

Evaluating Co-Management opportunities for the Spencer Gulf prawn fishery

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Introduction

In a recent review, Neville (2008) defined co-management as “*an arrangement where responsibilities and obligations for sustainable fisheries management are negotiated, shared, and delegated between Government, fishers, other interest groups and stakeholders*”. Power sharing and partnership are important components as are strong governance arrangements and property rights. The fact that individuals are dependent on the outcomes of collective group actions strengthens the need for structuring group outcomes and adopting robust co-management procedures (Neville 2008). South Australia is committed to progressing co-management opportunities in managing commercial fisheries consistent with principles of ecological sustainable development (ESD) and economic efficiency. Co-management has the potential to reduce transaction costs in fisheries management, encourage and promote a collaborative approach to the sustainable management of natural aquatic resources, and to foster innovative approaches to fisheries management. Inevitably though, conflicts arise among users competing for access to a common property resource. Resource sharing arrangements and conflict resolution mechanisms must be part of effective co-management.

The Spencer Gulf prawn fishery of South Australia has gone further than other commercial fisheries in Australia in progressing co-management where responsibilities for management are shared between commercial fishers and the government (Zacharin et al. 2008). Prawns are relatively short lived species and require a flexible management approach. Year to year variation in recruitment (prawns growing to catchable size) influences catch rates and the size composition of prawns. By targeting areas of Spencer Gulf with high catch rates and favourable size composition of prawns (larger prawns command higher prices) economic returns are optimised. In adopting a conservative approach to management Spencer Gulf has been consistently the most stable and profitable prawn fishery in the nation.

The body representing Spencer Gulf commercial fishers, the Spencer Gulf and West Coast Prawn Fishermen’s Association (the Association) and the Fisheries Management Agency (PIRSA) aim to transfer greater responsibility for management to the licence holders (Zacharin et al. 2008). Many of the management tasks undertaken by Government can be more efficiently undertaken by the commercial fishing sector freeing up Government resources for other important functions. There are other benefits including shared stewardship of the resource and collaboration among stakeholders (recreational and commercial fishers) which can depoliticise the management process (Zacharin et al. 2008). However, aspirations of successful co-management require active and collaborative participation among all stakeholders (e.g. including representatives of the conservation sector who present marine protection as a legitimate “use”).

Co-management does not imply that total responsibility for management rests with industry or other stakeholders. Core functions, such as enforcement and auditing, will not be delegated, as they remain a core function of government (Zacharin et al. 2008).

The four key management goals for the Spencer Gulf prawn fishery are:

- maintain ecological sustainable stock levels;
- ensure optimum utilisation and equitable distribution;
- minimise impacts on the ecosystem;
- enable effective management with greater industry involvement.

The goal of enabling effective management with greater industry involvement is relevant here. The Spencer Gulf prawn fishery management plan (Dixon and Sloan 2007) states:

Given the demonstrably sustainable harvesting strategies in place and the high level of governance and financial security of the Spencer Gulf and West Coast Prawn Fishermen's Association, PIRSA Fisheries considers that the Spencer Gulf Prawn Fishery is in a strong position to move toward greater industry self-management. The strategies used to achieve this revolve around defining the tasks required for effective management of the fishery, identifying those tasks that industry can manage and developing processes to ensure that management arrangements are transparent and can be fully audited by Government. Other objectives of this goal aim to ensure that management arrangements reflect the concerns of the wider community, are complied with and are fully and equitably funded by stakeholders.

In this context, co-management opportunities for the Spencer Gulf prawn fishery are evaluated. Co-management models are presented and compared including a discussion of the implications and potential risks of alternative models.

Co management in context of Australian fisheries

Under co-management, the role of Government, traditionally to manage fisheries on behalf of the community, can be largely devolved to stakeholders (or users of the resource). Thus, the primary users of a fisheries resource are allocated significant decision-making capacity. Users of fisheries resources include recreational and commercial fishers. They also include aquaculture (e.g. fish farms in coastal waters), indigenous communities, and conservation (e.g. marine protection, in which the resource is allocated for the primary purpose of habitat protection and conservation of marine biodiversity).

Typically, government involvement in fisheries management follows a continuum from full government control (government makes the decisions with little or no consultation with other stakeholders) to a delegated model where management decisions are made primarily by stakeholders. These decisions include recommending levels and the extent of service delivery (including research) and making decisions on management of fisheries (including output and input controls). In reality, most Australian fisheries are managed under consultative models (where government makes the decisions but consults with other stakeholders), or under collaborative models (where government and other stakeholders co-operate in jointly reaching decisions with some decisions potentially assigned to user groups). The Spencer Gulf Prawn fishery exemplifies a collaborative management model of government and commercial fishers. Until recently, a Fishery Management Committee (FMC) representing stakeholders (primarily commercial fishers) advised the Minister on management arrangements applicable to the fishery. Some management functions were delegated to the commercial fishing sector (including recommending spatial and temporal closures following surveys conducted by commercial fishers). There are other examples of collaborative fisheries management in Australia but, to date, no commercial fisheries are managed under a fully delegated model in which decision making and service delivery are delegated to the commercial fishers (Neville 2008).

Current legislation and consultative arrangements

The *Fisheries (Management Committees) Regulations 1995* outlined a set of co-management principles and established a number of fishery management committees (FMCs) which provided for some stakeholder input into the management process (including negotiating cost recovery of services used in the management of fisheries). These consultative arrangements have ceased with the application of new legislation the *Fisheries Management Act (SA) 2007* (the Act). The Objects of the Act includes the following principle “*the participation of the users of the aquatic resources of the State, and of the community more generally, in the management of fisheries is to be encouraged*”. A further object of the Act is that “*the aquatic resources of the State are to be managed in an efficient and cost effective manner and the targets set for the recovery of management costs*”. Of note is the term “co-management” does not appear in the Interpretation (or definition of terms) of the Act and the manifestation of co-management arrangements applicable to commercial fisheries remains unclear.

Under the new Act, the Fisheries Council of South Australia provides advice to the government on fisheries management matters including *inter alia*: promotion of the co-management of fisheries; and allocation of access to aquatic resources in particular fisheries (Section 16 of the Act). Notably, the Council is an expertise-based advisory group and not a stakeholder representative body. Nonetheless the Council includes representation from stakeholders including commercial fisheries, recreational fisheries, conservation and indigenous sectors. All Council members, appointed by the Minister, are required to have expertise in fisheries management.

