

CRADLE COAST AUTHORITY

RULES NOVEMBER 2011

Containing November 2011 amendments
effective as from February 2012

JACKSON TREMAYNE & FAY
3 Heathfield Avenue, Hobart Tas 7000
GPO Box 728, Hobart Tas 7000
Ph: 03 6224 9888
Fax: 03 6223 8749
Email: info@jtflawyers.com.au

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CRADLE COAST AUTHORITY RULES NOVEMBER 2005**PART 1 - PRELIMINARY****1. Title**

These rules may be cited as the Cradle Coast Authority Rules.

2. Name

The name of the **Authority** is the Cradle Coast Authority.

3. Interpretation

(1) In these rules, unless the contrary intention appears:

‘Act’ means the Local Government Act 1993;

‘AGM’ means an annual **general meeting** held in accordance with rule 12;

‘agreed proportion’ means in the proportion which the population of the municipal area of each **participating council** bears to the total population of the **Cradle Coast Region** as shown in the latest available “Estimated Residential Population” published by the Australian Bureau of Statistics;

‘Authority’ means the Cradle Coast Authority;

‘Board’ means the board of **directors** appointed by the **representatives**;

‘chairman means the chair of the **Board**;

‘CEO’ means the chief executive officer of the **Authority**;

‘CEO/chairman’ means a person who holds the dual positions of **CEO** and **chairman**;

‘chief representative’ means the chair of the **representatives**;

‘commencement day’ means the day referred to in or set under rule 4;

‘councillor’ means a councillor as defined in s3 LGA of a **participating council**;

‘Corporations Law’ means the Corporations Law of Tasmania;

‘Cradle Coast Region’ means the combined municipal areas of the **participating councils** and where the context permits, includes the community of those municipal areas;

‘director’ means a member of the **Board**;

‘general manager’ means a general manager of a **participating council**;

‘general meeting’ means a meeting of **representatives** and includes an AGM;

‘guiding documents’ means the Authority’s strategy, annual plan and council contributions budget adopted under Schedule 2.

‘participating council’ means a council which is a member of the **Authority**;

'representative' means a person appointed by a **participating council** to represent it on the **Authority** and includes a substitute appointed under rule 9(4);

'representatives' means the representatives acting together at a **general meeting**;

'Treasurer' means the Treasurer of the State of Tasmania;

'writing' or **'written'** includes an e-mail or similar electronic transmission.

- (2) These rules are to be interpreted in accordance with the Acts Interpretation Act unless the contrary intention appears.

4. (deleted)

PART 2 - FUNCTIONS AND POWERS

5. Functions

- (1) The functions which the **Authority** may perform or carry out are to:
- (a) perform or carry out on behalf of or for the benefit of the **Cradle Coast Region** or of any 2 or more **participating councils** any function which a council, a joint authority, the **Authority** or any committee of the **Authority** is empowered to perform or carry out under the **Act** or any other Statute or Regulation; and
 - (b) at the request of, or with the consent, of a **participating council** to perform or carry out on behalf of or for the benefit of that **participating council** any function which that **participating council** is empowered to perform or carry out under the **Act** or any other Statute or Regulation; and
 - (c) do anything for or on behalf of any other council, government entity or business which a council, a joint authority, the **Authority** or a committee of the **Authority** is empowered to perform or carry out under the **Act** or any other Statute or Regulation.
- (2) Whether or not the **Authority** exercises one of its functions a **participating council** may exercise that function itself or obtain the benefit of that from any other source.
- (3) Subject to section 36(2) of the **Act**, the **Authority** may perform any of its functions and exercise its powers outside the boundaries of the municipal areas of the **participating councils**. When it does so the **Authority** must perform those functions and exercise those powers in accordance with the competitive neutrality principles as defined in the **Act**.

6. Powers of the Authority

In performing or carrying out any of its functions, the **Authority** may do anything:

- (a) which the **Act** authorises a joint authority to do; and

- (b) which the **Act** authorises a council to do with respect to the functions of a council, excepting those things which the **Act** stipulates are not be provided for in the rules of a joint authority; and
- (c) which a **participating council** is empowered to do under any other Statute or Regulation with respect to the functions in rule 5 which a **participating council** would otherwise perform.

PART 3 – MEMBERSHIP AND FINANCIAL CONTRIBUTIONS

7. Members

- (1) The members of the **Authority** are the **participating councils**.
- (2) **Participating councils** are:
 - (a) those councils listed in Schedule 1; and
 - (b) any council which becomes a member under subrule (3);which have not withdrawn from membership (whether before or after the approval of these rules by any **participating council**).
- (3) Another council may become a member and **participating council** if:
 - (a) it resolves to do so and to be bound by these rules; and
 - (b) the **participating councils** unanimously approve its membership; and
 - (c) that council and the **participating councils** unanimously agree the terms and conditions on which it will become a member, including:
 - (i) any transfer of any assets, liabilities, employees and the rights and entitlements of employees; and
 - (ii) the number of **representatives** it may appoint under rule 9; and
 - (iii) the **agreed proportion**.

8. Financial Contributions

- (1) The **participating councils** must pay all contributions to the **Authority** required by these rules in accordance with the **agreed proportion** or as otherwise determined by **participating councils** by an absolute majority of the participating councils.
- (2) Each financial year the **participating councils** must pay the contributions set out in the council contributions budget adopted in accordance with Schedule 2 by the instalments and by the due dates set out in that document.
- (3) If a **participating council** does not pay any instalment of a contribution by the due date then:

- (a) it must pay interest to the **Authority** from the due date to the date of payment on the balance outstanding from time to time at a rate equal to the highest interest rate normally charged by the **Authority's** bank to any customer on overdraft loans of a similar amount; and
 - (b) the **Board** may by written notice given to that council require it to pay within the 14 days the balance of the whole of that councils' contribution for that year; and
 - (c) interest at the rate specified by subrule (a) applies on any overdue payment under subrule (b).
- (4) If a **participating council** is overdue in the payment of any instalment of contributions by more than 14 days, the **representatives** of that council are not entitled to vote at any **general meeting** while any amount of contributions or interest is overdue.

