



# **By Laws**

**Commencement date: 26 October 2021**

**The Real Estate Institute of Victoria Limited**

**ACN 004 210 897**

A Public Company Limited by Guarantee

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## 1 Definitions and Interpretation

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### 1.1 Definitions

In these By Laws, unless there is something in the subject or context which is inconsistent:

**Accreditation** means the formal recognition of the achievement by a Member of higher standards as prescribed by the Institute.

**Act** means the Estate Agents Act 1980 (Vic) and any regulations made thereunder.

**Affiliate** means a Person permitted by the Board to be an affiliate of the Institute pursuant to clause 5(a) of the Constitution.

**Agent's Representative** means an agent's representative as defined in the Act.

**Annual General Meeting** means the General Meeting to be held in accordance with clause 7.3 of the Constitution.

**Applicant** means a Person who wishes to apply for membership.

**Application for Membership** means the form, the contents of which may be determined by the Board from time to time, which is to be used by an Applicant.

**Board** means the Board of Directors of the Institute.

**Business Leadership** means the leadership of the business including Directors, Officers, Officers in Effective Control, Chief Executive Officer, Partners all as appropriate to the business

**By Laws** means by laws made by the Directors from time to time pursuant to clause 8.8(e) of the Constitution.

**Chapter** means a chapter established in accordance with clause 12 of the Constitution.

**Chapter Member** means a member of a Chapter.

**Chapter Committee** means the committee appointed by the Board under clause 12.3(a) of the Constitution.

**Chief Executive Officer** means the person appointed by the Board to be the chief administrative officer of the Institute, whether or not given the title of chief executive officer.

**Code of Conduct** means any code of conduct, rules and regulations made or adopted by the Board from time to time pursuant to clause 8.8(e) of the Constitution.

**Commencement Date** means the date on which these By Laws are approved by the Board.

**Connected Office Member** means an Office Member in which a Licensed Member and/or a Representative Member is part of the business structure.

**Connected Licensed Member** means a Licensed Member who is part of the business leadership of an Office Member.

**Connected Representative Member** means a Representative Member who is part of the business leadership of an Office Member.

**Corporations Act** means the Corporations Act 2001.

**CPD** means continuing professional development as required by the Board.

**Delegate** means a delegate to the Members' Council appointed or elected in accordance with the Constitution.

**Director** means a director as defined in the Corporations Act 2001

**Disciplinary Committee** means the committee established by the Board in accordance with clauses 8.8(b)(ii) and 8.8(b)(vii) of the Constitution.

**Dispute** means any difference, disagreement or dissension arising out of any question or matter which in the opinion of the Board relates to the receipt, payment, sharing, division, reimbursement, distribution or disposition of or other interest in, any remuneration whether by way of commission or otherwise or any costs, charges or expenses or any other money related thereto or with respect to any duties, obligations, rights or entitlements otherwise pertaining thereto.

**Division** means a division established in accordance with clause 11 of the Constitution.

**Division Member** means a member of a Division.

**Division Committee** means a committee elected in accordance with clause 11.3(a) of the Constitution.

**Estate Agent** means an estate agent as defined in the Act.

**Financial Member** means a Member who has paid by the relevant due date the Membership Fees and all other sums owed by that Member to the Institute.

**General Meeting** means a general meeting of the Members conducted in accordance with the Corporations Act and clause 7 of the Constitution.

**Honorary Life Member** means an individual member granted honorary life membership of the Institute pursuant to the By Laws and whose membership has not been terminated.

**Institute** means the entity whose name upon the adoption of the Constitution was THE REAL ESTATE INSTITUTE OF VICTORIA LIMITED ACN 004 210 897 and shall be taken to mean the same entity by whatever name from time to time it may be called.

**Licensed Corporation** means a corporation holding an estate agent's licence under the Act.

**Licensed Member** means a Person admitted to membership of the Institute as a Licensed Member under the By Laws and whose membership has not been terminated.

**Member** means a Person whose name is entered in the Register as a member of the Institute.

**Members' Council** means the council established in accordance with clause 14 of the Constitution.

**Member's Guarantee** means the guarantee of an amount not exceeding \$2.00 to defray such liabilities and expenses of the Institute upon its winding up or dissolution.

**Membership Fees** means the fees payable by Members on an annual basis as determined by the Board from time to time.

**Non-Practising Member** means a person admitted as a non-practising member of the Institute pursuant to the By Laws and whose membership has not been terminated.

**Objects** means the objects for which the Institute was established as described in clause 2 of the Constitution.

**Office Member** means a Person admitted to membership of the Institute as an Office Member under the By Laws and whose membership has not been terminated.

**Officer** means an officer as defined by the Corporations Act 2001.

**Owners Corporation Manager** means an Owners Corporation Manager as defined in the Owners Corporation Act 2006

**Past President** means a person who was previously a President.

**Past Presidents' Council** means the council established in accordance with clause 13 of the Constitution.

**Person** means a natural person or a registered company, corporation or incorporated association.

**President** means the president of the Institute for the time being elected by the Board in accordance with clause 10.1 of the Constitution.

**Professional Indemnity Insurance Policy** means a contract of insurance that in whole or in part indemnifies a person against civil liability, including liability for costs, arising from the conduct of real estate agency and other associated real estate professional services.

**Provisional Member** means an applicant for membership referred to in clause 3.3(d) of the Constitution and in the By Laws.

**Register** means the register of Members as defined by the Corporations Act.

**Related Body Corporate** has the meaning set out in section 9 of the Corporations Act.

**Representative Member** means a Member admitted to membership of the Institute as a Representative Member under the By Laws and whose membership has not been terminated.

**Returning Officer** means the Chief Executive Officer unless otherwise determined by the Board.

**Secretary** means the secretary of the Institute as appointed by the Board, and if there are joint secretaries, any one or more of such joint secretaries.

**Senior Vice President** means the senior vice president of the Institute for the time being elected by the Board in accordance with clause 10.1 of the Constitution.

**Service Address** means the address nominated by a Member for the purpose of receiving notices from the Institute.

**Special Resolution** has the meaning given to in section 9 of the Corporations Act.

**Student Member** means a person admitted as a Student Member of the Institute pursuant to the By Laws and whose membership has not been terminated.

**Unfinancial Member** means a Member who is in default of a financial obligation (including the payment by the due date of Membership Fees) to the Institute.

**Valuer** means a person with an appropriate professional qualification in valuation or appraisal.

**Vice President** means the vice president of the Institute for the time being elected by the Board in accordance with clause 10.1 of the Constitution.

**Voting Member** means a Member who has been granted membership of a class of membership which confers an entitlement to vote at a general meeting and is not an Unfinancial Member.

**Zone** means the metropolitan, regional or other geographical zone to which Divisions are allocated by the Board.

## 1.2 Interpretation

Unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes all other genders;
- (c) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;
- (d) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any **clause** or **schedule** is to a clause or schedule of the Constitution;
- (g) a reference to a **paragraph** is to a paragraph in these By Laws;
- (h) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;

- (i) an expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division;
- (j) headings do not form part of or affect the construction or interpretation of these By Laws;
- (k) a reference to an agreement or document, including these By Laws, is to the agreement or document that exists from time to time;
- (l) a reference to a day, unless a reference to a Business Day, is an ordinary day;
- (m) a reference to the REIV in these By Laws is a reference to the Institute;
- (n) a power, authority, duty or discretion means the power, authority, duty or discretion exercised from time to time; and
- (o) a power in these By Laws to do any act or thing includes a power to amend or revoke that act or thing.

If any doubt arises as to the proper meaning of these By Laws, the interpretation of the Board is, subject to law, conclusive.

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## 2 MEMBERSHIP CLASSES

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**Clause 3.4** of the Constitution lists the Membership Classes and provides at **clause 3.1** that eligibility requirements and other membership qualifications be set out in the By Laws or elsewhere.