Importantly, under the Act, *the Crown in right of the State owns all aquatic resources (whether living or dead) of the State* (Section 6), but *Property in aquatic resources of the State passes* to fisheries licence holders. This reinforces the common property nature of fisheries resources while providing for access security in the form of a property right for commercial fishers to harvest fish from State waters. Co-management implicitly recognises that commercial fishers share aquatic resources with other users and that decisions affecting resource utilisation (particularly extraction) require shared involvement.

The Minister can delegate powers under the Act to other bodies. Section 10 (1) states: *The Minister may delegate a function or power of the Minister under this Act ... to ...any other person or body*. Thus, in progressing to a fully delegated model, Ministerial approval must be granted.

Cost recovery and co-management

The Government of South Australia requires that the costs of managing fisheries be recovered through licence fees. There are no resource rents as such. The Act specifies that the Council provides advice to the Minister “*about fees to be paid in connection with fishery authorities*”.

Under the objectives of the Spencer Gulf prawn fishery management plan, the annual real costs of management research and compliance are to be determined and costs recovered from commercial licence holders sufficient to cover the attributed costs. Cost recovery has emerged as an alternative to more traditional resource rents for commercial fisheries in Australia and in other countries (Townsend et al. 2008). Cost recovery aims to provide a basis for improved efficiency in delivering fisheries management services thereby reducing transaction costs, improving the profitability of commercial fisheries, redirecting government resources to other community services, and providing incentives for commercial fishers to comply with principles of ecological sustainable development. There are three categories of transaction costs affecting fishery management:

- information costs (e.g. research, and data management);
- collective fisheries decision making costs (e.g. management including input and output controls);

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- collective operational costs (e.g. enforcement and administration).

Compliance and enforcement are terms often used interchangeably but they have quite different meanings, particularly in co-management. Enforcement is ensuring that licence holders (or other users of the resource) comply with applicable regulations governing the fishery. Enforcement services are retained by the Government even under a fully delegated management co-management model (Neville 2008).

Typically, where compliance is high (i.e. users follow the regulations and obey the law) enforcement activity can be reduced, and vice versa. Thus, the costs of enforcement services (e.g. surveillance) generally reflect compliance. Compliance issues in Spencer Gulf include recognition of spatial boundaries and designated nights for fishing by commercial fishers. Following a risk assessment of by-catch in the Spencer Gulf prawn fishery, there may also be a need to demonstrate compliance with by-catch targets (or limits). These targets or limits are yet to be determined. Although, enforcement services should remain with the Government, input into the setting of enforceable targets or limits should be negotiated with stakeholders under a delegated co-management model.

There are a number of services required for effective management of the Spencer Gulf prawn fishery. These services, their costs for 2008/9 and potential changes under a delegated co-management model, are presented below. Of note is the relatively high cost of research services (more than half of the total costs recovered). In reality, there is no way of determining whether research services are cost effective under the present single service provider system. There is a need to review costs and scope of research services aligned to efficiency of service delivery. There is also an obvious need for robust, reliable information on which to base management decisions. Contestable research services, such as applied in New Zealand fisheries management (see below) should form part of co-management consistent with the goals of efficient and cost-effective delivery of management services. In practice, monopoly service provision leads to the perception that fees are set by research agencies to recover the fixed costs of infrastructure and permanent staff rather than the actual costs of undertaking targeted research. In the absence of contestable services for research, it becomes difficult to assess the true costs of delivering research against applicable guidelines (e.g. as specified in the management plan). Contestable research should yield benefits measurable in cost efficiencies and improved transparency in the allocation of services under a cost recovery model.

Comparison of service costs (2008/9) under a delegated co-management model.

Service	Cost to Industry 2008/9		Under co-management
Research stock assessment	\$448328	SARDI	Contestable tender
Research by-catch	\$56962	SARDI	Contestable tender
Research economics	\$13355	EconSearch	Contestable tender
Management (policy, industry liaison)	\$45874	PIRSA	Review given delegation
Management (legislation)	\$6986	PIRSA	Review given delegation
Management (enforcement)	\$90108	PIRSA	No change
Co-management (including real time management and committee at sea)	\$200000	PIRSA/SGPFA	Review given delegation
FRDC levy	\$87,296	PIRSA, Fishery	No change
TOTAL	\$966,898		Review

Resource rents and cost recovery: the New Zealand experience

The New Zealand government has replaced resource rents with cost recovery in their commercial fisheries (co-incident with the establishment of a quota management system based on individual transferrable entitlements). An aim was to encourage greater industry responsibility for sustainable fisheries management because of incentives to reduce costs of enforcement and management (Harte 2007). Typically, where there is uncertainty in relation to sustainability of the resource (particularly if over fishing is perceived to have occurred), research costs increase. In New Zealand, the commercial fishing industry supported cost recovery because they anticipated a greater say in the specification and efficient delivery of fisheries management services under cost recovery.

Some sectors were critical of the abolition of resource rents because the common property nature of the fisheries resource justified a return to the community over and above the costs of managing the fishery. This is despite the fact that cost recovery usually delivers a greater return to the government than more traditional resource rents (Harte 2007). Further, some stakeholders perceived that cost recovery would give the commercial sector undue influence on the quality and quantity of fisheries services particularly research. Even so, the New Zealand government proceeded with full cost recovery of services under avoidable cost criteria i.e. all expenditure that arise purely as a consequence of the existence of commercial fishing should be recovered from industry.

The cost recovery system encountered problems including a perceived failure to deliver benefits in efficiency, accountability and transparency. Furthermore, the management or monitoring of services was perceived to be poor (Harte 2007). This prompted changes in management and delivery of the cost recovery regime in New Zealand; in particular providing a clear legislative base to recover legitimate costs. Based on this, Harte (2007) suggested the following pre-requisites for a delegated cost recovery system:

- a general public sector ethos of transparency, efficiency, and accountability;
- a clearly identifiable commercial fishing sector;
- a system of fishing rights that have a high degree of durability and hence form the basis for attributing costs and collecting levies;
- effective stakeholder organizations that represent the commercial industry and can engage government agencies in constructive dialogue and negotiation over cost recovery;
- government agencies that have strong policy and administrative capabilities.

South Australia meets these pre-requisites at least for the Spencer Gulf prawn fishery.

Contestable Research services

New Zealand introduced contestable research services in 1997 co-incident with devolution of responsibility for fisheries management from Government control (Harte 2001). Directly purchased research was expected to increase economic efficiency due to the lower transaction costs for stakeholder organisation to manage and to fund research (Harte 2001). Development of an Industry stewardship ethic was seen as another benefit, since commercial fishing organisations would be directly involved in the purchase and execution of sustainability research rather than indirectly involved through centralized consultative processes. These benefits have been demonstrated in the case of at least two commercial fisheries: New Zealand Rock Lobster and Challenger Scallops (as discussed below).