PART 4 - REPRESENTATIVES

9. Representatives

- (1) Each **participating council** is to appoint 2 persons to represent and vote on its behalf as a **participating council** for a period of two years.
- (2) A **representative** may resign from that office by notice given to the **general manager**.
- (3) A **participating council** may terminate an appointment and appoint a replacement **representative**.
- (4) The **general manager** of a **participating council** may appoint a substitute **representative** to act in place of the **representative** whenever that **representative** is unable to act as a **representative**.
- (5) An appointment, resignation, substitution or replacement of a **representative** is not effective until the **CEO** is notified in writing.
- (6) Only a **representative** appointed under this rule is authorised to represent a **participating council** and vote at a **general meeting** or an **AGM**.
- (7) If an administrator is appointed under section 230 or 231 of the **Act** with respect to any **participating council**, then the administrator may:
 - (a) personally fulfill the role and exercise the powers and functions of the **representatives** of that **participating council** and for that purpose is to be counted as 2 **representatives** in the quorum and voting; or
 - (b) appoint 2 persons as the **representatives** of that **participating council**, 1 of whom may be the administrator.

10. Convening of General Meetings

- (1) The **Authority** may hold such **general meetings** of **representatives** as are desirable to carry out its functions.
- (2) The **CEO** is to convene a **general meeting** of **representatives** at the request of the **chief representative**, the **chairman**, the **Board** or 3 or more **representatives**.

11. Notice of General Meetings

- (1) The **CEO** is to give to the:
 - (a) **representatives**; and
 - (b) **general managers**; and
 - (c) **directors** ;at least 14 days notice in writing of the **AGM** or of a **general meeting** which includes a matter which requires a special resolution and at least 4 days notice in writing of any other **general meeting**.
- (2) The **CEO** is to publish a copy of the notice of an **AGM** in a daily newspaper generally published in the **Region**. The failure to publish that notice does not invalidate any part of the **AGM**.
- (3) The notice is to specify:
 - (a) the place, the day, and the hour of the **general meeting**; and
 - (b) the general nature of the business to be transacted at the **general meeting**.
- (3) Even if no notice is given under subrule (1)(b) and (c) the **representatives** may by resolution passed or signed by all of them waive the requirement for notice of a **general meeting** which is not an **AGM**.

12. Annual General Meetings

- (1) An **AGM** must be held in every year before the end of December.
- (2) In addition to the **representatives**, the **Board** and the **CEO** are to attend the **AGM**.
- (3) The **AGM** is to:
 - (a) receive and consider the accounts and reports of the **Board**; and
 - (b) elect the **chief representative** and deputy chief representative.
- (4) The **AGM** may:
 - (a) (deleted)
 - (b) transact any other business specified in the notice of the **AGM**; and
 - (c) provide a time for the public to ask questions of the **representatives**, the **Board** or the **CEO**.

- (5) The **AGM** is open to the public.

13. Representatives' Powers and Duties

- (1) The **representatives** have the following powers and duties:
- (a) with respect to the matters which require a special resolution; and
 - (b) to at least annually review the performance of the **Board** and the individual **directors**; and
 - (c) the appointment, setting of terms, remuneration, suspension and dismissal of **directors** in accordance with Part 6 of these rules; and
 - (d) to approve an extension of the directors' powers under rule 31(3); and
 - (e) the declaration of dividends under rule 45; and
 - (f) to set requirements for reporting by the **Board** to the **representatives**; and
 - (g) the approval of the **guiding documents** of the **Authority** under Schedule 2; and
 - (h) the appointment of the auditor and all matters reasonably incidental to that appointment.
- (2) The **representatives** do not have any power to exercise any of the **Authority's** functions specified in rule 5 even if the **directors** have not been authorised to exercise any of those functions by or in accordance with rule 31(2) and (3).
- (3) The **representatives** may obtain advice from any or all of the **general managers** who are not **directors** or from any suitably qualified person.

13A Policies

- (1) The **representatives** may by special resolution establish any policy for any process or other matter with respect to the exercise by the **representatives** of any of their powers and duties listed in rule 13(1).
- (2) In establishing any policy the **representatives** must obtain the advice of the **CEO** and where the **CEO** certifies that it is required, the advice of an appropriately qualified person who is not an employee of the **Authority**.
- (3) The **representatives** may revoke or amend any policy in the same manner as required by subrules (1) and (2).
- (4) The **representatives** are to comply with any policy but their failure to do so will not invalidate any decision.

13B Guidelines

- (1) The **representatives** may establish, revoke or amend any guidelines for any process or other matter to be considered by them.
- (2) In establishing any guideline the **representatives** may obtain the advice of the **CEO** or any other appropriately qualified person.

- (3) The **representatives** are to comply with any guideline but their failure to do so will not invalidate any decision.

PART 5 - GENERAL MEETINGS

14. Attendance

- (1) A **representative** may participate in a **general meeting** by telephone or television conference or any other means of communication approved by the **representatives**. A **representative** who attends by such a means is taken to be present at the **general meeting** for all purposes, including the **quorum**.
- (2) The **representatives** may require any of the **directors**, the **CEO** and the **Authority's** employees and the **general managers** to attend any **general meeting** and provide information.
- (3) Any of the persons referred to in subrule (2) may attend any **general meeting**.
- (4) i) the **chief representative** may invite any other person to attend a **general meeting**;
ii) an **alderman or councillor** of a **participating council** may attend a **general meeting** as an observer.
- (5) Any person who attends a **general meeting** who is not:
(a) a **representative**; or
(b) a person required to attend under subrule (2);
may not speak unless authorised by the **chief representative** to do so.
- (6) A **general meeting** which is not an **AGM** is not open to the public.
- (7) The **chief representative** may direct any person attending a **general meeting** who is not a **representative** to leave the meeting or any part of it.