### 2.1 Office Members – Real Estate Agencies

- (a) A business registered with the Business Licensing Authority that holds an Estate Agent's licence will be admitted as an Office Member if:
  - (i) every natural person who holds an Estate Agent's licence that forms part of the Business Leadership of the Office Member must also apply for and be awarded membership as a Licensed Member;
  - (ii) every natural person who is an Agent's Representative that forms part of the Business Leadership of the Office Member must also apply for and be awarded membership as a Representative Member; and
  - (iii) Notwithstanding paragraphs 2.1(a)(i) and 2.1(a)(ii) and for the avoidance of doubt, each Director, Officer, Officer in Effective Control, Chief Executive Officer, Partner as appropriate to the business, who holds an Estate Agent's Licence or who is registered as an Agent's Representative must be a member of the Institute.
- (b) A business referred to in paragraph 2.1(a) that has:
  - (i) A Principal Office must apply for membership in respect of the Principal Office as an Office Member; and
  - (ii) One or more Branch Offices must apply for membership in respect of each Branch Office as an Office Member separately from the Principal Office.
- (c) A Branch Office that applies for membership as an Office Member, must have a Branch Manager who is:
  - (i) a Licensed Member; or
  - (ii) eligible to be a Licensed Member and who applies successfully for membership as a Licensed Member.
- (d) A Licensed Corporation or natural person holding an Estate Agent's licence that is in Partnership or any other business structure with another person is eligible to be an Office Member if each person in the Partnership or other business structure applies for and is awarded membership of the Institute in the appropriate class.

### 2.2 Office Members – Owners Corporation Managers

A business registered with the Business Licensing Authority as an Owners Corporation Manager may be admitted as an Office Member if every natural person who forms part of the Business Leadership who is eligible to be a Licensed Member, is a Licensed Member of the REIV.

### 2.3 Office Members – Valuation Businesses

A business providing property valuation services may be admitted as an Office Member if every natural person who forms part of the Business Leadership who is eligible to be a Licensed Member, is a Licensed Member of the REIV.



## **2.4 Sole Traders**

A natural person who is a Licensed Member and is operating as a Sole Trader shall be eligible for Office Membership, subject to satisfying the eligibility criteria for Office membership in paragraphs 2.1, 2.2 or 2.3 and 2.5.

## **2.5 Office Members – General Eligibility Requirements**

Office Members must:

- (a) have an active Australian Business Number;
- (b) maintain their Registration and/or License with the Business Licensing Authority where it is a requirement to operate, and keep all Registration and/or License information up to date;
- (c) maintain Professional Indemnity Insurance either:
  - (i) at least at the level relevant to their business registration or licensing requirements; or
  - (ii) where there are no such requirements, to maintain Professional Indemnity Insurance at no less than the level and scope of cover as determined by the Board from time to time. At the time of adoption of these By Laws:
    - (A) A minimum of \$2 million per claim and not less than \$6 million in aggregate for all claims made during the period of insurance;
    - (B) Provides cover for all employees/ Partners/ Directors and relevant activities and services provided by the by the Office Member; and
    - (C) Provides cover for claims under the Australian Consumer Law and Fair Trading Act 2012.

## **2.6 Licensed Members**

- (a) A natural person may be admitted as a Licensed Member if they:
  - (i) Hold an Estate Agent's licence issued by the Business Licensing Authority and are actively practising as a real estate professional; or
  - (ii) Are employed as an Owners Corporation Manager by a Business Registered by the Business Licensing Authority as an Owners Corporation Manager, or are an individual operating as a Sole Trader and Registered by the Business Licensing Authority as an Owners Corporation Manager, or are part of the Business Leadership of a Business Registered by the Business Licensing Authority as an Owners Corporation Manager; and
    - (A) have no less than 3 years' experience in owners corporation management at the date of application for membership; and
    - (B) hold a Certificate IV or higher qualification in a real estate, property or legal discipline determined as relevant by the Board and where the qualification(s) held are not determined by the Board to be relevant, to have completed the REIV Advanced Owners Corporation Manager training; and

- (C) Supply a current, satisfactory National Police Check with their application for membership; or
- (iii) Are a Property Valuer either employed as such or part of the Business Leadership of a valuation business, or a sole trader and hold a qualification in Property and Valuation at no less than undergraduate level as approved by the Board.

## **2.7 Representative Members**

- (a) A natural person may be admitted as a Representative Member if they are:
  - (i) An Agent's Representative registered with the Business Licensing Authority and employed by a real estate agency licensed by the Business Licensing Authority.
  - (ii) Employed as an Owners Corporation Manager by a Business Registered by the Business Licensing Authority as an Owners Corporation Manager, or operating as a Sole Trader and Registered by the Business Licensing Authority as an Owners Corporation Manager and is not eligible to be a Licensed Member because they:
    - (A) have insufficient experience as required by paragraph 2.6(a)(ii)(A), but satisfy all other criteria at paragraph 2.6(a)(ii); or
    - (B) Do not hold a relevant qualification as required by paragraph 2.6(a)(ii)(B), but satisfy all other criteria at paragraph 2.6(a)(ii); or
    - (C) Have neither sufficient experience nor a relevant qualification, but satisfy the requirement at paragraph 2.6(a)(ii)(C); and

Where B or C applies, they satisfactorily complete either the REIV Owners Corporation Managers Training within 3 months of admission into membership or the REIV Advanced Owners Corporation Manager training within 6 months of admission into membership.

## **2.8 Honorary Life Members**

- (a) The Board may award Honorary Life Membership to a Licensed Member who has given long, outstanding and meritorious service to the Institute.
- (b) Nominations may be submitted in writing to the CEO by Members at any time and must include the reasons for the nomination.
- (c) Serving REIV Directors are not eligible for the award.
- (d) The Board shall vote on any nominations by secret ballot, with an award being made by special resolution; that is, at least 75% (rounded up) of those Directors present vote in favour of making an award.
- (e) Honorary Life Members shall receive the same rights and benefits of a Licensed Member for so long as they continue to satisfy the eligibility criteria for that Membership Class. Should they cease to satisfy the eligibility criteria for a Licensed Member, they shall cease to receive the rights and privileges of Licensed Members and may elect to become a Non-Practising Member or cease membership, but will continue to receive information and access to REIV events as if they were a member.

- (f) The Licensed Member or Non-Practising Member Membership Fee shall be waived. Where the Honorary Life Member is part of the Business Leadership of an Office Member, the Office Member shall remain liable to pay the Office Member Membership Fee.
- (g) Honorary Life Members shall continue to be liable for the Members' Guarantee for so long as they remain a Licensed or Non-Practising Member.
- (h) The Board may remove Honorary Life Membership by a unanimous decision where they determine that the recipient is no longer a fit and proper person to hold the award.

## **2.9 Non-Practising Members**

- (a) Licensed and Representative Members who cease to practise temporarily or permanently may, at the discretion of the Board, be admitted as Non-Practising Members so as to remain connected with the Institute and benefit from REIV services.
- (b) Non-Practising Members who resume practise and become re-eligible for Licensed or Representative Membership, may apply to resume their Licensed or Representative membership subject to satisfying the criteria applicable at the time of application.
- (c) Non-Practising Members are liable for the Members Guarantee and are required to comply with the Constitution and By Laws and, in so far as they apply, the Code of Conduct and any other rules determined by the Board.
- (d) Non-Practising Members are not eligible to vote or be elected to the Board or Division Committees. Participation in Chapter Committees and other REIV forums and other rights and privileges shall be at the discretion of the Board.