With effective monopoly service provision in research, it is difficult to ascertain cost effectiveness. This can lead to conflict between the service provider and stakeholders particularly the commercial fishing sector (as seen in South Australia). An open tender process for research services introduces contestability and is more likely to lead to cost effective service delivery given the need for reliable

information to develop ecological sustainable fisheries (Harte 2001). Concerns over Industry dominance of the process can be addressed by including an independent peer review process to ensure rigour and quality of research outputs. In New Zealand, the government commissions research services to provide information with which to manage its commercial fisheries. Typically, the State owned research organisation (NIWA) is best placed to deliver research services (as would be expected of SARDI in South Australia).

In 1997 the Rock Lobster Industry Council (RLIC) became an accredited research provider to the Minister of Fisheries, and since then has successfully tendered for, and executed, rock lobster stock assessment contracts. Research contracts are undertaken in collaboration with national science providers (NIWA) and internationally recognized stock assessment consultants contracted to RLIC. RLIC also uses accredited technicians employed by NIWA and by CRAMACs to undertake an extensive stock-monitoring program. This exemplifies a collaborative, robust, and cost-effective approach to research driven by commercial stakeholders. It also parallels the existing situation in Spencer Gulf in which industry vessels and personnel largely collect the information used to assess the status of stocks (by conducting surveys with Industry vessels).

Alternative models

Under the objectives of the Spencer Gulf prawn fishery management plan and consistent with the objectives of the *Fisheries Management Act* (2007), the commercial fishery (industry) can be delegated greater responsibility for management such that industry:

- manage the resource assessment process and develop harvest strategies;
- manage all at-sea operations of the fleet;
- develop explicit allocation of prawn resources between sectors.

In promoting stakeholder input to the management of the fishery, social and cultural issues are to be considered when management strategies are being developed. Resource allocation issues are tractable because by far the largest user is the commercial fishing sector. Recreational and indigenous use of the Spencer Gulf prawn resource is negligible. Even so, the activities of the Spencer Gulf prawn fleet encroach on resources of interest to these stakeholder groups and of other stakeholders such as the Conservation sector. Furthermore, in conducting fishing in Spencer Gulf, interaction with other commercial sectors including other commercial fisheries (particularly marine scale and blue crab) and aquaculture operations will occur from time to time. Resolution of potential or actual conflict among users is an important task in co-management. Evaluation of alternative models for co-management of the fishery (below) includes a comparison with other delegated models particularly the Challenger Scallop and Rock Lobster fishery in New Zealand.

Challenger Scallops

The Challenger Scallop fishery harvests scallops in two large embayments on the north of the South Island of New Zealand. The fishery flourished in the 1990s accompanying an enhancement program which involved collection and redistribution of spat (juvenile scallops) on grounds which were then harvested under a rotational spatial management system (Mincher 2008). Like prawns, scallops are relatively short-lived species and the annual yields are heavily influenced by year to year variation in recruitment.

Delegation of functions in fisheries management requires a binding legal instrument so that performance is measurable and auditable. A limited liability public company was formed to co-manage the Challenger Scallop fishery. It has the following elements which are compared with existing arrangements in the Spencer Gulf prawn fishery:

- Shares in the company reflect amount of quota in the fishery and ownership of shares limited to licence holders. For Spencer Gulf, shares would reflect equal holdings among the

39 licensed operators as already exist in the Spencer Gulf and West Coast Prawn Fishermen's Association (the Association).

- Civil contracts are established between the Challenger Scallop company and quota holders to enforce an agreed harvest strategy. Similarly, contractual arrangements apply in Spencer Gulf with agreed spatial and temporal limits to fishing. Each year, the Government issues an authority for the Association to conduct surveys when necessary. Within this authority, the Association must inform the Fisheries Agency of the details of the survey, including details of participating vessels and survey locations. The Association has contractual arrangements with licensed vessels, such that the licensed vessel can conduct surveys on their behalf. Vessels are paid a fixed amount for their services. Survey vessels must process the catch in the manner specified by the Association and all the catch proceeds of the catch are administered by the Association.
- For Challenger scallops, development of harvest strategies follows annual surveys. For Spencer Gulf prawns, development of an annual harvest strategy follows three stock assessment surveys. A November survey compares the biomass of prawns with previous years. This is useful in forecasting yields to the fishery for the coming year. A February survey provides information on relative recruitment. This is useful for evaluating future trends in the fishery. An April survey provides information on the effects of the previous season's fishing. Spot surveys provide for real time adjustments to management of the fishery through a committee at sea process.
- The Challenger Scallop fishery gets approval for annual rules at an annual general meeting. In Spencer Gulf, decision rules influence management decisions (primarily spatial and temporal closures). Additional decision rules can be developed for by-catch and other environmental issues.
- For Challenger Scallops, an MOU exists between company and government to establish performance measures for research and the quality of information regulating management, including an audit process. For Spencer Gulf, similar arrangements would apply in any contestable tender process for research services.
- For Challenger Scallops, levies are established as enforceable debts (based pro-rata on production). For the Spencer Gulf fishery, levies are attracted through licence fees reflecting the cost of management services. Under a delegated co-management model, this could be extended, as is the case for Challenger Scallops, to include costs of marketing or other services required to improve the profitability of the Spencer Gulf prawn fishery.
- For Challenger Scallops, the New Zealand government confirms that annual research undertaken by contractors is sufficient to inform decision making in the fishery. This is an important quality control and a similar undertaking with the South Australian government would need to apply for any out-sourced research services.
- For Challenger Scallops, harvest strategies are presented for consideration and comment to stakeholders. Consultation informs the final strategy. This is similar to existing arrangements applicable to the Spencer Gulf prawn fishery, although consultation is mainly between the commercial fishing sector (the Association) and the government (PIRSA).

New Zealand rock lobster

Among the most successful of co-managed fisheries is New Zealand's rock lobster fishery (Harte 2001). The fishery is managed through the multi-stakeholder National Rock Lobster Management Group (NRLMG). Membership of the NRLMG comprises government agencies, commercial, recreational and indigenous fisher representatives, environmental non-governmental representatives and science advisers. A comparable group in South Australia is the Fisheries Council of SA. Recognized as a primary source of advice to Ministers on all matters pertaining to rock lobster fisheries, the NRLMG is resourced by industry by way of provision of an independent chairman, meeting venues, catering, and an administrative support role shared with the Ministry of Fisheries.

The marriage of the practical working knowledge of rock lobster fishers, the research and management experience of government agencies, and expectations of other sector groups has been a successful and productive one.