15. Quorum

- (1) The quorum at a **general meeting** is a majority of the **representatives** who may be appointed under rule 9.
- (2) A **general meeting** may only transact business if a quorum is present while that business is being considered.

16. Quorum Not Present

- (1) If a **general meeting** lacks a quorum, either at the beginning or during a meeting, the **chief representative** must adjourn the meeting.

- (2) The **chief representative** may:
 - (a) resume the **general meeting** that day when a quorum is present; or
 - (b) adjourn the **general meeting** until the same day in the next week at the same time and place.
- (3) If the day nominated in subrule (2)(b) is not a business day, the meeting is to be held on the next business day.
- (4) Only business left unfinished at the adjourned meeting may be transacted at the rescheduled meeting.
- (5) If at the rescheduled meeting, a quorum is not present within 30 minutes after the time specified for holding the meeting, the meeting is to be abandoned.

17. Chief Representative and Deputy

- (2) (1) The **chief representative** and **deputy chief representative** hold office for a period of two years following their appointment at an AGM unless the **representatives** terminate their respective appointments by **special resolution**.
- (2) The deputy chief representative may chair any **general meeting** or part of it if:
 - (a) the **chief representative** is not present at the specified time for holding the meeting; or
 - (b) the **chief representative** is present but is unwilling to chair the meeting or part of the meeting.
- (3) If both the **chief representative** and deputy chief representative are absent or unwilling to chair a meeting or part of a meeting, the **representatives** are to choose one of their number to chair the meeting or that part of the meeting.

18. Voting

- (1) Each **representative** is entitled to one vote at a **general meeting** (except as provided in rule 9(8)(a)). The **chief representative** has a deliberative vote only.
- (2) Unless otherwise specified in these rules, a question arising at a general meeting is determined by a majority of the **representatives** entitled to be present whether or not they vote.
- (3) If a vote is tied, the resolution is lost.
- (4) A vote is to be taken in the manner the **chief representative** directs.

19. Declaration of Vote

Unless a division is demanded the **chief representative** may declare that a resolution of **representatives** has been passed or lost.

20. Resolution in Writing

- (1) A resolution in writing signed by all **representatives** is as valid as if it had been passed at a properly called and constituted **general meeting**.
- (2) The resolution may consist of several documents in the same form, each signed by one or more **representatives** or bearing a copy of those signatures transmitted by facsimile transmission.

21. Special Resolution

- (1) A special resolution is passed if:
 - (a) notice of the matter has been given in accordance with rule 11(1) and (2) at least 14 days before the **general meeting**; and
 - (b) at least three quarters of the **representatives** entitled to attend vote in its favour.
- (2) The **representatives** may by a resolution passed or signed by all of them waive the requirement of subrule (1)(a) for notice of a **general meeting** even if no notice is given under rule 11(1)(b) or (c).
- (3) A **special resolution** is required for the:
 - (a) variation of the number of directors (rule 23(2)); or
 - (b) changes to the composition to the Board (rule 23(3)); or
 - (c) appointment of the **directors** (rule 23); or
 - (d) termination, suspension or other changes to the terms of appointment of a **director** (including the **chairman**) prior to the end of their term of appointment (rules 27, 28); or
 - (e) determination that the **chairman** be appointed or elected and not be a **CEO/chairman** (rules 25(1) and (2)); or
 - (f) the declaration of a dividend (rule 45); or
 - (g) approval of the **Authority's** strategic and operational plans when there is a dispute with the **Board** (Schedule 2 Clause 2.4(7)); or
 - (h) termination of office of the **chief representative** or deputy chairman (rule 17(3)); or
 - (i) the revocation of any prior resolution (to the extent, if any, that the prior resolution can legally be revoked); or
 - (j) any other rule which requires a **special resolution**.

Validity of Proceedings of General Meetings

An act or proceeding of the **representatives** or of any person acting under their direction is:

- (a) not invalid only by reason that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in a position as a **representative**; and
- (b) valid, even if the appointment of the **representative** was defective.

PART 6 - THE BOARD

23. Appointment of Directors

- (1) Subject to subrule (2), the **Board** consists of at least 5 and no more than 11 **directors**.
- (2) Until the **representatives** determine to contrary by **special resolution**, the **Board** consists of 8 **directors**.
- (3) Until the **representatives** determine to the contrary by **special resolution**, the **Board** is to be comprised of:
 - (a) 2 **directors** appointed by the **representatives** from persons nominated by the **participating councils**; and
 - (b) 1 **director** appointed by the **representatives** from persons nominated by the **general managers**; and
 - (c) (deleted)
 - (d) 5 **directors** appointed by the **representatives** so that the Board as a whole include experience in or expertise with respect to:
 - (i) agriculture, industry or commerce;
 - (ii) education or training;
 - (iii) tourism;
 - (iv) natural resource management;
 - (v) healthrelevant to the **Cradle Coast Region** and any other experiences or expertise the **representatives** consider desirable.
- (4) In appointing **directors**, the **representatives** may determine:
 - (a) the process by which the **representatives** will seek nominations of, or decide on, the appointment of **directors** under subrule (3) (or any other requirements for appointment if the **directors** determine to the contrary of subrule (3)), which processes may be different even for different **directors** under subrules (3)(a) and (d); and
 - (b) that the continued eligibility of a **director** is conditional on that person retaining an office, employment, business, residential or business location or other eligibility.
- (5) When appointing the **directors**, the **representatives** are to:

- (a) take into account the functions and powers of the **Board** and appoint persons who collectively have the skills and experience to carry out those functions and powers; and
 - (b) specify in the terms of each appointment:
 - (i) a term of office no longer than five years, which term may be different for any **director**, and;
 - (ii) any continuing eligibility requirement for that **director** in accordance with subrule (4)(b).
- (6) A **director** whose term has just expired is eligible for appointment for another term.
- (7) The **representatives** have the power to fill casual vacancies on the **Board**, however those casual vacancies occur.