## **2.10 Student Members**

- (a) A natural person may be admitted as a Student Member if they:
  - (i) Are not otherwise eligible for REIV membership; and
  - (ii) Enrol in a prescribed course or other recognised real estate course provided by the Institute; or
  - (iii) Are undertaking the Agent's Representative training through the Institute, or
  - (iv) Are a student undertaking a course in property valuation approved by the Board.
- (b) A Student Member admitted in accordance with paragraph 2.10(a)(ii) or 2.10(a)(iv) shall cease to be a Student Member on completion of the prescribed course or an approved valuation course and will be encouraged to apply for Licensed or Representative Membership where they satisfy eligibility requirements.
- (c) A Student Member admitted in accordance with 2.10(a)(iii) shall remain a Student Member until the end of the financial year in which the training was completed unless they are admitted as a Representative Member in the same financial year.
- (d) Student Members are liable for the Members' Guarantee, are not entitled to vote in any General Meeting or Election or hold office and any other rights and privileges will be at the discretion of the Board.

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## **3 General Eligibility for Membership and Member Obligations**

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### **3.1 New and Returning Members**

Any person may apply to become a Member if they:

- (a) agree to assume the liability to pay the Member's Guarantee Amount;
- (b) satisfy the criteria for the relevant Class of Membership in accordance with paragraph 2;
- (c) support the Objects of the Institute and agree to comply with the terms of the Constitution, the By Laws and any code of conduct which the Board may produce from time to time;
- (d) are, in the CEO's opinion, of good character;
- (e) lodge an application form in accordance with **clause 3.2 of the Constitution** and paragraph 4 of the By Laws;
- (f) pay the Membership Fee in accordance with **clause 3.5** of the Constitution;
- (g) commit to Continuing Professional Development:
  - (i) If a Licensed or Representative Member, by investing in their own Continuing Professional Development and complying with REIV requirements as determined by the Board from time to time;
  - (ii) If an Office Member, by supporting the Continuing Professional Development of all their personnel and complying with any REIV requirements of Office Membership as determined by the Board from time to time;
- (h) Maintain their Membership records through self-service and where self-service is not available, by informing the Institute within fourteen (14) days of any changes to their contact details and/or any circumstances affecting their membership;
- (i) If a natural person, have not within five years prior to applying for Membership been an undischarged bankrupt, suspended payment of debts or compromised with their creditors;
- (j) If a natural person, have not within the previous ten (10) years, whether within Australia or elsewhere, been convicted of a criminal offence or had proven against them a criminal offence punishable by imprisonment of three months or more;
- (k) If a natural person, have not been convicted of a prescribed offence or had proven against them a prescribed offence pursuant to the provisions of the Corporations Act;
- (l) If an Agent, Agent's Representative or Agency, have not, in relation to anything they have done or not done, had a claim allowed against the Victorian Property Fund under Part VII of the Estate Agents Act or any corresponding fund established under any previous enactment or equivalent enactment in the relevant State or Territory unless the Board determines:
  - (i) the claim is not sufficiently serious; or
  - (ii) the applicant is not personally responsible in relation to the claim;

- (m) If an Agent, Agent's Representative or Agency, have not within the previous ten (10) years had a complaint against them that has been proved in connection with any deficiency in a trust account operated by them unless the Board determines:
  - (i) the complaint is not sufficiently serious; or
  - (ii) the applicant is not personally responsible in relation to the complaint;
- (n) If an Owners Corporation Manager or Business, have not within the previous five (5) years:
  - (i) been found by any Court, Tribunal, agency, authority or the Director of Consumer Affairs Victoria to have breached legislation (including delegated legislation); or
  - (ii) failed to comply with an order or direction given by (or an undertaking given to) a Court, Tribunal, agency, authority or the Director of Consumer Affairs Victoria;

in relation to applicable Owners Corporation Legislation, Regulations, and Rules or the Australian Consumer Law and Fair Trading Act 2012 unless the Board determines the issue was not sufficiently serious and/or relevant to the application for membership;
- (o) If a Valuer or Valuation Business, have not within the previous five (5) years,
  - (i) been found by any Court, Tribunal, agency, authority or the Director of Consumer Affairs Victoria to have breached legislation (including delegated legislation); or
  - (ii) failed to comply with an order or direction given by (or an undertaking given to) a Court, Tribunal, agency, authority or the Director of Consumer Affairs Victoria;

in relation to Legislation, Regulations, and Rules governing the specific services provided or the Australian Consumer Law and Fair Trading Act 2012 unless the Board determines the issue was not sufficiently serious and/or relevant to the application for membership;
- (p) If a Business, are not insolvent, in administration, in the process of winding up, dissolution or assignment for the benefit of creditors, or a branch office of a company that is in the process of winding up, dissolution or assignment for the benefit of creditors.
- (q) Are not, in the opinion of the CEO, in a position of conflict with the Institute.

### **3.2 Returning Members**

In addition to the requirements of paragraph 3.1, any person who reapplies for membership following resignation or termination as a Member must have:

- (a) Paid in full any money owed by them to the Institute; and
- (b) Complied with any directions of the Board relating to their prior resignation or termination from membership.

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## 4 Applications for Membership

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- (a) In accordance with **clause 3.2** of the Constitution, an application for Membership of the Institute must:
  - (i) Be made in writing in the form prescribed by the Board from time to time;
  - (ii) Specify the Membership Class being applied for by the applicant;
  - (iii) Include a signature, or equivalent acknowledgement by the applicant confirming that they agree to be bound by the Constitution, By Laws and Code of Conduct;
  - (iv) Include declarations regarding all matters in paragraph 3 in so far as they apply to the applicant's Membership Class;
  - (v) Be accompanied by any Membership Fee payable pursuant to **clause 3.5** of the Constitution;
  - (vi) Provide any evidence requested by the Institute; and
  - (vii) be addressed to the Secretary.
- (b) The Secretary shall make such arrangements as they deem appropriate to ensure that all applications are checked and where there are defects, applicants are afforded the opportunity to remedy those defects that are capable of being remedied and actions are fulfilled promptly following determinations by the CEO.
- (c) As soon as practicable after receiving an application for Membership, and that application has been checked to the satisfaction of the Secretary, the application shall be referred to the CEO to determine whether to approve or reject the application.
- (d) In the period between the application having been checked and found to be satisfactory and the CEO making their determination, the applicant shall be a **Provisional Member** and shall be granted access to some services, but is not a Member and is not entitled to attend or vote in any General Meeting or Election, hold office or have any interests in the assets of the Institute.
- (e) As soon as practicable after the CEO makes their determination, the Secretary must:
  - (i) notify the applicant, in writing, whether their application has been accepted or rejected; and
  - (ii) if the CEO approved the application, enter the applicant's name, address, Membership Class and approval date in the Register of Members and, subject to the Corporations Act, the person becomes a Member on the name being so entered; or
  - (iii) if the CEO rejected the application, refund any Membership Fee to the applicant and cease any services to which the applicant may have had access while a Provisional Member.

## **5 Register of Members**

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- (a) In accordance with the Corporations Act, the Institute maintains a Register of Members including each Member's Name, Address and the date on which they became a Member.
- (b) A Member shall inform the Chief Executive Officer in writing within fourteen (14) days of any event causing any change in the information recorded or required to be recorded in the Register of Members.

## **6 Service Information**

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- (a) Each Member is assigned an REIV member number and the Board determines the information required to be held on the REIV membership system to enable active management of Members and support the delivery of services. On the commencement of these By Laws, the principal information required to be held on the REIV membership system includes:
  - (i) Contact details for the serving of Notices, issue of invoices and provision of information about services;
  - (ii) The business name(s) under which the Member trades (Office Members);
  - (iii) Australian Business Number (Office Members and individual Sole Traders);
  - (iv) Business Licensing Authority License or Registration numbers where applicable;
  - (v) Business Leadership (Office Members);
  - (vi) Employer business name, location and whether they are an REIV Office Member;
  - (vii) Membership class and any changes thereto;
  - (viii) Qualifications and/or accreditations;
  - (ix) Professional Indemnity Insurance;
  - (x) Police Check;
  - (xi) Services provided by the Member;
  - (xii) REIV special interest group preferences;
  - (xiii) REIV Division;
  - (xiv) REIV Offices held;
  - (xv) REIV Service usage;
  - (xvi) Continuing Professional Development record; and
  - (xvii) REIV Disciplinary record.
- (b) A Member shall inform the CEO in writing within fourteen (14) days of any event causing any change in the information provided by the Member to the Institute.
- (c) The Board may at any time require that a Member provide a declaration and evidence in writing and in such form as the Board may prescribe regarding any matter relevant to the Member's membership of the Institute. The Member's



declaration and evidence shall be required to be submitted within fourteen (14) days of the date of the written request, unless an extension of time is requested and granted.

