prior to the annual general meeting.

If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated shall be deemed to be elected and further nominations may be received at the annual general meeting.

If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.

If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.

The ballot for the election of officers and ordinary APMP Members of the committee must be conducted at the annual general meeting in such a manner as the committee may direct, this may and does include postal proxy votes via electronic means or the normal postal process.

8 Duties and Powers of the Committee

8.1 Duties of Committee

The Committee is responsible for;

- (a) The strategic direction of APMP;
- (b) The general welfare of APMP;
- (c) The Management of the business and affairs of APMP; and
- (d) The custody and control of the funds and property of APMP

8.2 General Powers

Subject to the Corporations Act and this Constitution, the Committee may exercise all those powers and do all those things which APMP is authorised to exercise and do by this Constitution or otherwise and which are not required to be exercised or done by APMP in general meeting.

8.3 Specific Powers

Without limiting its power under article 8.2, the Committee will:

The Chairman is responsible to the APMP Members for ensuring that the committee acts on their behalf at all times, and that the meetings are conducted correctly.

The Vice Chairman is to understudy the Chairman and is to carry out the Chairman's duties in his or her absence.

The Secretary is responsible to the committee. The Secretary shall keep a true record of the minutes of all meetings, attend to correspondence, issue notice of meetings and carry out such duties as the committee may from time to time direct. The Secretary will also be the Public Officer of the APMP.

The Treasurer is responsible receive, receipt and bank all monies in the banking account of the APMP. The Treasurer shall present a financial statement of the APMPC at each meeting and an audited statement and report at the annual general meeting. Proper books of the account shall be maintained at all times.

8.4 Exercise of Powers

A power of the Committee may be exercised only:

- (a) By resolution of the Committee; or

- (b) In accordance with a delegation of power under article 8.5.

8.5 *Delegation to Committees and Attorneys*

The Committee may delegate any of its powers, except the power to appoint the Chairman:

- (a) To a committee consisting of at least two of their number and such other persons (if any) as they think fit; or
- (b) To an attorney

And may revoke that delegation whether or not the delegation was stated to be for a specific period. These powers are supplemental to those set out in section 126 of the Corporations Act.

8.6 *Terms of delegation*

A delegation of powers under article 8.5 may be made:

- (a) For a specific period, or without specifying a period;
- (b) On the terms (excluding the power to further delegate) and subject to any restrictions that the Committee decides.

A power exercised in accordance with a delegation by the Committee is to be treated as exercised by the Committee.

8.7 *Provisions in power of attorney*

A power of attorney granted under article 8.5 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Committee thinks fit.

8.8 *Proceedings of Committees*

Unless the Committee appoints the chairman of a committee, the APMP Members of a committee themselves must elect one of their number as chairman of their meetings. If a meeting of a committee is held and;

- (a) A chairman has not been elected; or
- (b) The chairman is not present within fifteen minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

The APMP Members of that committee involved may elect one of their numbers to be chairman of the meeting.

8.9 Meetings of Committees

A committee may meet and adjourn as it thinks proper.

8.10 Quorum for Committee meetings

- (e) Any four (4) APMPC Members of the Executive and/or Committee constitute a quorum for the conduct of the business of a meeting of the committee.
- (f) No business may be conducted unless a quorum is present.
- (g) If within half an hour of the time appointed for the meeting a quorum is not present:-

In the case of a special meeting, the meeting lapses;

In any other case, the meeting shall stand adjourned to the same place and the same time and day in the following week.

- (h) The committee may act notwithstanding any vacancy on the committee.

8.11 Decisions of Committees

Questions arising at a meeting of a committee are to be determined by a majority of votes of the APMPC Members involved and voting. The chairman, in addition to the chairman's deliberative vote, has a casting vote.

9 Proceedings of the APMP Committee

9.1 Meetings of the Committee

The committee must meet at least three times in each year at such places and such times as the committee may determine.

The Committee may meet for the dispatch of business, adjourn and otherwise regulate its meetings proceedings as it thinks fit.

Special meetings of the committee may be convened by the Chairman or by any four (4) APMPC Members.