24. Eligibility for Appointment

- (1) A person must not be both a **representative** and a **director**. A **representative** appointed as a **director** must resign their appointment as a **representative** before accepting appointment as a **director**.
- (2) The **representatives** are not to appoint to the **Board** a person who:
 - (a) under the **Corporations Law** of any State is not entitled to manage a corporation or has been disqualified by Court order from managing a corporation; or
 - (b) is suspending payment generally to creditors or compounding with or assigning his or her estate for the benefit of the creditors; or
 - (c) is of unsound mind or is a patient under a law relating to mental health or whose estate is administered under laws relating to mental health; or
 - (d) has been dismissed from office under rule 28.

Chairman

- (1) Until the **representatives** determine to the contrary under subrule (2), the **CEO** is the **chairman**.
- (2) The **representatives** may by **special resolution** determine that instead of a **CEO/chairman** the **chairman** be either a **director**.
 - (a) appointed by the **representatives** by ordinary resolution; or
 - (b) elected by the **directors** at the **AGM**.and determine the method of setting the term of office of such a **chairman**.
- (3) A **CEO/Chairman** is:
 - (a) not a **director** or a member of the **Board**; and
 - (b) not entitled to vote on resolutions of the **Board**; and

- (c) entitled to notice of meetings of the **Board** as if the **chairman** is a **director**.
- (4) A **special resolution** under subrule (2) may be passed at any time and does not constitute a suspension or dismissal of the **chairman** for the purposes of rules 27 and 28.
- (5) The **chairman** is to act as the **Authority's** spokesperson on matters of policy and public interest but may delegate any or all of that function to the **CEO** if the **chairman** is not the **CEO**.
- (6) If the **representatives** have previously determined that the **CEO** not be **chairman**, the **representatives** may subsequently by **special resolution** appoint the **CEO** as **chairman**.

Vacation of Office

The office of a director becomes vacant:

- (a) if the **director** accepts appointment as a **representative**; or
- (b) if the **director** has been absent from 3 consecutive meetings of the **Board** without leave of absence granted by the **Board** and the **representatives** by ordinary resolution declare that **director's** office vacant; or
- (c) if the **director** is no longer eligible in accordance with the terms of that **director's** appointment under rule 23(4)(b) and the **representatives** by ordinary resolution declare that **director's** office vacant; or
- (d) on the resignation of the **director** being received by the **CEO**; or
- (e) if the **director** is dismissed under rule 28.

Suspension

- (1) The **representatives** may by **special resolution** suspend the **chairman** or a **director** from office for a period of no more than 3 months.
- (2) If the **representatives** suspend the **chairman**, they may suspend him or her from that office only, or as a **director** as well.
- (3) The **representatives** may only suspend a **CEO/chairman** from the office of **chairman**.

28. Dismissal

- (1) (a) The **representatives** may by **special resolution** dismiss the **chairman** or a **director** from office if the **representatives** consider it in the best interests of the **Authority**, the **participating councils** or the **Cradle Coast Region** to do so.
- (b) If the **representatives** dismiss the **chairman**, they may dismiss him or her from that office only, or as a **director** as well.
- (c) The **representatives** may only dismiss a **CEO/chairman** from the office of **chairman**.

- (2) (a) The **representatives** may dismiss a **director** from office at any time without prior notice if the **director** is guilty of grave misconduct or wilful neglect in the discharge of his or her duties, becomes bankrupt or makes any arrangement or composition with his or her creditors.
- (b) In circumstances other than those set out in Rule 28(1)(c) any **director** that is to be dismissed shall be given 6 months' notice but the **representatives** may decide to pay the **director** the equivalent of the notice period and not require that he or she serve the notice period.

29. Remuneration

The **directors** are to be paid the remuneration the **representatives** determine. That remuneration may be different for different **directors** and may include incentives based on performance.

30. Travel and Other Expenses

A **director** is to be paid from **Authority** funds all reasonable travel, accommodation and other expenses incurred by the **director** while engaged on the business of the **Authority**.

31. Functions and Powers of the Board

- (1) The **Board** may perform all the functions and exercise all of the powers of the **Authority** except:
- (a) those functions and powers which these rules provide may or are to be performed by the **representatives**; and
 - (b) as required by subrule (2).
- (2) Until and unless the **representatives** determine to the contrary in accordance with subrule (3) the **directors** and the **Authority** may only exercise the functions set out in rule 5 for the following purposes:
- (a) to provide leadership for the **Cradle Coast Region** and the **participating councils**; or
 - (b) to promote and achieve economic development (including tourism development) for the **Cradle Coast Region** which may be achieved through economic development (including tourism development) in any single municipal area; or
 - (c) to act as advocate and lobbyist (including seeking grants or other funding) for the **Cradle Coast Region** and or any 2 or more of the **participating councils** with all forms of government and with business and community organisations and groups; or
 - (d) to provide for means of cooperation between the **participating councils**; or

- (e) to do anything for or on behalf of any one or more of the ***participating councils***; or
 - (f) to do anything for or on behalf of any other council, government entity, or business on a commercial fee for service basis; or
 - (g) with the agreement of the relevant ***participating council***, charge a ***participating council*** a fee for anything it does on behalf of that council.
- (3) The ***representatives*** may extend the functions specified in subrule (2) only by a resolution passed in accordance with the following:
- (a) notice of the meeting has been given in accordance with rule 11(1) at least 28 days before the meeting; and
 - (b) that notice of meeting identifies that a resolution is proposed under this rule to extend the ***directors'*** powers and expressing at least the general nature of the proposed extension; and
 - (c) at least three quarters of the ***representatives*** entitled to attend vote in its favour.
- (4) Any act, transaction, agreement, resolution of the ***Board*** or any other thing which is within the ***Authority's*** functions under rule 5 is not rendered invalid because it is outside the functions or powers of the ***Board*** specified by or in accordance with subrule (2).