- (d) Failure to comply with paragraph 6(c) may result in disciplinary action in accordance with the Disciplinary Procedure in paragraph 14.

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## **7 Continuing Professional Development**

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- (a) The Board will from time to time determine the minimum additional educational training requirements to elevate professional standards and advance the professionalism of Members.
- (b) The minimum additional educational training requirements will be encapsulated in a Continuing Professional Development scheme as determined by the Board from time to time and communicated to all Members.



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## 8 Affiliates

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- (a) A person not otherwise eligible to be a Member, may be admitted as an Affiliate of the Institute at the Board's discretion.
- (b) An applicant admitted as an Affiliate, will be admitted:
  - (i) if a natural person, as an "Individual Affiliate"; or
  - (ii) if a corporation, as a "Corporate Affiliate".
- (c) Applications for Affiliate status shall:
  - (i) Be made in writing in the form prescribed by the Board from time to time;
  - (ii) Specify whether Corporate or Individual status is being applied for by the applicant;
  - (iii) Include a signature, or equivalent acknowledgement by the applicant confirming that they agree to be bound by the Constitution, By Laws and in so far as it applies, the Code of Conduct;
  - (iv) Be accompanied by any Affiliate Fee payable pursuant to **clause 3.5** of the Constitution;
  - (v) include any evidence requested by the Institute; and
  - (vi) be addressed to the Secretary.
- (d) The Secretary shall make such arrangements as they deem appropriate to ensure that all applications are checked and where there are defects, applicants are afforded the opportunity to remedy those defects that are capable of being remedied and actions are fulfilled promptly following determinations by the CEO.
- (e) As soon as practicable after receiving an application, and that application has been checked to the satisfaction of the Secretary, the application shall be referred to the CEO to determine whether to approve or reject the application.
- (f) As soon as practicable after the CEO makes their determination, the Secretary must:
  - (i) notify the applicant, in writing, whether their application has been accepted or rejected; and
  - (ii) if the CEO approved the application, enter the applicant's name, address, Affiliate status and approval date in the Register of Members; or
  - (iii) if the CEO rejected the application, refund any Fee to the applicant and cease any services to which the applicant may have had access.

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## 9 Divisions

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### 9.1 General

- (a) As provided in **clause 11** of the Constitution, the Board is responsible for determining:
  - (i) the number and name of Divisions based on geographical boundaries;
  - (ii) the allocation of Divisions to the Metropolitan and Regional Zone; and
  - (iii) the functions, powers and duties of Divisions and Division Committees.
- (b) Paragraphs 9.2 to 9.7 of these By Laws are in addition to the provisions of **clause 11** of the Constitution.

### 9.2 Divisions and Zones

From the commencement of these By Laws the numbers and names of Divisions and their respective zones are:

- (a) Metropolitan Zone
  - (i) Metropolitan Division.
- (b) Regional Zone
  - (i) Barwon Division;
  - (ii) Bendigo Division;
  - (iii) Central Highlands Division;
  - (iv) Gippsland Division;
  - (v) Mallee Division;
  - (vi) Goulburn Murray Division;
  - (vii) Ovens Murray Division;
  - (viii) South West Division; and
  - (ix) Wimmera Division.

### 9.3 Division Function

Divisions provide a geographic focus for the achievement of the REIV's objects as set out in the Constitution and the Mission and Strategic Objectives determined by the Board.

### 9.4 Division Committees

All Regional Zone Divisions may form Division Committees in accordance with **clause 11** of the Constitution. The Metropolitan Zone Division is covered by the REIV Head Office and does not have a Division Committee.

### 9.5 Division Committees Function, Powers and Duties

- (a) Division Committees:
  - (i) Represent their Divisional Members' interests to the REIV;
  - (ii) Provide the conduit for REIV policy and practice consultations and the dissemination of information and advice;
  - (iii) Identify issues and opportunities specifically affecting their geographical area and alert and liaise with the REIV in addressing them;

- (iv) Actively consult with their Division members on local and REIV matters;
  - (v) Organise Division events, whether debates, seminars, workshops, training, CPD, social and philanthropic in accordance with paragraphs 9.6 and 9.7;
  - (vi) Promote REIV products and services; and
  - (vii) Encourage REIV membership.
- (b) And in so doing, their responsibilities are to:
  - (i) Identify challenges and opportunities in their geographical area;
  - (ii) Liaise with the REIV Events and Training Teams;
  - (iii) Organise events and training to be held in their Division;
  - (iv) Comply with all relevant REIV procedures and policies including, but not limited to, REIV branding, Division funding, Media engagement, Event management, Policy and Forms development;
  - (v) Input to REIV policy development;
  - (vi) Identify further matters for potential REIV policy, advocacy and representation work;
  - (vii) Identify topics for potential Continuing Professional Development and provide input as subject matter experts as required; and
  - (viii) Identify potential developments to REIV Forms and provide input as subject matter experts as required.
- (c) Division Committees have authority to:
  - (i) Appoint a Chair, Vice Chair and two Members' Council delegates in accordance with **clause 11.3** of the Constitution;
  - (ii) Appoint other non-office bearer positions on the Committee;
  - (iii) Make recommendations to the REIV through Members' Council;
  - (iv) Request support from the REIV Events and Training Managers in relation to events and training opportunities within the Division;
  - (v) Organise events for the Division utilising funding held for use by the Division pursuant to paragraph 9.6;
  - (vi) Explore potential sponsorship/partnership with local suppliers for Division Committee organised events, subject to liaison with and approval from the REIV Events Team; and
  - (vii) Engage with the Media on behalf of the Division or Division Committee about local matters. The spokesperson should endeavour to seek advice from the REIV Media or Marketing team prior to doing so where possible.
- (d) **Division Committees and Division Committee Members have no authority to:**
  - (i) Engage with the Media on behalf of the REIV on policy or operational matters without prior REIV approval;
  - (ii) Enter into any agreements or contracts without the written approval of the CEO, except in relation to Division Committee organised events and

- subject to there being sufficient Division funds to settle any resultant costs and there being no conflicts with any REIV preferred supplier/sponsorship/partnership arrangements;
- (iii) Commit to expenditure or activities that could result in expenditure by or liability of the REIV, without prior approval from the REIV;
  - (iv) Direct REIV staff; and
  - (v) Determine REIV policy or process on internal or external matters.
- (e) Division Committee Members shall demonstrate exemplary conduct and shall:
- (i) Treat each other, REIV Management and Staff, REIV Members and external stakeholders with respect, dignity, courtesy and sensitivity;
  - (ii) Be inclusive and actively seek to engage REIV Members throughout their Division;
  - (iii) Not engage in or condone discrimination, sex discrimination, harassment, bullying or occupational violence;
  - (iv) Treat information provided by the REIV or other stakeholders to the Division Committee as Confidential unless advised otherwise by the provider of the information;
  - (v) Not use information gained through participation in the Division Committee for their personal or professional advantage or to the detriment of other Members or the REIV;
  - (vi) Not engage in activity that contravenes the Australian Consumer Law and Fair Trading Act 2012;
  - (vii) Declare any Conflicts of Interest as they arise and act to ensure that they do not pose a risk to the REIV;
  - (viii) Not misuse their position on the Division Committee. For example, by using it as a platform for pursuit of a personal agenda;
  - (ix) Represent the Division and/or REIV to the Media and other external stakeholders only with REIV approval or in relation to events organised by the Division Committee;
  - (x) Comply with the Division Committee Charter and all applicable REIV policies and processes;
  - (xi) Attend Committee meetings and, if unable to attend, send apologies to Committee Chair;
  - (xii) Prepare for meetings and participate fully: listen, contribute positively, keep an open mind, discourage side conversations; and
  - (xiii) Focus on the REIV's purpose, Mission, Strategy and Strategic Goals and keep the best interests of the REIV and REIV members in mind at all times.
- (f) The Division Committee Chair shall
- (i) Provide a written report to Members' Council in the form prescribed by the Board from time to time at least three (3) business days before the next Members' Council meeting; and

- (ii) Forward recommendations from the Division Committee, which must be in writing, to the CEO at least three (3) business days before the next Members' Council meeting.