9.2 Quorum

The quorum necessary for the transaction of the business of the Committee may be fixed by the Committee and unless so fixed shall be the Chairman and any four (4) APMPC Members.

9.3 Convening meetings

At the written request of an APMPC Member, the Secretary must convene a meeting of the Committee.

9.4 Notice of Meetings

An APMPC Member who is not in Australia is not entitled to notice of a meeting of the Committee

9.5 Custody and inspection of books and records

- (a) Except as otherwise provided in the Rules, the Secretary must keep in his or her custody or under his or her control all books, documents and securities of the APMPC;
- (b) All accounts, books, securities and any other relevant documents of the APMPC must be available for inspection free of charge by any APMP Member upon request; and
- (c) The Treasurer shall receive and receipt all monies payable to the APMP. All monies shall be banked in the banking accounts or fund accounts of the APMP. The Treasurer shall present a financial statement of the APMPC at each meeting and an audited statement and report at the annual general meeting. Proper books of the account shall be maintained at all times.

10 Duties, Interests and Remuneration of APMP Committee Members

10.1 Compliance with law

Each APMPC Member must comply with part 2D.1 of the Corporations Act.

10.2 Disqualification from other officers

An APMPC Member is disqualified from holding of the office of Auditor and from holding any place of profit in or employment by APMP or any subsidiary.

10.3 Declaration of interests

An APMPC Member who:

- (a) Is in any way, interested in a contract or proposed contract with APMP or any subsidiary; or
- (b) Holds of office or possesses any property as a result of which duties or interests might be created which are directly or indirectly in conflict with that APMPC Member's duties or interests as a APMPC Member

Must declare the fact and the nature of the interest, or nature, character and extent of the conflict at the first Committee meeting held after the relevant facts come to the Committee Member's knowledge or after appointment as an APMP Committee Member (whichever is later).

10.4 APMP Committee Member interested in a matter

Each APMPC Member must comply with section 195 of the Corporations Act in relation to being present, and voting, at a Committee meeting that considers a matter in which the APMPC Member has a material personal interest. Subject to section 195:

- (a) A APMPC Member may be counted in a quorum at a Committee meeting that considers, and may vote on, whether APMP enters into an agreement of proposed agreement in which that APMPC Member has an interest;
- (b) APMP may enter into the agreement and the Committee APMPC Member may participate in the execution of any relevant document by or on behalf of APMPC;
- (c) The APMPC Member may be counted in a quorum at a Committee meeting that considers, and may vote on, matters involving the agreement; and
- (d) If disclosure under article 10.3 is made before the agreement is entered into:
 - i. The APMPC Member may retain benefits under the agreement even though the APMPC Member has an interest in the agreement; and
 - ii. APMP cannot avoid the agreement merely because of the existence of the interest.

10.5 APMP Committee Members not to receive remuneration

Subject to article 10.7, The APMP must not pay any remuneration or other benefit in money or money's worth for services as a Committee APMP Member except by way of reimbursement of reasonable travel and out of pocket expenses incurred in the discharge or whilst otherwise engaged in the affairs of APMP.

10.6 Exceptions

Nothing in this Constitution prevents payment in good faith to any APMP Member:

- (a) For special services outside the ordinary course of the Committee Member's duties with the prior approval of the Committee; or
- (b) On normal arm's length terms for services actually rendered to APMP in a professional capacity as approved by the Committee.

11 Accounts and Audit

11.1 Financial Period

The financial year shall be from the 1st July to 30th June.

11.2 Funds

The Treasurer of the APMP must:-

- i. Collect and receive all moneys due to the APMP and make all payments authorised by the APMP,
 - ii. Keep correct accounts and books showing the financial affairs of the APMP with full details of all receipts and expenditure connected with the activities of the APMP.
- (b) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two APMP Committee Members.
 - (c) The funds of the APMP shall be derived from initial membership fees, annual subscriptions, Government Grants and such other sources as the committee determine. These above payments must go into the Operating Account except those donations or gifts to the APMP which must be accounted for in the Gift Account.