32. The Duties of the Board and Directors

- (1) The ***Board*** is to direct the affairs of the ***Authority*** in a manner consistent with the ***guiding documents***.
- (2) Clause 2.5 of Schedule 2 applies as if it refers to subrule (1).
- (3) Except as otherwise provided in these rules, in the exercise of their functions and powers:
 - (a) each ***director*** has the same duties and is to exercise the same degree of care , diligence and good faith as a ***director*** of a corporation subject to the ***Corporations Law***; and
 - (b) the ***director*** must not do anything which the ***Corporations Law*** provides that a ***director*** of a corporation subject to that law must not do.
- (4) ***Directors*** may rely on information and advice in the same manner as a ***director*** of a corporation subject to the ***Corporations Law***.

33. Notifying Representatives of Adverse Developments

The ***Board*** is to promptly notify the ***representatives*** of anything which may:

- (a) prevent or significantly adversely affect compliance with any significant part of any of the ***guiding documents***; or

- (b) significantly adversely affect the financial viability or operating ability of the **Authority**.

34. (Deleted)

35. Proceedings

Schedule 3 applies to meetings of the **Board**.

36. Committees and Advisory Groups

- (1) The **Board** may establish committees or advisory groups as it considers appropriate and delegate to them the functions and powers the **Board** considers appropriate.
- (2) If the **Board** does not direct the manner in which a committee or advisory group conducts its business, the committee or advisory group may determine that method.

PART 7 - CHIEF EXECUTIVE OFFICER AND EMPLOYEES

37. Chief Executive Officer

- (1) The **Board** is to appoint a **CEO** to be responsible for the administration and operation of the **Authority**.
- (2) The **Board** may delegate any of the **Board's** functions and powers to the **CEO**.
- (3) The **Board** may require a **CEO** who is not a **CEO/chairman** to:
 - (a) attend meetings of the **Board**; or
 - (b) leave any part of a **Board** meeting.
- (4) The **CEO** is the **Authority's** spokesperson on operational matters.

38. Delegations of Power by the CEO

Subject to any direction to the contrary by the **Board**, the **CEO** may delegate any of the **CEO's** functions and powers (including any delegated to the **CEO** under rule 37(2)) to any person appointed by the **CEO** to assist the **Board** in performing its functions and exercising its powers.

PART 8 - ACCOUNTS AND AUDIT

39. Investments

The **Authority** may only invest money:

- (a) in a manner in which a trustee is authorised by law to invest trust funds; or
- (b) in any other investment which the **Treasurer** approves.

40. **Borrowing**

- (1) The **Board**, for the purpose of raising a loan or obtaining any form of financial accommodation, may decide to provide any of the following forms of security:
 - (a) debentures;
 - (b) bills of sale, mortgages or other charges;
 - (c) inscribed stock;
 - (d) guarantees;
 - (e) any other document evidencing indebtedness other than bearer instruments.
- (2) The **Authority** may not raise a loan in any financial year exceeding any amount the **Treasurer** determines for the **Authority** for that financial year.
- (3) In this rule, 'loan' includes any financing arrangement as determined by the **Treasurer**.

41. **Accounting Records**

The **Authority** is to keep accounting records that correctly record and explain its transactions and financial position and keep those records in a manner that:

- (a) allows true and fair accounts of the **Authority** to be prepared from time to time; and
- (b) allows the accounts of the **Authority** to be conveniently and properly audited or reviewed; and
- (c) complies with Australian Accounting Standards as defined in section 84(4) of the **Act**.

42. **Financial Statements**

Within 90 days after the end of the financial year the **Board** is to prepare the financial statements of the **Authority** relating to that financial year including:

- (a) a profit and loss account or other operating statement for the financial year; and
- (b) a balance sheet or other statement of financial position as at the end of the financial year; and
- (c) a statement of cash flows for the financial year; and
- (d) statements, reports and notes attached to or intended to be read with the financial statements.

43. **Audit**

- (1) The accounts and financial reports of the **Authority** are subject to the Financial Management and Audit Act 1990.

- (2) The accounts and financial reports of the **Authority** may be audited by private auditors with the approval of, and subject to any terms and conditions determined by, the Auditor-General.

44. Annual Report

- (1) Before the end of November in each year the **Board** is to prepare an annual report for the last financial year.
- (2) The annual report is to include such of the following information and documents and any other information as the **representatives** determine:
 - (a) a summary of the operational plan for the preceding financial year; and
 - (b) the financial statements of the **Authority** for the preceding financial year; and
 - (c) a copy of the opinion of the auditor in respect of the financial statements; and
 - (d) reports of the **chief representative** and the **chairman**; and
 - (e) performance targets achieved.

PART 9 - DIVIDENDS AND OTHER PAYMENTS

45. Declaration of Dividends

- (1) The **representatives** may by **special resolution** declare a dividend in any financial year with respect to the results of the financial transactions of the **Authority** during the prior financial year.
- (2) In declaring a dividend, the **representatives** are to take into account the amount of the dividend recommended by the **Board**.
- (3) Dividends may only be paid out of the profits after providing for depreciation and after payment of any financial guarantees and tax equivalents.

46. Distribution of Dividend

The **participating councils** are to share in the distribution of dividends in accordance with the **agreed proportion**.

PART 10 - MISCELLANEOUS

47. Indemnity

- (1) The **Authority** may indemnify a person who is, or has been, a **representative, CEO/chairman, director** or employee (including the **CEO**) against any liability incurred to a person other than the **Authority** by

that person in his or her capacity as a **representative, CEO/chairman, director** or employee (including the **CEO**).

- (2) Subrule (1) does not apply:
- (a) if the liability arises out of conduct which involves a lack of good faith on that person's behalf; or
 - (b) where liability for costs and expenses is incurred by that person:
 - (i) in defending any proceedings in which judgment is not given in his or her favour or in which he or she is not acquitted; or
 - (ii) in connection with an application, in relation to those proceedings, in which a court grants relief to the other person.

48. Insurance Premiums

The **Authority** may pay a premium on a contract insuring a person who is, or has been, a **representative, CEO/chairman, director** or employee (including the **CEO**) against a liability other than a liability arising out of conduct involving a wilful breach of duty in relation to the **Authority**.