Key to the success of the NRLMG has been a commercial sector committed to the sustainable and inclusive management of the rock lobster resource. The New Zealand Rock Lobster Industry Council (RLIC) is a successful example of the potential that commercial stakeholder organisations have to succeed in a number of fields of fisheries management including research (as described above).

RLIC is an umbrella organization for nine commercial stakeholder organisations operating in each of the rock lobster management areas of New Zealand (Sykes 2000). These organisations have been established as incorporated societies or limited liability companies and are known as CRAMACs. The Spencer Gulf and West Coast Prawn Fishermen's Association is comparable to a CRAMAC and similar co-management arrangements for rock lobster could apply in South Australia.

Membership of CRAMACs comprises quota owners, processors, exporters, and fishermen (owner-operators and lease holders) in each region. Governance is based on a two-tiered voting procedure that gives priority to quota ownership on issues affecting total allowable commercial catch decisions, levy setting, and certain government consultation processes. All nine CRAMACs hold a majority mandate of crayfish quota holders in the regions. CRAMACs are shareholders in RLIC and appoint the nine person board of directors, one from each CRAMAC.

A co-management model for Spencer Gulf

Under a fully delegated co-management model decisions relating to management of the Spencer Gulf fishery will be made by the body representing the stakeholders. This body could be the Association or it could be a stakeholder representative body similar to the NRLMG (as described above). A stakeholder representative body reflects the aspirations of co-management better than a purely commercial fishery representative body. Three models are evaluated below.

Model 1: Status Quo

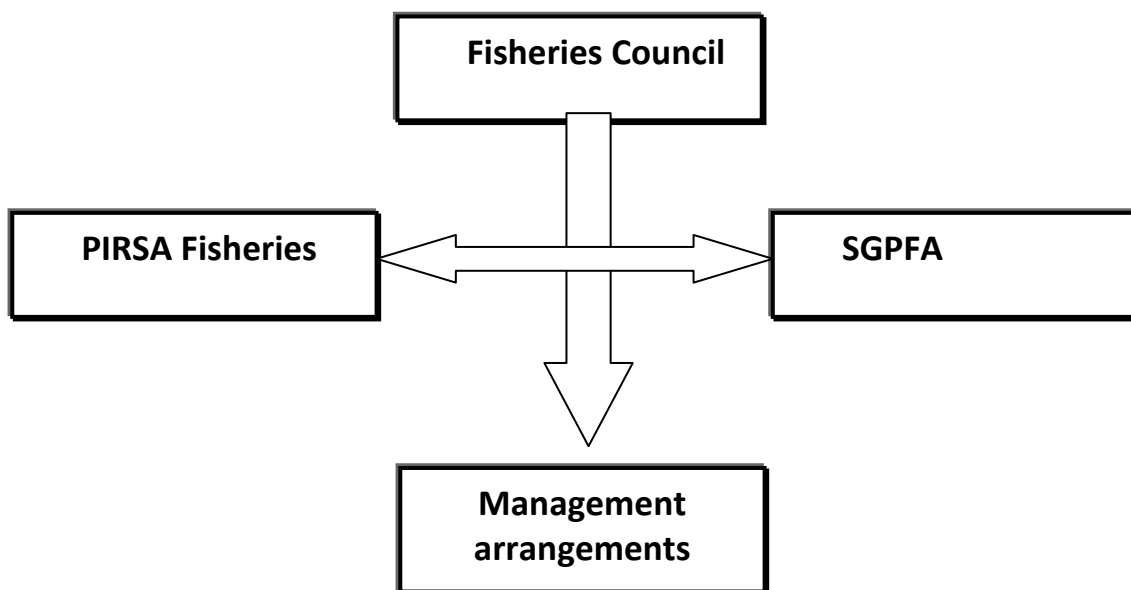
The status quo is a collaborative model in which management arrangements are negotiated between the Spencer Gulf and West Coast Prawn Fishermen’s Association and PIRSA Fisheries under oversight of the Fisheries Council. Disputes over cost recovery (and other management arrangements) previously addressed by the FMC are now to be addressed by the Fisheries Council although service delivery is also negotiated between PIRSA, SARDI and the Association. Some stakeholder input is provided by the Fisheries Council. Management arrangements, including research services, are provided by the Government.

Pros

- the commercial fishery has a high degree of control over management arrangements including a Committee at Sea which recommends fine scale spatial management and closures under authority of PIRSA Fisheries, research input using commercial vessels has a high degree of credibility by Industry.

Cons

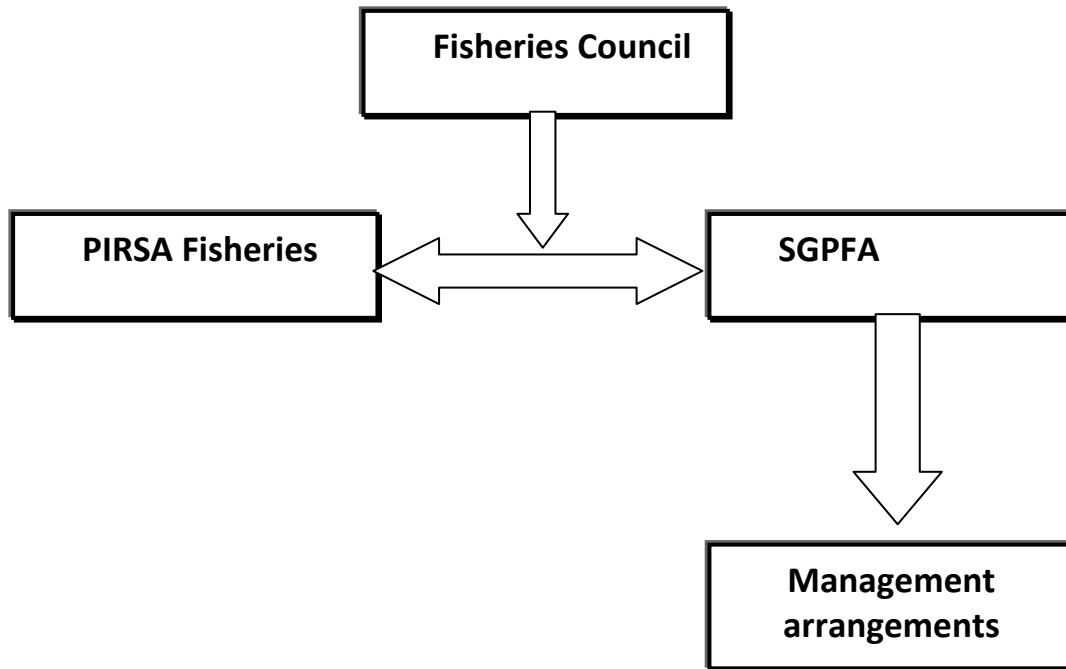
- Single service provider for research (SARDI) with relatively high costs of research services imposed on Industry,
- No direct representation of the Conservation sector in stakeholder input.