## **9.6 Division Funding**

- (a) A Division Committee may choose to operate their own bank account or operate an account through the REIV.
- (b) The Board shall determine whether seed funding should be provided to a newly formed Regional Division Committee as part of the overall REIV budget cycle. Seed funding is only available to newly formed Division Committees to assist to establish them and to arrange the initial events for their Division in consultation with the REIV Events Team and CEO.
- (c) Where seed funding has been provided to a Regional Division and the Division Committee operates their account through the REIV, the following provisions apply:
  - (i) Management of Funds
    - (A) The funds applicable to the Division will not be an asset of the Division and will remain the property of the REIV at all times;
    - (B) Any profit made will be added to the 'balance' of the Division's accessible funds and can be utilised for future events.
    - (C) The retention of large cash balances by a Division is to be avoided. Divisions will be encouraged by the CEO to utilise any excessive funds to the benefit of the Division Membership by such arrangements as 'free' members' information or social event(s) that serve to encourage greater participation within the Division.
    - (D) For the purposes of clarity, a large cash balance is considered to be an amount greater than \$10,000.
    - (E) No Division should retain an amount greater than \$10,000 in their balance beyond a reasonable period.
    - (F) All Division events should achieve a financial result of at least break even.
    - (G) At the very least, an annual break-even position is required.
  - (ii) Release of Funds
    - (A) Invoices are required; and
    - (B) Invoices should be countersigned by the Division Committee Chair or Vice Chair and sent by e-mail to the REIV Events Team. The Events Team will liaise with the REIV Finance Team for payment by electronic transfer in accordance with REIV policies and procedures.
  - (iii) Reporting on Funds
    - (A) A Division Committee may request information on the balance of funds available at any time and the REIV shall report back to the Division Committee within a reasonable time; and

- (B) In any event, a report will be provided to the Division Committee quarterly, with the exact timing to coincide with the preparation of financial reports for the REIV Board.
- (d) Where a Regional Division Committee elects to operate their own bank account, the following provisions apply:
  - (i) Management of Funds
    - (A) The funds applicable to the Division will not be an asset of the Division and will remain the property of the REIV at all times;
    - (B) The Division Committee must appoint a Treasurer;
    - (C) No less than two current Division Committee members must be signatories for the bank account at all times;
    - (D) The retention of large cash balances by a Division is to be avoided. Divisions will be encouraged by the CEO to utilise any excessive funds to the benefit of the Division Membership by such arrangements as 'free' members' information or social event(s) that serve to encourage greater participation within the Division;
    - (E) For the purposes of clarity, a large cash balance is considered to be an amount greater \$10,000;
    - (F) No Division should retain an amount greater than \$10,000 in their balance beyond a reasonable period;
    - (G) All Division events should achieve a financial result or at least break even; and
    - (H) At the very least, an annual break-even position is required.
  - (ii) Reporting on Funds
    - (A) A Division Committee operating its own account must provide to the CEO a full set of bank statements and a Profit and Loss Statement for the financial year July to June prior to the end of July each year;
    - (B) A Division Committee operating its own account must provide to the CEO the most recent bank statement upon request. Where the most recent bank statement is more than two months old, an up-to-date statement is to be requested from the relevant financial institution; and
    - (C) The Division Committee is to notify the CEO of any transaction exceeding \$1,500 within seven (7) days of the transaction occurring and the nature and reason for that transaction (whether it be income or expenditure).
- (e) Partnerships and Sponsorships
  - (i) A Division Committee may seek and establish partnerships and sponsorship with/from local businesses only after verifying with the REIV that by doing so they do not impact on existing or proposed REIV relationships; and

- (ii) From time to time the REIV may allocate certain amounts to identified Division events where an existing REIV partnership agreement envisages support for such events.

#### **9.7 Division Committee Organised Events**

- (a) Division Committees may organise their own events, including venues, catering, speakers and local partnerships/sponsorships in consultation with the REIV Events Team and may request assistance from the REIV in relation to the organisation of such events at any time.
- (b) All Division Committee organised events should be at least cost neutral, unless agreed with the REIV that an event can be provided on a free or subsidised basis where sufficient Division funds are available.
- (c) For all events, Division Committees should consider:
  - (i) The purpose of the event and the outcome to be achieved;
  - (ii) The most appropriate medium (seminar, workshop, breakfast/lunch/dinner etc);
  - (iii) The likely level of interest throughout the Division; and
  - (iv) The target audience including neighbouring Divisions, non-members and other stakeholders relevant to the subject matter.
- (d) The REIV Events Team must be advised in advance of all Division Committee proposed events, regardless of whether they are ultimately organised by the Division Committee or by the REIV Events Team.
- (e) Eligibility for Continuing Professional Development points by event attendees will be dependent on the nature, topic and duration of an event. The REIV Events Team will liaise with the REIV Training Team and advise on the position for each event.

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## 10 Chapters

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### 10.1 General

- (a) As provided in **clause 12** of the Constitution, the Board is responsible for determining:
  - (i) the number and name of Chapters based on areas of special interest, and
  - (ii) the functions, powers and duties of Chapters and Chapter Committees.
- (b) Paragraphs 10.2 to 10.5 of these By Laws are in addition to the provisions of **clause 12** of the Constitution.

### 10.2 Chapters

From 1 January 2019 the Chapters determined by the Board are:

- (a) Auction;
- (b) Business Brokers;
- (c) Buyers' Agents;
- (d) Commercial & Industrial;
- (e) Owners Corporation;
- (f) Property Management;
- (g) Sales;
- (h) Valuers; and
- (i) New Members

### 10.3 Chapter Function

Chapters are real estate special interest groups providing Members with opportunities to engage with like-minded professionals and enabling the REIV to engage with Members on matters of particular relevance to them.

### 10.4 Chapter Committees

**Clause 12** of the Constitution provides for the formation of Chapter Committees through biannual calls for expressions of interest from Members by the Board.

### 10.5 Chapter Committee Function, Powers and Duties

- (a) Chapter Committees:
    - (i) Contribute to the development and relevance of REIV product and service offerings by:
      - (A) Highlighting issues and opportunities of particular interest to their Chapter; and
      - (B) Identifying topics and participants for REIV Chapter specific and wider events.
- And
- (ii) Provide Subject Matter Expertise (SME) in support of REIV:
    - (A) Advocacy and representation;