49. Minutes and Confidentiality

- (1) The **Board** is to ensure that minutes are duly recorded in any manner it thinks fit.
- (2) The minutes are to include the names of the:
- (a) **representatives** present at **general meetings**; and
 - (c) **directors** present at each meeting of the **Board**; and
 - (d) the chair of the meeting and any parts of it; and
 - (c) persons present at any committee meeting or meeting of an advisory group.
- (3) The minutes are to include a record of the resolutions and proceedings of:
- (a) **general meetings of representatives**; and
 - (b) meetings of the **Board**; and
 - (c) meetings of any committee or advisory group.
- (4) The minutes of any meeting are evidence the matter stated in the minutes, if purported to be:
- (a) signed by the chair of the meeting or by the chair of its next succeeding meeting; or
 - (b) confirmed by a subsequent meeting.
- (5) The **CEO** is to ensure that copies of the minutes of meetings of **representatives** or the **Board** (even if they are not yet confirmed) are forwarded within 14 days of the meeting to:

- (a) each **director**, and
 - (b) each **representative**; and
 - (c) each **general manager**.
- (6) **Representatives, directors, the CEO and general managers** are to ensure that the minutes (whether confirmed or unconfirmed) of all **Board** meetings are kept confidential unless the **chairman** gives written approval to the contrary.
- (7) (a) Minutes of **general meetings** are not confidential unless the **representatives** determine to the contrary, either generally or specifically with respect to all or any part of those minutes.
- (b) The **representatives** may not determine that a special resolution which has been passed suspending or dismissing a director or chairman under rules 27 or 28 is to be kept confidential unless the person suspended or dismissed agrees to it being kept confidential.
- (c) If any part of the minutes of a **general meeting** are specified to be confidential, the **general managers** may only publish those confidential sections of the minutes in the confidential papers of their council.
- (d) Except as provided in subrule (c), all persons who receive confidential minutes of any part of a **general meeting** are to keep those minutes confidential.
- (e) **Representatives** are to keep confidential all information given, and discussions made during, that part of a **general meeting** for which the minutes are specified to be confidential.

50. Notices

- (1) A notice required to be given to a **participating council** is to be given to both the **participating council** and the **participating council's representative**.
- (2) A document is effectively given to an individual under these rules if it is:
- (a) given to the person; or
 - (b) left at, or sent by post to, the person's postal or residential address or place of business or employment last known to the giver of the document; or
 - (c) sent by way of electronic mail or facsimile transmission to the person's electronic mail address or facsimile number last known to the giver of the document.
- (3) A document is effectively given to a **participating council** under these rules if it is marked to the attention of the **general manager** of the **participating council** and:
- (a) left at, or sent by post to, the **participating council's** principal office; or

- (b) sent by way of electronic mail or facsimile transmission to the council's electronic mail address or facsimile number of its principal office.

51. Common Seal and Execution of Documents

- (1) The common seal of the **Authority** is to be kept and used as authorised by the **Board**.
- (2) The common seal to any document is to be attested by:
 - (a) the **chairman** and the **CEO** (if the **chairman** is not the **CEO**); or
 - (b) the **CEO/chairman** and any **director**; or
 - (c) any two **directors**.
- (3) The **Board** may determine the method of the signing or execution of any document on behalf of the **Authority** which does not require the affixing of the common seal.

52. Amendment of Rules

These Rules may only be amended in accordance with the **Act**.

53. (deleted).

54. Dispute Resolution

The provisions of Schedule 4 apply to any dispute as to any issue the subject of these rules or arising from their interpretation between:

- (a) any or all of the **participating councils**; and
- (b) any or all of the **participating councils** and the **representatives**; and
- (c) the **representatives** and the **Board** (other than one to which Schedule 2 Clause 2.4 applies).

PART 11 – WITHDRAWAL, INSOLVENCY & WINDING UP

55. Withdrawal

- (1) Subject to any requirements of the **Act** and subrule (2), a **participating council** may withdraw from membership of the **Authority** if it gives written notice to the **CEO** of its intention to withdraw at least 24 months prior to the commencement of the financial year at the end of which it wishes to withdraw.
- (2) The withdrawal from membership of a **participating council** is not effective prior to the 30th June 2003.
- (3) If a **participating council** has given notice under subrule (1), it may cancel that notice by further notice to the **CEO** at any time before its withdrawal becomes effective.

- (4) Subject to subrule (2), a withdrawal from membership becomes effective on the expiration of a notice given under subrule (1).
- (4) A council which has withdrawn from the **Authority** remains:
 - (a) liable to pay all amounts due by it to the **Authority**; and
 - (b) bound by rules 56 and 57(4).
- (5) All property and assets owned or controlled by the **Authority** including those located within the municipal area of a council which has withdrawn from the **Authority** remain the property of or under control of the **Authority** unless they are purchased from or otherwise transferred by the **Authority** to that council.
- (6) A **participating council** which withdraws from membership of the **Authority** is not entitled to any payment from the **Authority** for any interest in the property and assets of the **Authority** or otherwise.

56. Insolvency

- (1) If the **Board** considers it is likely that the **Authority** will be unable to meet its financial obligations as and when they fall due, it may levy the **participating councils** for contributions to meet those obligations in the **agreed proportion**.
- (2) The **participating councils** must pay the amount so levied within 60 days of receiving written notice from the **Board** of that levy, whether or not they have given notice of withdrawal under rule 55(1) before or after the **Board** makes the levy.
- (3) Any such levies are to be repaid to the **participating councils** from subsequent surpluses prior to any dividends being declared.
- (4) If:
 - (a) the **Board** resolves to make a levy under subrule (1); and
 - (b) a council has withdrawn from the **Authority** under rule 55(1) within 2 years prior to the **Board** making that resolution; and
 - (c) in the **representatives'** opinion as least a major cause of the **Authority's** inability to meet its financial obligations occurred while that council was a member of the **Authority**;
 then the **Board** may levy that council as if it were a **participating council** and subrule (2) binds that council.
- (5) If the **Board** makes a levy under subrule (4), the **agreed proportion** is to be calculated as if the council which had withdrawn was a **participating council** with all other **participating councils** when the levy was made.