11.3 Keeping Accounts

The Committee must cause true accounts to be kept of all sums of money received and expended by APMP and the matters in respect of which such receipts and expenditure takes place and of the assets and liabilities of APMP

11.4 Financial Reporting

At the Annual General Meeting in each year, the Committee must lay before the APMP members the balance sheet and revenue account and the statements and reports thereon required by the Corporations Act made up in respect of the last financial year of APMP. Copies of these documents must be sent by the Committee to all persons entitle to receive them pursuant to section 314 not less than 21 days prior to each such meeting.

11.5 Payments

All monies of the APMP shall be paid into the accounts of the APMPC at such bank/credit union as the committee may from time to time direct.

11.6 Cheques

No monies shall be drawn from the account unless it is by cheque and signed by two (2) of the four (4) co-signatories (office bearers). For further information on Banking procedures refer to the Financial Standard Operating Procedures. As per Para 7.3 Sub-Para a.

11.7 Audit

Once at least in every year the accounts of APMP shall be audited and the Balance sheet and revenue account reported upon by the Auditor.

12 Authentication of documents

12.1 Common Seal

The common seal of the APMP must be kept in the custody of the Secretary.

12.2 Use of Common seal

The common seal must not be affixed to any instrument except by the authority of the committee and the affixing of the common seal must be attested by the signatures either of the two (2) APMPC Members .

12.3 Authentication

Every document to which the common seal is affixed must be signed by an APMP Committee Member and countersigned by the Secretary or a second Committee Member or some other person appointed generally or in a particular case by the Committee for that purpose.

12.4 Execution of documents without the common seal

APMP may also execute documents without using the common seal in any way permitted by the Corporations Act.

12.5 Negotiable instruments

Cheques, bills of exchange, promissory notes and other negotiable instruments may be signed, accepted, drawn, made or endorsed on behalf of APMP in such manner and by such persons (whether Member or officers of the APMPC or not) as the Committee determines but not otherwise.

13 Inspection of books

13.1 Right of APMP Member to inspect

An APMP Member or other person, (not being an APMP Committee Member) has no right to inspect any of the books or documents of APMP except as conferred by statute or authorised by the Committee or by a resolution of APMP in general meeting.

14 Service of documents

14.1 Methods of service

A notice or other document may be delivered or served by the APMPC on an APMP Member either personally or by sending it:

- (a) In the case of a APMP Members who does not have a registered address in Australia, by airmail post;
- (b) In electronic form either being E-Mail or Fax; and
- (c) In any other case, by ordinary post.

14.2 Service of legal process

All summonses, notices process, judgments and orders in relation to any legal proceedings by APMP or its liquidator against a APMP Member not in the ACT may be

served by certified or registered post (the foregoing provisions as to notices applying with necessary changes) and that service is to be deemed personal service.

14.3 Receipt

A document sent by post is to be deemed received or served on the day next following that on which it was posted and in providing delivery or service it is sufficient to provide that the envelope or wrapper containing the document was properly addressed and stamped and was posted.

14.4 Fax or electronic transmission

A notice may be served by APMPC on an APMP Member, an APMPC Member or other person receiving notice under this Constitution by sending it by facsimile or electronic transmission to that person at the person's registered address. A notice so sent is to be deemed served on the day following production of a transmission report by the machine from which the facsimile or electronic transmission was sent which indicates that the facsimile or electronic transmission was sent in its entirety to the person's facsimile number or Email Address.

14.5 Receipt and signature of notices

Subject to the Corporations Act 2001:

- (a) If this Constitution requires or permits a notice to be given by APMP, the Committee, an APMPC Member or the Secretary, neither accidental omission to give the notice nor non-receipt of the notice invalidates the meeting, resolution, procedure or matter to which the notice relates; and
- (b) The signature to a written notice need not be handwritten.