Model 2. Delegated model SGPFA

A delegated model provides for principal control of fisheries management arrangements including the management of the Spencer Gulf prawn fishery (harvest strategy development) and conduct and reporting of research by the Spencer Gulf and West Coast Prawn Fishermen’s Association. In this model, the Association is supported through the employment of a biologist in addition to a peer review / auditing process, which could be provided by the Fisheries Council or other relevant stakeholders (including from SARDI and the conservation sector). In this model, the Association’s management activities are increased although PIRSA still provides an advisory role, in particular with legislative advice / policy making / regulation setting. Recovery of costs from the fleet for conducting core components of work to manage the fishery will also be collected through PIRSA.

To gain greater stakeholder input and partnership, it is anticipated that the Association's management arrangements will include more participation from key stakeholders in appropriate forums. For example, positions can be made available on the Association's Sub-Committees where relevant (research, review of management requirements for sustainability etc). The Association would also consider, with input from PIRSA, appropriate stakeholders to assist in the peer review / auditing process. There is opportunity in the Association's Constitution to allow for provisions for particular stakeholder involvement.



Pros

- greater control by Industry of the nature and costs of service delivery,
- greater stakeholder involvement (including conservation sector),
- minimal change in existing management arrangements for industry and PIRSA,
- provides a step between existing arrangements and a fully delegated model,
- government management of legislative / policy / auditing processes.

Cons

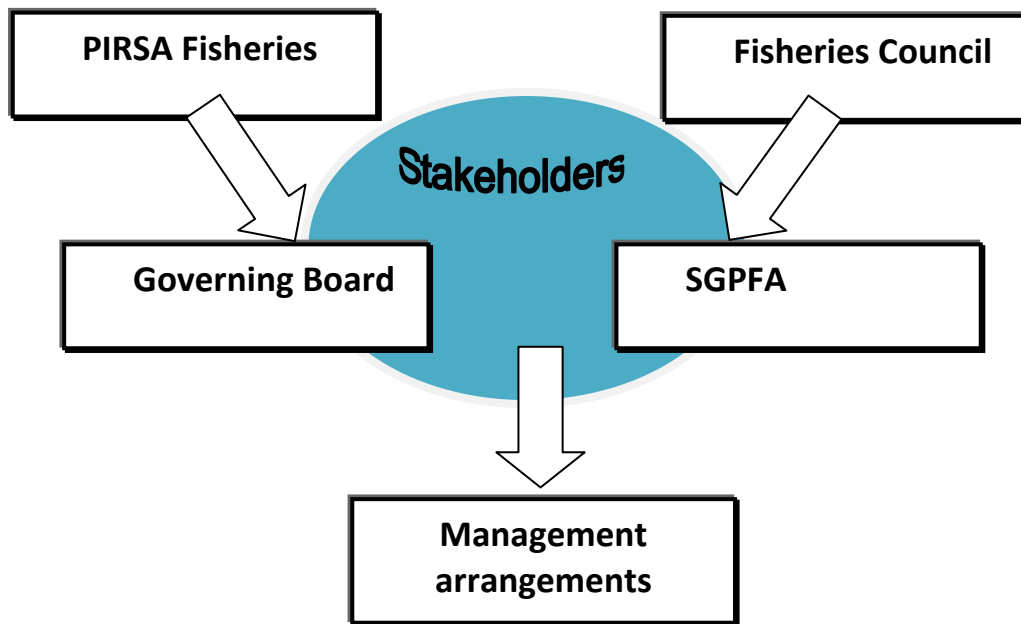
- stakeholder conflict including perceptions of poor quality control of research services,
- research services not provided under a 'contestable' method.

Model 3. Fully delegated model: stakeholder governance

The principal difference between this model and model 2 above is that management arrangements for the Spencer Gulf prawn fishery are managed by the Association under an augmented governing board including stakeholder representatives, and the responsibility of industry for collection of levies for management and greater legislative / policy control. Formal management arrangements overseen by the Fisheries Council are delegated by the Minister (under provision of the *Fisheries Act*) from PIRSA Fisheries to the Governing board (the Board). The Board will be primarily responsible for all management arrangements including decisions on when, where and how to harvest prawns, the conduct of research activities (including facilitation of contestable services), and annual reporting to stakeholders (including government). The Government would retain responsibility for enforcement and audit of management services.

The Board would utilise the current governance arrangements for the Association, under the Constitution, including an independent chair but would add stakeholder representatives through a transparent and consistent process, including one from:

- Government
- Recreational fishery
- Commercial fishery
- Conservation
- Indigenous
- Aquaculture



Pros

- stakeholder representation reflecting true co-management;
- contestable delivery of management services (including research) to improve cost effectiveness and transparency of service delivery;
- ability to collect levies from all licence holders for additional services (e.g. marketing).

Cons

- additional Association resources required for management;
- limited expertise base in industry;
- re-development of the Fisheries Management Committee (FMC) model.

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**CONSTITUTION
of the
SPENCER GULF & WEST COAST PRAWN FISHERMEN'S ASSOCIATION INC**

1. NAME

The name of the Association will be "THE SPENCER GULF & WEST COAST PRAWN FISHERMEN'S ASSOCIATION INCORPORATED."

2. Definitions

- (a) **"Association"** means the Spencer Gulf & West Coast Prawn Fishermen's Association Incorporated.
- (b) **"Management Committee"** means the committee of management of the Association.
- (c) **"Member"** means a member of the Association and includes a Full Member, Associate Member, Skipper Member and Honorary Member.
- (d) **"General Meeting"** means a meeting of Members and may be a Special General Meeting or an Annual General Meeting.
- (e) **"Deputy Chairperson"** means the person elected to the position of deputy Chairperson in accordance with this Constitution.
- (f) **"Independent Chairperson"** means the person elected to the position of Independent Chairperson in accordance with this Constitution.
- (g) **"Executive Officer"** means the person appointed to the role of executive officer (if any) by the Management Committee.
- (h) **"Coordinator at Sea"** means the person appointed to the role of coordinator at sea (if any) by the Management Committee.

3. OBJECTS

The objects of the Association are to:

- (a) advance, promote and safeguard the prawn fishing industry in Spencer Gulf and the West Coast (the "Industry");
- (b) furnish a forum for the discussion and consideration of problems affecting the Industry;
- (c) support and represent Members in matters pertaining to the Industry;
- (d) advance and promote the Industry's view in dealing with governments of State and Commonwealth;
- (e) provide representatives from the ranks of its membership to government and fishing industry organisation and bodies.