57. Winding Up

- (1) The **Authority** may only be wound up under section 37 of the **Act**.

- (2) On the winding up of the **Authority** the net assets of the **Authority** are to be distributed between the **participating councils** in the **agreed proportion**.
- (3) If on winding up of the **Authority**, the **Authority** is insolvent, then the **participating councils** are responsible for the liabilities of the **Authority** in the **agreed proportion**.
- (4) If on winding up of the **Authority**, the **Authority** is insolvent, then the **participating councils** and any council which withdrew from membership within 2 years of the date on which the decision to wind up the **Authority** are responsible for liabilities of the **Authority** as if the council which had withdrawn was a **participating council** with all the other **participating councils** at the time of winding up.

PART 12 – OTHER FINANCIAL

58. Capital Distribution

- (1) The **directors** may resolve to distribute or transfer to the **participating councils** any assets or cash which the **directors** consider are no longer required for the effective conduct of the affairs of the **Authority**.
- (2) If a distribution for the purposes of subrule (1) is by way of capital reduction of the **Authority**, the assets or cash are to be distributed to the **participating councils** in the **agreed proportion**.
- (3) The **directors** may have any asset to be distributed or transferred under this rule valued by an appropriately qualified person and that value is binding on the **Authority** and each of the **participating councils**.
- (4) The **Authority** may pay or receive any cash amounts reasonably required to maintain any distribution under this rule in the **agreed proportion**.

59. Rates Equivalent

If any premises occupied by the **Authority** are exempt from the payment of rates under section 87 of the **Act**, the **Authority** must pay to the **participating council** in whose municipal area those premises are occupied an amount equal to the rates which would otherwise be payable. That amount must be paid by the same date or dates and in the same manner as if the premises were not so exempt.

SCHEDULE 1

PARTICIPATING COUNCILS

Burnie City Council	Devonport City Council	Latrobe Council
Central Coast Council	Kentish Council	Waratah-Wynyard Council
Circular Head Council	King Island Council	West Coast Council

SCHEDULE 2

STRATEGY, ANNUAL PLANS & COUNCIL CONTRIBUTION BUDGET

2.1 In each year the Board is to prepare and submit to the Representatives the following guiding documents:

- (a) a strategy; and**
- (b) an Annual Plan with respect to the forthcoming financial year; and**
- (c) a Council Contributions Budget with respect to the forthcoming financial year.**

2.2 Strategy

The strategy is to be in accordance with functions and powers set in or under rule 31(2) & (3) and:

- (1) state the broad expectations of the **Board** and the **representatives** as to:
 - (a) the broad purpose of the **Authority**; and
 - (b) the major or broad issues and goals the **Authority** will seek to address and/or pursue; and
 - (c) the proposed methods or ways the Authority will use to pursue that purpose; and
- (2) make provision for the **Authority** to act in the furtherance of its functions and powers by responding to important issues affecting the **Region** which are not specifically identified in the strategy.

2.3 Annual Plan

- (1) The annual plan is to be in general accordance with the strategy.
- (2) The annual plan is to include an outline of all projects or activities that the **Authority** is committed to during that financial year or that the **Board** anticipates conducting during that financial year, including key objectives and means of funding those projects and activities.

2.4 Council Contribution Budget

- (1) The council contribution budget is to be consistent with the annual plan.
- (2) The council contribution budget is to include:

- (a) details of the estimated expenditure of the **Authority** that is to be met from the contributions of **participating councils** or borrowings; and
- (b) the estimated borrowings by the **Authority**; and
- (c) the total contributions payable by the **participating councils** in accordance with rule 8(2) and the amount so payable by each of them in accordance with the **agreed proportion**; and
- (d) the number of instalments, the proportion of the contributions payable in each instalment and the due date of each instalment.

2.5 Other Contents of Guiding Documents

- (1) The **Board** may include any other information it considers desirable in the **guiding documents**.
- (2) The **guiding documents** are also to include any other information that the **representatives** specify by special resolution.

2.6 Adoption of Guiding Documents

- (1) A **guiding document** for a particular period is adopted:
 - (a) when the **representatives** resolve to accept the **guiding document** submitted to them by the **Board**; or
 - (b) when the **Board** resolves to accept amendments to the **guiding document** which has been adopted by the **representatives** subject to those amendments; or
 - (c) in accordance with clause 2.8.
- (2) The **Board** and the **representatives** are to use their best endeavours to ensure that the **guiding documents** relevant to a financial year are adopted prior to the commencement of that financial year.

2.7 Amendments to Guiding Documents

Either the **representatives** or the **Board** may propose an amendment to an existing **guiding document** and put that amendment to the other for adoption.

2.8 Reaching Agreement on Guiding Documents

- (1) If within 45 days after the **Board's** submits a guiding document to the **representatives** for its approval (or such longer period as the **Board** approves), the **representatives** and the **Board** have not been able to agree on the **guiding document** then the **chairman** is to call a joint meeting of the **representatives** and the **Board**.
- (2) The **chairman** is to:
 - (a) call the joint meeting in the same manner as a **Board** meeting; and
 - (b) chair the joint meeting as if it were a **Board** meeting.
- (3) If it appears to the **chairman** that the **representatives** and the **Board** have reached agreement during the joint meeting, the **chairman** may

adjourn the joint meeting to enable separate meetings of the **representatives** and the **Board**.

- (4) The separate meetings of the **representatives** and the **Board** require no notice if they are held at the same place as the joint meeting and promptly after its adjournment.
- (5) When considering the provisions of the **guiding document** in which they are not in agreement:
 - (a) the **Board** is to take into account that the **representatives** represent the owners of the **Authority**; and
 - (b) the **representatives** are to take into account that the **Board** is the body charged with the conduct of the affairs of the **Authority**.
- (6) If 30 days after the joint meeting the **Board** and the **representatives** are still unable to agree on the **guiding document**, the **representatives** may by special resolution adopt the **guiding document** containing provisions acceptable to them.
- (7) A **special resolution** under subclause (6) may only be moved at a **general meeting** the notice for which was issued after the period of 30 days.
- (8) The **representatives** and the **Board** may agree any other process for resolving a dispute between them as to the approval of a **guiding document**.
- (9) The provisions of this clause 2.8 apply to any amendment proposed by either the **representatives** or the **Board** to a **guiding document** which has previously been adopted.