15 Indemnity

15.1 Indemnity of officers, auditors and agents

Every person who is or has been:

- (a) A APMP Committee Member; or
- (b) A Secretary of APMP,

Is entitled to be indemnified out of the property of APMP against;

- (a) Every liability incurred by the person in that capacity (except a liability for legal costs); and

- (b) All legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity;

Unless:

- (a) APMP is forbidden by statute to indemnify the person against the liability or legal costs; or
- (b) An indemnity by APMP of the person against the liability or legal costs would, if given, be made void by statute.

15.2 Insurance

APMP may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been an APMP Committee Member or a Secretary or an executive officer of APMP against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) APMP is forbidden by statute to pay or agree to pay the premium; or
- (b) The contract would, if APMP paid the premium, be made void by statute.

16 APMP Assets

The income and property of the APMP is to be used and applied solely in promotion of its purposes and the exercise of its powers.

Subject to Rules 18 (c) and (d) the income and property of the APMP is not to be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to a APMP Member.

The APMP may pay, in good faith, interest to an APMP Member in respect of money advanced by the APMP Member to the APMP or otherwise owing by the APMP to the APMP Member.

17 Winding Up

17.1 Contribution of Committee APMP Member on Winding-Up

Each APMP Member undertakes to contribute to APMP property if APMP is wound up while they are a Committee APMP Member or within one year after they cease to be an APMP Member. This contribution is for:

Payment of APMP debits and liabilities contracted before they ceased to be an APMP Member;

- (a) The costs of winding up; and
- (b) Adjustment of the rights of the contributories among themselves
- (c) But may not exceed \$20.00 in aggregate.

18 AMENDMENTS TO THE CONSTITUTION

This shall be the only constitution of the APMP and shall come into effect after a vote of APMP Members at the first annual general meeting, and shall not be altered, varied, added to or repealed unless 75% or $\frac{3}{4}$ of the financial APMP Members present at the annual general meeting, and must be by special resolution at meeting with no less than 21 days notice given to APMP Members convened for that purpose, are in favour of such alterations, variations or repeal.

19 Discipline, Suspension and Expulsion of APMP Members

- (a) Subject to these rules, if the committee is of the opinion that a APMP Member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming of a APMP Member or prejudicial to the interests of the APMP, the committee may by resolution:-

Suspend that APMP Member from Membership of the APMP for a specified period; or

Expel that Member from the APMP

- (b) A resolution of the committee under sub-rule (1) does not take effect unless:-
 - i. At a meeting held in accordance with sub-rule (c), the committee confirms the resolution; and
 - ii. If the APMP Member exercises a right of appeal to the APMP under this rule, the APMP confirms the resolution in accordance with this rule.
- (c) A meeting of the committee to confirm or revoke a resolution passed under sub-rule (a) must be held not earlier than 14 days, and no later than

28 days, after notice has been given to the APMP Member in accordance with sub-rule (d).

- (d) For the purpose of giving notice in accordance with sub-rule (c), the Secretary must, as soon as practicable, cause to be given to the APMP Member with written notice:-
 - i. Setting out the resolution of the committee and the grounds on which it is based;
 - ii. Stating that the APMP Member, or his or her representative, may address the committee at a meeting to be held not earlier than 14 days and no later than 28 days after the notice has been given to the APMP Member;
 - iii. Stating the date, place and time of the meeting;
 - iv. Informing the APMP Member that he or she may do one or both of the following:-
 - 1. Attend that meeting;
 - 2. Give to the committee before the date of that meeting a written statement seeking the revocation of the resolution;
 - v. Informing the APMP Member that, if at that meeting, the committee confirms the resolution, he or she may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the APMP in a general meeting against the resolution.
- (e) At a meeting of the committee to confirm or revoke a resolution passed under sub-rule (a), the committee must:-
 - i. Give the APMP Member, or his or her representative, an opportunity to be heard; and
 - ii. Give due consideration to any written statement submitted by the APMP Member; and
 - iii. Determine by resolution whether to confirm or to revoke the resolution. Sub-rule (f) if at the meeting of the committee, the committee confirms the resolution, the APMP Member may, not later than 48 hours after that meeting; give the Secretary a notice to the effect that he or she wishes to appeal to the APMP in general meeting against the resolution.