4. MEMBERSHIP

- (a) Classification of Members:

(i) Full Member

A person who holds a current Spencer Gulf or West Coast prawn fishing endorsement (“a licence”) issued by the appropriate licensing authority. If a Full Member is not an individual, the Full Member is entitled to nominate a person to be that Full Member’s Nominee in accordance with clause 4(e) below. A Full Member’s Nominee is entitled to attend General Meetings on behalf of the Full Member and is entitled to stand for election to the Management Committee.

(ii) Associate Member

Any person who is not a Full Member, Skipper Member or Honorary Member and who has paid the annual subscription or levy as referred to in clause 5(b) of this Constitution.

(iii) Skipper Member

A person engaged in actual prawn fishing operations on a vessel operated or controlled directly or indirectly by a Full Member being a person who has no direct or indirect financial interest in a Spencer Gulf or West Coast prawn fishing vessel.

(iv) Honorary Member

Any person who has been elected as an Honorary Member by Members at a General Meeting. An Honorary Member shall not be obliged to pay fees, subscriptions or levies and shall not be entitled to vote at General Meetings.

(b) The Association may appoint as an Associate or Honorary Member any person who has rendered distinguished services to the advancement of the objects of the Association or its administration.

(c) The membership of a Member shall cease:

(i) If the Member resigned by giving written notice of resignation to the Association.

(ii) If the Member (being a licence holder) ceases to hold a licence.

A Member ceasing to be a Member shall be liable for any outstanding subscriptions which may be recovered as a debt due to the Association and shall not be entitled to a refund of any part of the subscription paid.

(d) For the purposes of this Constitution a Member shall only be entitled to attend General Meetings and retain a right to speak and express opinions on all matters coming before General Meetings subject to the provisions of this Constitution is he or she has paid in full all due fees, subscriptions and levies.

(e) A Full Member that is not an individual may nominate a person as its nominee by serving upon the Association a written notice signed by or on behalf of the Full Member giving the name and address of the nominee. A Full Member may terminate any such nomination by serving upon the Association a written notice signed by or on behalf of the Full Member giving notice of or to the effect that such nomination has been terminated.

- (f) A partnership of two (2) or more persons being a licence holder may be a Member but in such case where membership is recorded in the names of the partners and not in the name of the partnership the person whose name stands first in the register of Members shall be deemed to be the nominee of the partnership for the purposes of Clause 12 and no other members of the partnership shall be eligible to be members of the Management Committee.

5. **JOINING FEES, SUBSCRIPTIONS AND LEVIES**

- (a) The joining fee payable upon becoming a Member shall be determined from time to time a General Meeting.
- (b) The annual subscriptions or levies payable by Members for each financial year shall be determined at a General Meeting.
- (c) The subscription year is from 1st July to 30th June in any one year. Members must pay the joining fee within 14 days of joining the Association. Members must pay subscriptions or levies by 30 November each financial year.
- (d) Any Member whose joining fee or subscription or levy has not been paid within thirty (30) days of being notified in writing by the Association may be removed from membership by the Association.
- (e) The Association may impose a levy or levies upon Full Members or any class of Full Member for the purpose of meeting the costs and expenses of real time management and research into the Spencer Gulf and West Coast prawn fisheries.
- (f) In the event that revenue is derived from real time fishery management or research the Association may rebate some or all of such revenue to the Full Members who have contributed by the way of levy to the costs and expenses of such real time management or research and such rebate will be in proportion to the levies so contributed or the Association may apply some or all of such proceeds for the purposes of the Association as determined by the Management Committee.
- (g) The Association may impose such additional levies upon its Members for the purpose of fostering its objects as the Management Committee may from time to time determine.

6. **ASSOCIATION GROUPS**

- (a) The Association shall comprise three (3) groups to be known as Group East, Group South and Group West.
- (b) Group South and Group East shall consist of those Members who are entitled to fish the Spencer Gulf prawn fishery. An eligible Member may be a Member of Group South or a Member of Group East but not both.
- (c) Group West shall consist of those Members who are eligible to fish the West Coast prawn fishery.
- (d) Before the Annual General Meeting each year Members (other than Group West) shall register as Members of either the East or the South Group and be invited to nominate that group's Management Committee representative.

7. INDEPENDENT CHAIRPERSON

- (a) The Independent Chairperson must be a Member and shall be elected for a two year term as provided in Clause 11.
- (b) The Independent Chairperson will act as Chairperson of each General Meeting and of meetings of the Management Committee.
- (c) The Independent Chairperson will not receive any remuneration unless otherwise determined by the Management Committee.

8. THE DEPUTY CHAIRPERSON

- (a) The Deputy Chairperson must be a Member and shall be elected as provided in Clause 11.
- (b) The Deputy Chairperson will assist the Independent Chairperson in the discharge of his or her duties and in the absence on the Independent Chairperson shall act in his or her place. When so acting the Deputy Chairperson may exercise all the powers of the Independent Chairperson.
- (c) The Deputy Chairperson shall not receive any remuneration unless otherwise determined by the Management Committee.

8A. COORDINATOR AT SEA

- (a) The Management Committee may from time to time in its discretion appoint or remove a person from the position of Coordinator at Sea.
- (b) The Coordinator at Sea may not be a member of the Management Committee but may, by invitation of the Independent Chairperson or Deputy Chairperson, attend meetings of the Management Committee.
- (c) The Coordinator at Sea must be a current master of a vessel in the Spencer Gulf or West Coast prawn fishery, respectively.
- (d) The role of the Coordinator at Sea will be to respond to requests for advice from the Management Committee on matters within the scope of his or her expertise.
- (e) The Association may remunerate the Coordinator at Sea, in the Management Committee's discretion.

9. THE SEAL

- (a) The Association shall have a common seal upon which its corporate name shall appear in legible characters.
- (b) The common seal shall not be used without the express authorisation of the Management Committee and every use of the common seal shall be recorded in the minute book of the Association. The affixing of the common seal shall be witnessed by the Independent Chairperson or the Deputy Chairperson and one other member of the Management Committee.
- (c) The common seal shall be kept in the custody of such person as the Management Committee may from time to time decide.

10. MEETINGS OF MEMBERS

(a) The Annual General Meeting

The Annual General Meeting of the Association (“the AGM”) must be held each year between 1st August and 31st October of that year on a day or days fixed by the Management Committee.