- (B) Training and professional development;
  - (C) Good practice; and
  - (D) Forms and Guidance.
- (b) Chapter Committee Members are representatives of their special interest group to the REIV and in so doing benefit from:
  - (i) Engaging with their peers;
  - (ii) Sharing their views on issues, challenges, opportunities;
  - (iii) Inputting to the development of REIV services ;
  - (iv) Contributing to the development of REIV policy;
  - (v) Playing a part in shaping their specialism, the real estate sector as a whole and REIV services; and
  - (vi) Learning more about their specialism, developments in the wider real estate sector, corporate governance and committee operation amongst other things.
- (c) Chapter Committees have authority to:
  - (i) Appoint a Chair and two Members' Council delegates from among their Licensed committee members;
  - (ii) Make recommendations to the Board via the REIV CEO; and
  - (iii) Request participation of the relevant REIV Manager in discussions on Policy, Events, Forms and Learning and Development.
- (d) Chapter Committees and Chapter Committee Members have no authority to:
  - (i) Engage with third parties (including the Media and Public) on behalf of the Chapter, Chapter Committee or REIV;
  - (ii) Enter into any agreements or contracts;
  - (iii) Commit to expenditure by the REIV;
  - (iv) Direct REIV staff;
  - (v) Determine REIV policy or process on internal or external matters; and
  - (vi) Establish working groups, sub-committees or focus groups without the prior consent of the REIV CEO.
- (e) Chapter Committee Members shall demonstrate exemplary conduct and shall:
  - (i) Treat each other, REIV Management and Staff, REIV Members and external stakeholders with respect, dignity, courtesy and sensitivity;
  - (ii) Not engage in or condone discrimination, sex discrimination, harassment, bullying or occupational violence;
  - (iii) Treat all information provided to the Chapter Committee and discussions as Confidential unless advised otherwise;
  - (iv) Not use information gained through participation in the Chapter Committee for their personal or professional advantage or to the detriment of other Members or the REIV;

- (v) Not engage in activity that contravenes the Australian Consumer Law and Fair Trading Act 2012;
  - (vi) Declare any Conflicts of Interest as they arise and act to ensure that they do not pose a risk to the REIV;
  - (vii) Not misuse their position on the Chapter Committee. For example, by using as a platform for pursuit of a personal agenda or presenting themselves to the Media or other external stakeholders as representing the Chapter Committee, Chapter or the REIV;
  - (viii) Comply with the Chapter Committee Charter and all applicable REIV policies and processes;
  - (ix) Attend Committee meetings and, if unable to attend, send apologies to the Committee Secretary;
  - (x) Prepare for meetings and participate fully: listen, contribute positively, keep an open mind, discourage side conversations; and
  - (xi) Focus on the REIV's purpose, Mission, Strategy and Strategic Goals and keep the best interests of the REIV and REIV members in mind at all times.
- (f) The Chapter Committee Chair shall:
- (i) Provide a report to the CEO within fourteen (14) days following the Chapter Committee meeting. The report can be in the form of the minutes; and
  - (ii) Address recommendations from the Committee, which must be in writing, to the CEO who will review, liaise with the Chapter Committee Chair and, where appropriate, ensure that recommendations are presented to the Board for consideration at its next meeting.

## **11 Past Presidents' Council**

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### **11.1 General**

- (a) As provided in **clause 13** of the Constitution, the Board is responsible for determining the functions, powers and duties of the Past Presidents' Council and may determine the frequency of Council meetings.

### **11.2 Functions, Powers and Duties**

- (a) The function of the Past Presidents' Council is to provide counsel at the request of the President and to support the President and the Board.
- (b) The Past Presidents' Council is not a committee of management and cannot determine the policy or manage the affairs of the Institute.

### **11.3 Meetings**

- (a) There shall be no less than two (2) meetings per calendar year at times to be determined by the Board.
- (b) Each meeting will include reports from the President and CEO and reports from the Council's delegates to Members' Council.
- (c) Although not classed as a meeting, there will be an annual Past Presidents' dinner which will be hosted by the Past President who immediately preceded the immediate Past President. If that person is not available, the President shall select another Past President who will be in attendance to host the dinner.

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## 12 Members' Council

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### 12.1 General

- (a) As provided in **clause 14** of the Constitution, the Board is responsible for determining the functions, powers and duties of the Members' Council, the appointment of the Council Chair and Vice Chair and in which months meetings of the Council shall be held.

### 12.2 Functions, Powers and Duties

#### Function

- (a) The function of Members' Council is to provide for the exchange of information as part of the Institute's Member engagement strategy and to support the achievement of the Objects as set out in the Constitution and the Mission and Strategic Objectives as determined by the Board.

#### Powers

- (b) Members' Council is not a committee of management and cannot determine the policy or manage the affairs of the Institute.
- (c) Members' Council may forward recommendations to the CEO for consideration by the Board, and the Board shall not be bound by such recommendations.

#### Duties

- (d) The duties of the Board and Management are to:
  - (i) Inform delegates about progress with the achievement of the strategic plan, priority projects, policy developments and media profile; and
  - (ii) Seek feedback from delegates on behalf of their Committee or Council on any matters alerted to Division and Chapter Committees and Past Presidents' Council by their Committee or Council Members or by the CEO in advance of the Members' Council meeting.
- (e) The duties of Delegates are to:
  - (i) Represent their respective Division or Chapter Committee or the Past Presidents' Council;
  - (ii) Inform the meeting of those particular opportunities and/or challenges presenting in their geographic or specialist community;
  - (iii) Raise questions and suggestions at a Meeting as discussed and agreed by their respective Division or Chapter Committee or the Past Presidents' Council;
  - (iv) Raise questions and suggestions that have arisen from their respective Division or Chapter Committee or the Past Presidents' Council with the CEO in advance of Members' Council Meetings for the CEO to determine and advise whether the matter will be addressed by the Board, President, CEO, management or raised for discussion at Members' Council; and
  - (v) Report back to their respective Division or Chapter Committee or the Past Presidents' Council and take forward any requests of delegates arising from Members' Council meetings.

### 12.3 Chair and Vice Chair

The Members' Council Chair and Vice Chair shall be appointed by the Board from the Senior Vice President and Vice President.

### 12.4 Delegates

- (a) Directors
  - (i) **Clause 14.1(a)(iv)** of the Constitution provides that all Elected Directors are members of Members' Council.
  - (ii) The Office Bearers shall attend each meeting of Members' Council where possible.
  - (iii) All other elected Directors shall attend no less than four (4) meetings of Members' Council in each 12 month period from 1 October to 30 September and Additional Directors shall be permitted to attend meetings of Members' Council at their discretion.
- (b) Division and Chapter Committee and Past Presidents' Council Delegates
  - (i) Such delegates shall be as appointed by each Committee/Council in accordance with the relevant **clause 11.3, 12.3(f) or 13(d)** of the Constitution, except in the circumstances described in **clause 14.3(g)**, when the Board shall appoint another delegate to fill the vacancy for the remainder of the former delegate's term of office.

### 12.5 Meetings

- (a) The six (6) meetings of Members' Council in each calendar year shall be in February, April, June, August, October and November, with the last to coincide with the Annual General Meeting, unless determined otherwise by the Board.
- (b) Each meeting shall include reports from the President and CEO, reports from the delegates where there are matters to report and consideration of any other items at the discretion of the Chair.

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## 13 Elections

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### 13.1 General

- (a) Pursuant to **clause 15.1(b)(i)** of the Constitution, the Board has determined, unless they decide otherwise, that elections of Directors and elections of Division Committee members shall be conducted by electronic means.
- (b) Elections shall be overseen by the Returning Officer, and in their absence, by the Deputy Returning Officer and unless the Board determines otherwise for a specific election, the Returning Officer shall be the CEO and the Deputy Returning Officer shall be the Chief Operating Officer or such other Senior Manager appointed by the Board on the recommendation of the CEO.
- (c) As provided by **clause 15.1(b)(ii)** of the Constitution, the Board has established the following procedures for the proper conduct of all elections conducted by electronic means.

### 13.2 Key Principles

- (a) Elections for Directors shall be held annually, unless no positions fall vacant in that year.
- (b) Elections for Division Committee members shall be held every two years.
- (c) Voting Members eligible to nominate in accordance with **clause 8.1** for Directors and **clause 11.3** for Division Committee members, shall be those on the REIV Register of Members fifteen (15) days before the date on which nominations open.
- (d) The roll of Voting Members shall be updated to correct any errors until the one (1) day prior to vote opening. Errors include changes to contact details, resignations, suspensions and terminations that have taken effect and new admissions within the relevant period.
- (e) For Director elections, Voting Members in the Metropolitan Zone can nominate and vote only in elections for Directors from the Metropolitan Zone and Voting Members in the Regional Zone can nominate and vote only in elections for Directors from the Regional Zone.
- (f) For Division Committee member elections, Voting Members can nominate and vote only in the election of Division Committee Members in the Division of which they are themselves a Member.
- (g) The email address recorded for each Voting Member for the serving of Notices shall be used for all aspects of the election process.
- (h) It is the responsibility of each Member to ensure that their email address is up to date.
- (i) The specific timetable for each election shall be determined by the Board on the recommendation of the Returning Officer.