- (f) Reserved
- (g) If the Secretary receives a notice under sub-rule (f), he or she must notify the committee and the committee must convene a general meeting of the APMP to be held within 21 days after the date on which the Secretary receives the notice:
- (h) At a general meeting of the APMP convened under sub-rule (4):-
 - i. No business other than the question of the appeal may be conducted;
 - ii. The committee may place before the meeting details of the grounds for the resolution and the reason for the passing of the resolution;
 - iii. The APMP Member, or his or her representative, must be given an opportunity to be heard; and
 - iv. The APMP Member present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- (f) A resolution is confirmed if, at the general meeting, not less than two-thirds 2/3 of the APMP Members vote in person, or by proxy, in favour of the resolution. In any other case, the resolution is revoked.

20 DISPUTES AND MEDIATION

The grievance procedure set out in this rule applies to disputes under these Rules between:

- (a) An APMP Member and another APMP Member; or
- (b) An APMP Member and the APMP.

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.

If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator, (d) The mediator must be:-

A person chosen by agreement between the parties; or

In the absence of agreement:-

- i. In the case of a dispute between a APMP Member and another APMP Member, a person appointed by the committee of the APMP; or
- ii. In the case of a dispute between an APMP Member and the APMP, a person who is a mediator appointed by the APMP Committee.

A Member of the APMP can be a mediator.

The mediator cannot be an APMP Member who is a party to the dispute.

The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

The mediator, in conducting the mediation, must:-

- i. Give the parties to the mediation process every opportunity to be heard; and
- ii. Allow due consideration by all parties of any written statement submitted by any party; and
- iii. Ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

The mediator must not determine the dispute.

If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at Law.

21 Australian Taxation Office Requirements

21.1 Paramount Provisions

The following provisions of this clause 23 shall form part of this Constitution from and including 1 December 2005 and to the extent that there are inconsistencies between the following provisions and any other provisions of this Constitution, the following provisions shall prevail to the extent of any inconsistencies.

21.2 Definitions

- (a) **Accounting Period** means the period from the Date of Effect to the following 30 June and then each period of 12 months ending on 30 June in each year, or any other period that the Trust decides.
- (b) **Associate** has the meaning outlined in section 78A of the *Income Tax Assessment Act 1936* as if the reference to the “donor” in that section were a reference to the person who in this clause 23 is referred to in relation to the Associate.
- (c) **Commissioner** means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the ITAA 97.
- (d) **CORPORATIONS ACT 2001 - LONG TITLE** An Act to make provision in relation to corporations and financial products and services, and for other purposes
- (e) **Donor** means the donor of a gift to the Trust or the Gift Fund.
- (f) **Eligible Charity** means a fund, authority or institution which is charitable at law and gifts to which are deductible under item 1 of the table in section 30-15 of ITAA 97.
- (g) **Gift Fund** means the APMP Gift Fund
- (h) **ITAA 97** means Income Tax Assessment Act 1997.
- (i) **Major Donor** means, at a particular time, a Donor who has made gifts totalling more than \$10,000 to the Gift Fund since the Date of Effect.
- (j) **Responsible Persons** are persons or institutions, who have a responsibility to the community as a whole, including:
 - i. persons who perform a significant public function;
 - ii. persons who have received formal recognition from government for services to the community; or
 - iii. members of a professional body having a code of ethics or rules of conduct;
 - iv. Church authorities, school principals, judges, clergymen, solicitors, doctors and other professional persons, mayors, councillors, town clerks and members of parliament;

- v. appointees of a Chief Justice of a Supreme Court; and
- vi. any person who is approved as a Responsible Person by the Commissioner, and who, unless the Commissioner otherwise agrees, is not:
 - 1. a Donor;
 - 2. an employee of the APMP or a Major Donor;
 - 3. an Associate of the APMP or of a Major Donor or of a Director other than:
 - (a) in a professional capacity;
 - (b) as a member of the Board; or
 - (c) as a member of the APMP..