(b) Special General Meetings

Any other General Meetings of the Association shall be known as Special General Meetings which shall be subject to the following requirements:

- (i) The Independent Chairperson has the authority to requisition a Special General Meeting.
- (ii) The Management Committee has the authority to requisition a Special General meeting upon a vote being taken for that purpose by the Management Committee.
- (iii) A Special General Meeting may also be convened by no fewer than ten (10) Members with full voting rights signing and serving upon the Association a requisition for that purpose.
- (iv) Each and every requisition requesting a Special General Meeting must contain sufficient details of the matters to be dealt with at that Special General Meeting including the resolutions to be put to the Members.
- (v) The Management Committee must convene a Special General Meeting within fourteen (14) days upon receipt by the Association of a requisition for a Special General Meeting. The Management Committee shall send a copy of the requisition to Members of the Association together with the Management Committee’s recommendation and views regarding the content and subject matter of the requisition.

11. REQUIREMENTS OF GENERAL MEETINGS

- (a) General Meetings should be held at a location convenient to Members.
- (b) Subject to this Constitution, the date and time of the General Meeting shall be decided by the Management Committee in its discretion.
- (c) Notice of the time and place of the General Meeting must be in writing and posted to each Member to the Member’s last known address at least fourteen (14) days prior to the date of the General Meeting.
- (d) Fourteen (14) Members present in person or by proxy shall constitute a quorum at any General Meeting of the Association including any adjournment thereof.

12. MANAGEMENT COMMITTEE

- (a) Subject to clause 12(f), the Management Committee will consist of:
 - (i) Independent Chairperson

- (ii) Deputy Chairperson
 - (iii) Committee Person Group South No 1
 - (iv) Committee Person Group South No 2
 - (v) Committee Person Group South No 3
 - (vi) Committee Person Group East No 1
 - (vii) Committee Person Group East No 2
 - (viii) Committee Person Group West No 1
 - (ix) Skipper Member representative
- (b) Subject to sub-clause 12(c) members of the Management Committee must be elected at the AGM. To be eligible as a member of the Management Committee a person must be:
- (i) A natural person; and
 - (ii) A Member; or
 - (iii) The nominee of a Full Member.
- (c) The persons standing for election at the AGM will include:
- (i) Those members of the Management Committee whose period of office has expired;
 - (ii) Persons appointed to fill a casual vacancy; and
 - (iii) Any other persons newly nominated in accordance with this Constitution.
- (d) A person elected to the Management Committee (except for a person elected to fill a casual vacancy) will hold office for a period of two (2) years commencing immediately after the end of the Annual General Meeting in which he or she was elected and expiring at the end of the Annual General Meeting two years later. Where a person is elected to fill a casual vacancy that person will hold office for the remainder of the term of their predecessor.
- (e) The Management Committee shall at least once each year make an annual report to the Association of their activities during the year.
- (f) Group Representatives
- (i) Group South No 3 are entitled to three (3) representatives on the Management Committee.
 - (ii) Group East are entitled to two (2) representatives on the Management Committee.

- (iii) Group West are entitled to one (1) representative on the Management Committee.
 - (iv) Skipper Members are entitled to one (1) representative on the Management Committee.
 - (v) If there are insufficient nominations for the Group East positions then the remaining Group East Management Committee positions may be filled by Group South Members nominated in accordance with this Constitution.
- (g) All nominations for the Management Committee must be made in writing signed by the nominator Member and at least one other Full Member seconding the nomination and accepted in writing by the signature of the candidate. All nominations must be submitted to the Management Committee at least seven (7) days prior to the AGM or to the posting of ballot papers if a postal ballot is conducted. A nomination will not be effective unless the acceptance of the candidate is endorsed upon the nomination.
- (h) A person will not be eligible to be appointed Independent Chairperson after the Association's 2007 Annual General Meeting (and any adjournment) if he or she holds a financial interest in a current Spencer Gulf or West Coast prawn fishing endorsement issued by the appropriate licensing authority.

13. **CASUAL VACANCIES**

- (a) The office of a member of the Management Committee shall become vacant if that member:
- (i) Becomes bankrupt or makes any arrangement or composition with his creditors generally.
 - (ii) Becomes prohibited by law from being a member of the Management Committee.
 - (iii) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health.
 - (iv) Resigns his office by notice in writing to the Association.
 - (v) Is absent without the permission of the Management Committee from four (4) consecutive meetings of the Management Committee or a total of four meetings of the Management Committee in a financial year.
 - (vi) Ceases to be a Member or in the case of a member of the Management Committee who is the nominee of a Full Member if that nomination is withdrawn or if the nominating Full Member ceases to hold a licence.
 - (vii) Dies.

No proceeding of the Management Committee shall be invalidated by reason of any member taking part or concurring being then disqualified.

- (b) Where a member of the Management Committee resigns or ceases to be a member of the Management Committee, the remaining members of the

Management Committee may appoint another person to fill the casual vacancy to hold office until the next AGM.

14. **POSTAL BALLOTS**

At the discretion of the Management Committee, a postal ballot may be held in lieu of electing the Management Committee at the AGM in which case the following provisions apply:

- (a) The postal ballot must be conducted after 1st July and before the holding of the Annual General Meeting in any given year.
- (b) The final date for receipt of ballot papers from Members must be at least fourteen (14) days after the ballot papers are posted to the Full Members.
- (c) The Independent Chairperson will be the returning officer for the election ("**Returning Officer**").
- (d) The Returning Officer shall determine the order of names on the ballot paper by lot.
- (e) A ballot paper shall be posted to each Full Member accompanied by an envelope addressed to the Returning Officer with provision on the reverse side for the Full Member's name.
- (f) At the close of the ballot the Returning Officer shall check the name on the envelope against the register of Members and when satisfied that the Full Members' right to vote has been established shall remove the ballot paper for counting in a manner which ensures that the ballot paper cannot be identified with the details on the envelope.
- (g) Ballot papers shall be counted as formal if the Returning Officer is satisfied that the voter's intentions have been made clear.
- (h) Each candidate shall be entitled to have circulated with the ballot papers a brief statement of the candidate's credentials and policies.
- (i) Each candidate shall be entitled to appoint a scrutineer to oversee the election on behalf of the candidate.
- (j) In the event of voting for a position being equal there shall be a further ballot.
- (k) The provisions of clause 15(a) and (c) shall apply to postal ballots.

15. **VOTING**

- (a) For election of Management Committee:
 - (i) Election of Members of the Management Committee must be by secret ballot.
 - (ii) Only Full Members in good financial standing are entitled to vote on the election of the Management Committee.
 - (iii) A vote for a representative of a group shall not be restricted to Members of that group.