### 13.3 Nominations

- (a) The Returning Officer shall cause a notice of an election, nomination form, position description, eligibility requirements and any other supporting information to be issued to Voting Members by email or through an online voting system and published on the REIV website:
  - (i) In June for Director Elections; and

- (ii) In October of an election year for Division Committee member elections.
- (b) Nominations must be made using the Nomination Form provided by the Returning Officer or an equivalent form through an online voting system.
- (c) The Nomination Form or equivalent shall include:
  - (i) The closing date and time for receipt of nominations, after which nomination forms will not be accepted;
  - (ii) The position;
  - (iii) The name and REIV Member Number of the nominee;
  - (iv) The name and REIV Member Number of each of the proposer and seconder;
  - (v) Declarations by the proposer and seconder that they are eligible to vote;
  - (vi) A declaration by the nominee both that they are eligible to be elected and accept the nomination; and
  - (vii) Where nomination forms are to be emailed to the Returning Officer (rather than submitted through an online voting system):
    - (A) the dated signatures of each of the proposer, seconder and nominee; and
    - (B) the email address to which nomination forms must be returned.
- (d) The closing date for the receipt of Nomination Forms by the Returning Officer shall be no less than fourteen (14) days and no more than thirty (30) days after nominations opened.
- (e) A Nomination may be withdrawn at any time before the position is declared elected.
- (f) All Nominations shall be reviewed by the Returning Officer to ensure as far as is reasonable that they are valid. If any nomination is found to be defective, the Returning Officer shall notify the nominee of the defect and where it is practicable to do so, give the nominee the opportunity to remedy the defect within seven (7) days from the date and time on which the notice of a defect was served.
- (g) A Nomination is not capable of remedy if the nominee does not satisfy the eligibility requirements for the respective position at the date specified in paragraph 13.2(c) of these By Laws.
- (h) In the event that there are more than the required number of valid Nominations for a position, an election will be held.
- (i) For the election of Directors, in the event that:
  - (i) the required number of valid nominations only are received for a position; or
  - (ii) less than the required number of valid nominations are received for a position,the nominee(s) will be declared elected and any vacancies shall be treated as casual vacancies and be rectified in accordance with **clause 8.4** of the Constitution.

- (j) For the election of Division Committee members,
  - (i) In the event that:
    - (A) the required number of valid nominations only are received for a Division Committee; or
    - (B) at least two (2) and less than eight (8) valid nominations with no less than two being Licensed Members are received for a Division Committee,the nominee(s) will be declared elected.
  - (C) a Division Committee is capable of being formed but has only two (2) members, the Board may, at their discretion, appoint up to two (2) further members.
  - (D) less than two (2) valid nominations are received for a Division Committee, a Division Committee will not be formed for that Division.

#### **13.4 Election**

- (a) All elections will be conducted using an online voting system and supported by communications from the Returning Officer.
- (b) The online voting system will provide for a secret ballot and will:
  - (i) Enable votes to be cast by smart phone, tablet, laptop or computer;
  - (ii) Rotate the order in which the names of the nominees appear each time a vote is cast;
  - (iii) Require voters to cast the prescribed number of votes;
  - (iv) Prevent duplicate voting;
  - (v) Issue reminders to those who have not yet cast their votes during the voting period;
  - (vi) Identify to the Returning Officer the number of people who have voted and total votes cast at any time during the voting period, but will not identify to the Returning Officer who has voted or how they have voted or the numbers of votes cast for individual candidates during the voting period;
  - (vii) Provide the Returning Officer with the total number of voters, total number of votes cast and the total number of votes for each candidate when voting has closed, but will not identify who voted or how they voted; and
  - (viii) Include:
    - (A) the closing date and time for receipt of votes;
    - (B) how votes are to be cast;
    - (C) a description of the positions to be filled; and
    - (D) the names, profiles and photographs for each nominee, with the profiles and photographs to be in a form prescribed by the Board.



- (c) The nominees who receive the greatest number of votes must be progressively elected until all positions are filled.
- (d) If there is a tie, the Returning Officer shall draw by lot which of the tied candidates will fill the relevant position.
- (e) The Returning Officer shall advise individual candidates, the Board and Members of the outcome of the election supported by the details generated by the online system on the total number of votes cast and the total votes for each candidate.

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## 14 Discipline and Member Disputes

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### 14.1 General

Pursuant to **clauses 2.2(i), 8.8(b)(ii) and 8.8(b)(vii)** of the Constitution, the Board has established procedures to provide for:

- (a) The consistent, transparent and equitable management of those matters specified in **clauses 3.9(b), 6.3(j) and 6.4** that could result in disciplinary action against a Member;
- (b) Alternative sanctions to fines in addition to or instead of suspension or termination of membership, given that the Institute has no legal authority to impose a fine as currently provided in **clause 6.5**; and
- (c) The facilitation of disputes between Members.

### 14.2 Disciplinary Action

- (a) Disciplinary action may be instigated where a Member:
  - (i) May satisfy one or more of the grounds for suspension or termination in **clause 6.4**;
  - (ii) Has not provided documents required by the Board to be supplied to the CEO within 14 days of being notified of such a requirement as provided by **clause 3.9(b)** and paragraph 6(c); or
  - (iii) Has ceased to satisfy an eligibility requirement or other membership qualification pursuant to **clause 6.3(j)**.

### 14.3 Disciplinary Committee

The Board shall establish a Disciplinary Committee to consider such matters that fall within scope of paragraph 14.2 and are referred to it under the Disciplinary Procedure, to make recommendations to the Board where the Committee is of the opinion that suspension or termination are appropriate, to make decisions on lesser sanctions than termination or suspension in accordance paragraph 14.4 and to report to the Board on all other matters where the Committee has determined that sanctions should not be applied.

- (a) Composition and Chair
  - (i) The Disciplinary Committee shall have four (4) members all of whom shall be independent of the Member whose case is being considered and of which:
    - (A) One shall be an independent Additional Director who will Chair the Committee;
    - (B) One shall be a Director who is not an Office Bearer; and
    - (C) Two shall be Members invited by the Chair.
- (b) Voting

All recommendations and decisions shall require a 75% majority and the Chair shall not have a casting vote.

(c) Charter

Further details regarding the function, powers and administration of the Committee shall be set out in a Committee Charter approved by the Board.

#### 14.4 Sanctions

(a) The sanctions available are:

- (i) reprimand the Member;
- (ii) require the Member to undertake such training and in such time period as the Board determines;
- (iii) suspend the Member from membership of the Institute for a specified period; and
- (iv) expel the Member from the Institute.

#### 14.5 Disciplinary Procedure

(a) Concerns about the behaviour or circumstances of a Member as defined in **clause 6.4** of the Constitution may be notified in writing to the CEO by a Voting Member, in which case the notifying Member should, to the extent reasonably possible, provide detailed particulars of the alleged behaviour/circumstances to the CEO including:

- (i) A description of the alleged behaviour/circumstances;
- (ii) Details of the person or persons involved or who may be affected by the alleged behaviour, including any non-Members;
- (iii) Details of each time and date on which the alleged behaviour is said to have occurred;
- (iv) Details or copies of any relevant documents which evidence or otherwise support the occurrence of the alleged behaviour/circumstances; and
- (v) Such further information as is reasonably requested by the CEO.