21.3 Purposes

21.3.1 Application of Income and Capital

- (a) **Specific Purpose.** The APMP must hold all gifts to the APMP or to the Gift Fund and the income of the Gift Fund derived in each Accounting Period to pay or apply the income and, if and so far as it thinks fit, all or any part of the capital of the said gifts, solely for the purpose of providing financial assistance toward the APMP toward the construction of the Australian Peacekeeping Memorial in Canberra.
- (b) **Duties and Powers of the APMP.** In pursuit of the above purpose, but subject always to the limitations in this clause 23, and any other relevant limitations in this Constitution, and having regard to available funds:
 - (i) **Duties.** The APMP must:
 - 1. grant financial assistance to The APMP, during the construction and project completion; and
 - 2. solicit and accept donations for the above purpose.
 - (a) **Powers.** The APMP may:

1. administer on behalf of The APMP to provide financial assistance to The Australian Peacekeeping Memorial, providing such a construction is underway;
 2. consult and liaise with various veterans' and other organisations in Australia with a view to assisting The APMP, which requires monetary assistance to construct the Australian Peacekeeping Memorial; and
- engage in any other activity which the decides will assist it to achieve the above purpose.

21.4 Establishment and Operation of Gift Fund

21.4.1 Maintaining Gift Fund

The APMP must maintain for the Specific Purpose referred to in clause 23.3.1 a **Gift Fund**:

- (a) to which gifts of money or property for that purpose are to be made;
- (b) to which any money received by the APMP because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

21.4.2 Limits on use of Gift Fund

The APMP must use the following only for the said Specific Purpose:

- (a) gifts made to the APMP or to the Gift Fund; and
- (b) any money received because of those gifts.

21.4.3. Gift Fund may accumulate

Despite other provisions of clause 23.4, the Gift Fund may, in any Accounting Period accumulate and retain so much of:

the income of the Gift Fund other than gifts, government grants and other voluntary transfers of property to the Gift Fund as is:

necessary to maintain the capital of the Gift Fund at a level calculated by adjusting the capital at the beginning of that Accounting Period to reflect the movement in any relevant Consumer Price Index during

the Accounting Period immediately before that Accounting Period;
or

(ii) from time to time approved by the Commissioner; and

all other receipts or income of the Gift Fund as are from time to time approved
by the Commissioner.

21.4.3 Bank account

The APMP must maintain a separate bank account for Administration expenses and a Gift Fund for all gifts.

21.4.4 Gift Fund

To avoid any doubt, it is declared that all gifts to the APMP must form part of the Gift Fund and must be held in accounts referred to in this Constitution.

21.4.5 Winding up

At the first occurrence of:

- (a) the Gift Fund ceasing to be a public fund under item 2 of the table contained in section 30-15 of the ITAA 97; or
- (b) either the Gift Fund being wound up;

any surplus assets of the Gift Fund must be transferred to such Eligible Charities as the APMP decides.

Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of the ITAA 97 are satisfied, a transfer under this clause 23.4 must be made in accordance with those conditions.

21.5 Qualification of Directors

At all times a majority of Directors of the APMP must be Responsible Persons.

If the requirement in clause 23.5.1 is not met at any time, the Trust must not exercise any discretion or power in relation to the Gift Fund until the requirement is met except:

- (a) for the purpose of exercising a statutory power to appoint a new or additional Director;
- (b) to protect the Gift Fund; or

- (c) in the case of urgency.

21.6 Books of account and receipts of the Gift Fund

21.6.1 Keeping of accounts

The APMP must keep or cause to be kept proper accounts in respect of all receipts and payments on account of the Gift Fund and of all dealings connected with the Gift Fund.

21.6.2 Financial statements

As soon as practicable after the end of each Accounting Period the APMP must prepare or cause to be prepared a financial statement showing the financial position of the Gift Fund at the end of that Accounting Period.

21.6.3 Audit

The financial statement must be audited by a person registered, or taken to be registered as an auditor under Part 9.2 of the *Corporations Act 2001*

21.6.4 Receipts

Receipts issued for gifts must state:

- (a) the name of the Gift Fund;
- (b) the Australian Business Number; and
- (c) the fact that the receipt is for a gift.