(iv) Where there is more than one (1) vacancy on the Management Committee and the number of persons nominated exceeds the number of vacancies the Full Members voting shall have one (1) vote in respect of each vacancy and no right to indicate any preference to the intent that the candidates holding the highest number of votes at the end of the first ballot shall be deemed to be elected.

(b) Other matters

Matters other than the election of the Management Committee arising at any General Meeting will be decided by a majority of votes, and in the event of equality of votes the Independent Chairperson shall have a casting vote whether or not he or she has a deliberative vote and in addition to his deliberative vote should he or she have one.

(c) Where a partnership is a Member and membership is in the joint names of two or more partners only one person may vote at any General Meeting either personally or by proxy. If more than one partner tenders a vote the vote of the one whose name stands first on the register of Members will be counted.

16. **PROXY VOTING**

(a) Any Member entitled to vote at a General Meeting may deliver to the Association before the General Meeting a notice in writing, authorising another Member entitled to vote to cast the vote of the absent Member on all questions which may come before the meeting any proposed resolutions including amendments, substitutions, or variation of the resolutions.

(b) The proxy shall be signed by the Member whose signature shall be witnessed by a person other than the proxy.

(c) The person nominated as proxy shall endorse his or her acceptance upon the form of proxy by signing the same and a proxy shall not be effective unless the person nominated has so endorsed his or her acceptance.

17. **POWERS AND DUTIES OF THE MANAGEMENT COMMITTEE**

(a) The management of the Association shall be vested in the Management Committee.

(b) The Management Committee may exercise all powers of the Association set out in section 25 of the *Associations Incorporations Act 1985*.

(c) The Management Committee may exercise all of the powers of the Association to borrow money and to mortgage or charge its property or any part thereof and to issue securities whether outright or as security for any debt, liability or obligation of the Association.

(d) Subject to this rule the Association may not borrow money from banks or other financial institutions apart from requirements necessary for general administrative purposes, such amount and CPI increase for any one financial year to be established at the AGM.

(e) All appropriations of funds of the Association over \$10,000.00 must be made or approved by the Management Committee.

- (f) The Management Committee shall meet together for the despatch of business and otherwise regulate its meeting as it thinks fit. The Executive Officer will be invited to attend all meetings of the Management Committee. The Executive Officer or Independent Chairperson (if there is no Executive Officer) shall on the requisition of six (6) or more members of the Management Committee summon a meeting of the Management Committee.
- (g) The Management Committee shall cause minutes to be made of all proceedings at all meetings of the Management Committee.
- (h) Questions arising at any meeting of the Management Committee shall be decided by a majority of the Management Committee present at the meeting.
- (i) Five (5) Members present in person shall constitute a quorum at any meeting of the Management Committee PROVIDED HOWEVER that Management Committee meetings may be held by telephone and a Member of the Management Committee absent from the actual place of the meeting may vote on any matter coming up before the Committee at that meeting by telephone or by facsimile.
- (j) Management Committee Members may nominate in writing an alternate Member to attend and vote on their behalf at a Management Committee meeting PROVIDED HOWEVER that such alternate Member is approved by the Management Committee and that a nomination shall be for one (1) meeting only.
- (k) The Management Committee may allow observers to attend its meeting upon such terms as it may resolve. An observer is not entitled to a vote.
- (l) The continuing Management Committee members may act notwithstanding any vacancy on the Management Committee.
- (m) The Independent Chairperson shall preside as Chairperson at every meeting of the Management Committee, or if there is no Independent Chairperson, or if at any meeting is not present within thirty (30) minutes after the time appointed for holding the meeting, the Deputy Chairperson shall be Chairperson or if he is not present at the meeting then the Management Committee member may choose one of their number to be the Chairperson of the meeting.
- (n) The Management Committee shall have power to appoint such officers and employees as are required to carry out the objects of the Association, including a public officer as required by the Associations Incorporation Act 1985 and may delegate any of its powers to such officers and employees.
- (o) The Management Committee may establish sub-committees and in so doing shall prescribe the name, role and membership of a sub-committee and such other appointments or arrangements as are necessary for the efficient functioning of such sub-committee. The Management Committee shall appoint not less than one (1) Committee Member to each sub-committee so established. The Independent Chairperson shall be an ex-officio member of all sub-committees.

18. **AMENDMENTS**

The Constitution may be amended by resolution by seventy five percent of the Members present in person or by proxy at any General Meeting.

The Management Committee shall send a copy of the proposed amendment to the Members together with the Management Committee's recommendation regarding the proposed amendment.

19. DISSOLUTION

The Association may be dissolved or wound up by resolution of seventy five percent of the Members present in person or by proxy at a General Meeting.

20. INDEMNITY

Every member of the Management Committee and other officer for the time being of the Association shall be indemnified out of the assets of the Association against any liability which is incurred by him or her in defending any proceedings, whether civil or criminal, which arise out of or relate to the execution of the duties of his or her office in which judgement is given in his or her favour or in which he or she is acquitted.

21. EXPULSION AND DISQUALIFICATION OF MEMBERS

- (a) The Association may disqualify or expel any Member thereof violating the Constitution or neglecting to comply with any reasonable direction of the Association or the Management Committee by resolution of seventy five percent of the Members present in person or by proxy at any meeting of the Association.
- (b) Any Member whilst under disqualification shall forfeit all the rights and privileges held as a Member.
- (c) Subject to giving a Member an opportunity to be heard or to make a written submission, the Management Committee may resolve to expel a Member upon a charge of misconduct detrimental to the interest of the Association.
- (d) Particulars of the charge shall be communicated to the Members at least one (1) calendar month before the meeting of the Management Committee at which the matter will be determined.
- (e) The determination of the Management Committee shall be communicated to the Member and in the event of an adverse determination the Member shall cease to be Member fourteen (14) days after the Committee has communicated its determination to him.
- (f) It shall be open to a Member to appeal to the Association in General Meeting against the expulsion. The intention to appeal shall be communicated to the Association within fourteen (14) days after the determination of the Management Committee has been communicated to the Member.
- (g) In the event of an appeal the appellant's membership of the Association shall not be terminated unless the determination of the Management Committee to expel the Member is upheld by the Members in General Meeting after the appellant has been heard, and in such event membership will be terminated at the date of the general meeting at which the determination of the Management Committee is upheld.
- (h) Any expelled or disqualified Member may apply for re-admission as a Member subject to Clause 3 herein and will be in the sole discretion of the Management Committee whether to re-admit the expelled or disqualified Member to membership.

22. AUDITOR

In the event that the Association is a “prescribed association” as defined in the Associations Incorporation Act 1985 the Management Committee shall appoint a qualified auditor to audit the Association’s financial accounts