(b) If the CEO receives notification from a Voting Member of any alleged behaviour or circumstances of a Member that may constitute behaviour/circumstances in respect of which the provisions of **clause 6.4** of the Constitution could apply, or if the CEO otherwise becomes aware of behaviour/circumstances in respect of **clauses 6.4, 3.9(b) or 6.3(j)**, then the following paragraphs apply:

- (i) The CEO will take such steps to investigate the alleged behaviour/circumstances as are deemed reasonable in the circumstances by the CEO. The CEO will notify the Board and the Disciplinary Committee of any investigations commenced.
- (ii) The CEO will engage with the Member about which concerns have been raised, or the CEO has otherwise become aware, to ascertain further information that the CEO considers relevant to the investigation.
- (iii) Where the alleged behaviour/circumstances relate to a matter that is known to be the subject of investigation by the Licensing Authority and/or legal action and/or investigation by police or other authorities (External Action), or such External Action becomes known to the CEO

during their investigation, the CEO shall put the Member on notice that the Institute is aware of the External Action and may:

- (A) Continue the Institute's investigation and disciplinary procedure hereunder, despite the External Action; or
  - (B) Cancel or suspend the Institute's investigation and disciplinary procedure hereunder in which case the CEO must notify the Member that the disciplinary procedure of the Institute may be recommenced at a later time, before or after the outcome of External Action is known; or
  - (C) Take such other action as is deemed reasonable in the circumstances.
- (iv) The CEO will prepare a report to the Disciplinary Committee setting out the CEO's opinion/findings of:
- (A) the nature and extent of the alleged behaviour/circumstances;
  - (B) the steps taken to investigate the alleged behaviour/circumstances and any relevant findings;
  - (C) the response, if any, provided by the Member about which concerns have been raised;
  - (D) any documents or evidence substantiating or contradicting the alleged behaviour/circumstances;
  - (E) whether the CEO believes the concerns about the Member's alleged behaviour/circumstances are founded and, if so, which of **clause 6.4. 3.9(b) or 6.3(j)** applies or may apply;
  - (F) the CEO's recommendation as to any appropriate action or sanction; and
  - (G) any other matter the CEO considers relevant to the Committee's further consideration and determination.
- (v) If the CEO reports to the Committee that the concern about the alleged behaviour/circumstances is not founded then the Committee will determine whether or not to take any further action and if the Committee determines that no further action is to be taken will, via the CEO, notify the Member about which the concern had been raised.
- (vi) If the CEO reports to the Committee that the concern is founded, or the Committee determines that further consideration is required, the Committee through the CEO will notify the Member of the matters set out in the CEO's report and invite the Member to present to the Committee in response. The Member may choose whether they present to the Committee in person, by written submission in advance and in person, or by written submission only.
- (vii) Presentation by the Member to the Committee shall be no less than ten (10) days and no more than thirty (30) days following the notification to the Member referred to in paragraph 14.5(b)(vi).
- (viii) Immediately following presentation by the Member, the Committee shall, in the absence of the Member, consider the Member's submission and the CEO's report and determine whether:

- (A) The Committee is of the opinion that the behaviour/circumstances of the Member constitute such behaviour/circumstances as described in **clause 6.4. 3.9(b) or 6.3(j)** of the Constitution; and if so
  - (B) whether the Committee is of the reasonable opinion that such behaviour/circumstances has been persistent or is a single act which is of a serious nature; and if so
  - (C) whether any sanction is to be applied in accordance with paragraph 14.4.
- (ix) Where the Committee is of the opinion that a reprimand and/or training, but not suspension or termination should be applied, the Committee shall determine the nature of the sanction and the Committee Chair shall advise the Member within three (3) business days of the decision and shall advise the Board and the CEO.
- (x) Where the Committee is of the opinion that suspension or termination should be applied, the Committee Chair shall make a recommendation to the Board supported by the minutes of the Committee meeting and the reports and submissions considered by the Committee. The Board shall consider the matter at their next Board meeting and determine by special resolution (rounded up) whether to support the Committee's recommendation and the President shall advise the Member of the Board's decision in writing within three (3) business days.
- (xi) Decisions of the Board and the Disciplinary Committee relating to any disciplinary matters shall not be published.
- (c) If a notification is made to the CEO by a Member, alleging that another Member has engaged in concerning behaviour, and it is reasonably determined that the notification was frivolous, malicious or vexatious, then the CEO will consider whether (and may decide that) the behaviour of the notifying Member in making the allegation is of itself behaviour that warrants that the Disciplinary Procedure be applied to the Member who raised the concern.
- (d) The CEO may delegate all or any part of the CEO's duties or obligations relating to any notification, investigation or reporting of concerns about Member behaviour under paragraph 14.5.

#### **14.6 Member to Member Disputes**

- (a) Pursuant to **clause 8.8(b)(vii)** of the Constitution, the Board has established a procedure to facilitate the resolution of disputes, as defined in the definitions that form part of these By Laws, between members, except where the disputes:
  - (i) Have arisen through a clear breach of applicable regulations; or
  - (ii) Relate to employment and/or other workplace related matters; or
  - (iii) Relate to matters that are subject to the disciplinary procedure until the disciplinary procedure has been completed; or
  - (iv) Any other matter that the CEO determines to be inappropriate for Institute intervention.

- (b) Disputes may only be raised with the Institute where the parties are both current Institute Members.
- (c) The Member raising the dispute shall submit a request to the CEO in the required form including a detailed description of the dispute.
- (d) Upon notification of a dispute, the CEO may seek further information from the Member raising the dispute.
- (e) Once the CEO is satisfied with the information provided by the Member raising the dispute, the CEO will cause a representative of the Institute to engage with the other party(ies) to:
  - (i) inform them that notice of a dispute has been submitted to the Institute that relates to them; and
  - (ii) assist the parties to attempt to resolve the dispute to the mutual satisfaction of the parties.
- (f) As a part of the Member to Member dispute process, the CEO may exercise discretion to invite the Members in dispute to attend at the offices of the Institute or by videoconference to meet on a formal or informal basis, with or without a representative of the Institute or for the parties to make submissions or to put forward proposals in writing for communicating to the other party(ies).
- (g) If a dispute so referred is not resolved to the satisfaction of any party to the dispute within thirty (30) days of its being referred, then that party may require the dispute to be referred to mediation before a mediator appointed by mutual agreement of the parties, and in the absence of mutual agreement to a mediator nominated by the CEO in which case:
  - (i) the mediation will be conducted on a confidential and without prejudice basis and on such other terms as the mediator requires;
  - (ii) the costs of the mediation will be borne equally by the parties and must be paid in advance of the mediation taking place; and
  - (iii) any agreement reached by the parties at mediation to resolve the dispute will be between the parties and unless approved in writing by the CEO shall not bind the Institute.
- (h) Where a dispute is referred to mediation, the parties to the dispute are obliged to participate and failure to do so will constitute a breach of the By Laws and may result in disciplinary action in accordance with paragraph 14.2 of these By Laws.
- (i) If a dispute referred to mediation remains unresolved, whether because one party neglected or refused to participate or in the reasonable opinion of the mediator the dispute would not be settled through mediation and the mediator had advised the parties to this effect, one or both parties may apply to the Institute for the dispute to be referred to arbitration.
- (j) The arbitrator shall be appointed by mutual agreement of the parties either independently or from a list of qualified arbitrators provided by the Institute and in the absence of mutual agreement within fourteen (14) days of the application being made to the Institute or within fourteen (14) days of being provided with a list by the CEO, whichever is later, in which case:
  - (i) the arbitration shall be conducted in accordance with the terms of the Commercial Arbitration Act;

- (ii) the arbitration will be conducted on such other terms as the arbitrator requires;
  - (iii) the costs of the arbitration will be borne by the parties in accordance with the arbitrator's determination and orders; and
  - (iv) the arbitrator's determination will be binding.
- (k) The Institute will take reasonable steps to assist the parties to resolve their dispute but the Institute shall not be liable in any way to any Member for the outcome, or lack of resolution, of any Member to Member dispute.