21.6.5 Copy Accounts to Minister and Others

As soon as practicable after each annual general meeting, the Board must forward a copy of the audited accounts of the Gift Fund/Admin Fund to:

- (a) the Minister of Veterans' Affairs.

21.6.6 Directors may transfer monies from the Admin Fund /Gift Fund

After payment of all proper expenses in relation to the Admin Fund , the APMP may transfer the balance of the Admin Fund to the Gift Fund provided however that all of the monies so transferred must, be used solely for the purposes of providing financial assistance to the construction of the Australian Peacekeeping Memorial in Canberra.

21.7 Uncommercial Transactions

Apart from a payment or application in accordance with this clause 21 or a payment or application approved by the Commissioner, no part of the Gift Fund or the income thereof may be paid or applied, directly or indirectly, to or for:

- (a) The APMP;
- (b) a Donor; or
- (c) an Associate of the APMP or a Donor by way of an Uncommercial Transaction.

Uncommercial Transaction means the provision of a financial or other benefit on terms which:

would not be reasonable in the circumstances if the benefit were provided on an arms length basis; or

are more favourable to the recipient than hereinbefore referred to in this sub-clause; and

which a reasonable person in the position of the Trust would not have entered into having regard to all relevant circumstances.

21.8 Indemnity of the Directors from the Gift Fund

21.8.1 The Directors are entitled to be indemnified out of the Gift Fund in respect of:

- (a) all costs and expenses incurred by the Gift Fund relating to:
 - (i) amending the Constitution by inserting therein this clause 21;
 - (ii) establishing, operating, administering, amending, terminating and winding up the Gift Fund or the Admin Fund created by this clause 21; and
 - (iii) all other matters incidental to the Gift Fund or Admin Fund ; and
- (b) all liability incurred (including liability for income tax and any other taxes and all fines and penalties payable in relation to those taxes) and acts and things done in connection with or resulting from the matters referred to in clause 21 including, but not limited to, the Directors performing their duties and exercising their powers and discretions under this clause 21.

21.9 Commissioner to be notified of Changes to Constitution

The Commissioner must be notified of all amendments to this Constitution. The following words have these meanings in this Constitution unless the contrary intention appears

- (a) **Approved Committee APMP Member** means a person appointed to the Committee with the approval or deemed approval by the APMP as provided by this Constitution.
- (b) **Auditor** means the auditor for the time being of APMP
- (c) **Chairman** means the chairman for the time being of the Committee elected under article 8.8.
- (d) **Constitution** means this Constitution as amended from time to time.
- (e) **Corporations Act** means The Corporations Act 2001 (Commonwealth).
- (f) **Committee Member** means an APMP Member of the Committee from time to time.
- (g) **Elected Committee APMPC Member** means a person elected to the Committee by APMPC Members in general meeting as provided by this Constitution.
- (h) **APMP** means Australian Peacekeeper Memorial Project Incorporated,
- (i) **APMPC Member** means a Member of the APMP Committee.
- (j) **Chairman** means the person occupying to position of Chairman of the APMP and also any person appointed to act temporarily as the Chairman of the APMP.
- (k) **Seal** means the common seal of APMP.
- (l) **Secretary** means a person appointed as a secretary of APMP, and where appropriate includes an acting secretary and a person appointed by the Committee to perform all or any of the duties of a secretary of APMP and a reference to “the Secretary” is a reference to any Secretary.

22 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) The word person means a natural person unless the context requires another interpretation;
- (b) The singular includes the plural and vice versa;
- (c) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (d) A reference to writing includes all modes of representing or reproducing words in a visible form;
- (e) A reference to an article is a reference to one of the articles of this Constitution;
- (f) A reference to a section is a reference to a section of the Corporations Act; and
- (g) An authority or discretion given to a Committee APMP Member, the Committee, APMP in general meeting or an APMP Member may be exercised from time to time and at any time.

23 Headings

Headings are inserted for convenience and do not affect the interpretation of this Constitution

24 Powers

Powers conferred on APMP, the Committee or an APMP Member of the Committee may be exercised at any time and from time to time.