2.9 Legal Effect of Guiding Documents

The validity of any act, transaction, agreement, resolution or other thing is not affected by:

- (a) the failure of the **representatives** or the **Board** to adopt a **guiding document**, or to do anything in the process of that adoption; or
 - (b) any inconsistency between any of the **guiding document**, or
 - (c) any non-compliance of a **guiding document** with any provision of this Schedule; or
 - (d) any non-compliance of that act, transaction, agreement, resolution or other thing with a **guiding document**, or
 - (e) any other non-compliance in the **guiding document** or the process of its adoption.
- 2.10 The **CEO** is to make a copy of all adopted and current **guiding documents** available for inspection at the administrative office of the **Authority**.

SCHEDULE 3

PROCEEDINGS OF THE BOARD

3.1 Convening of Board Meetings

- (1) The **Board** may hold such meetings as are desirable to carry out its functions.
- (2) The **CEO** is to convene a **Board** meeting at the request of the **chairman** or any two **directors**, and may do so on his or her own authority.

3.2 Notice of Board Meetings

The **Board** may determine generally or specifically the requirements for notice of its meetings.

3.3 Chairing of Board Meetings

- (1) The **chairman** is entitled to chair every **Board** meeting unless clause 3.5 applies.
- (2) If the **chairman** is absent, unwilling or unable to chair a meeting or part of a meeting, the **directors** are to choose one of their number to chair the meeting or that part of the meeting.

3.4 Quorum at Board Meetings

- (1) A quorum of the **Board** is a majority of the **directors**. The quorum is to be counted and met at the commencement of the meeting.
- (2) If a **director** is excluded from being present at a **Board** meeting in relation to a matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of **directors** specified as constituting a quorum less the number of **directors** so excluded.
- (3) A quorum under subclause (2) is to be at least 2 **directors**.

3.5 Issues Relating to a CEO/Chairman

- (1) A **CEO/chairman** must not chair any part of a **Board** meeting:
 - (a) dealing with his or her appointment, employment, appraisal, performance, dismissal or suspension; or
 - (b) in respect of which he or she has a material interest and rule 34(2) applies.
- (2) If required by the acting chairman of the meeting, the **CEO/chairman** must leave the **Board** meeting at which any matter referred to in subclause (1)(a) is discussed.
- (3) The **Board** may by resolution determine specifically or generally when subclause 1(a) applies.

3.6 Voting at Board Meetings

- (1) A ***chairman*** who is not a ***CEO/chairman*** has a deliberative vote only. A ***CEO/chairman*** has no vote.
- (2) A question is decided:
 - (a) by a majority of votes of the ***directors*** present and voting;
 - (b) in the negative if there is an equality of votes of the ***directors*** present and voting.

3.7 Conduct of Meetings

- (1) The ***Board*** may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) A ***director*** and the ***CEO/chairman*** may participate in a meeting by telephone or television conference or any other means of communication approved by the ***Board***.
- (3) A ***director*** and the ***CEO/chairman*** who participates by means referred to in sub-clause (2) is taken to be present at the meeting for all purposes, including the quorum.
- (4) The ***Board*** may allow or invite a person to attend a meeting for the purpose of advising or informing it on any matter.

3.8 Resolutions Without Meetings

The ***Board*** may make resolutions in a similar manner to that set out in rule 20.

3.9 Validity of Proceedings

An act or proceeding of the ***Board*** or of any person acting under any direction of the ***Board*** is:

- (a) not invalid by reason only that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the ***Board***;
- (b) is valid, even if:
 - (i) the appointment of a ***director*** was defective; or
 - (ii) any person appointed as a ***director*** was disqualified from acting as, or incapable of being, a ***director***.

3.10 Confidentiality

All persons who attend a ***Board*** meeting are to keep confidential all information given and discussion made during that meeting except to the extent that the ***chairman*** gives approval to the contrary or these rules provide to the contrary.

SCHEDULE 4

DISPUTE RESOLUTION PROCESS

4.1 Outline of Resolution Process

The parties to which any dispute to which rule 54 applies must use the following dispute resolution process:

- (a) negotiation in good faith;
- (b) if negotiations do not resolve the dispute, then mediation;
- (c) if mediation does not resolve the dispute, then arbitration if clause 4.7(2) applies.

4.2 Illustrations of Disputes

The following are illustrations of disputes to which clause 4.1 applies:

- (a) over the withdrawal of a ***participating council*** against the wishes of any of the other ***participating councils*** or the ***Board***;
- (b) over fees charged or quality of work done by the ***Authority*** to or for one of the ***participating councils***;
- (c) over a desire by one of the ***participating councils*** to amend these rules in a manner which is not acceptable to another party;
- (d) over the extension of the ***directors'*** powers under rule 31(3);
- (e) as to the applicability of rule 56(4).

4.3 Other Parties May Join

Even though a dispute may be primarily between two of the parties referred to in rule 54, any other party may require that it be included in the dispute resolution process as a party to the dispute.

4.4 Notice of Dispute

If a dispute as defined in rule 54 (as illustrated in clause 4.2) arises, then any party to that dispute may give written notice to the other or others of that dispute. That notice is to specify the general nature of the dispute in such a way as to facilitate resolution of all issues relevant to the dispute.

4.5 Notice of Mediation

If with 30 days of the giving of a notice of dispute under clause 4.4, any party to the dispute considers that it is unlikely that the dispute or any part of it will be resolved by negotiation, it may give written notice to the other or others requiring mediation.

4.6 Mediation Rules

If within 14 days of the receipt of the notice requiring mediation, the parties to the dispute do not agree on:

- (a) the selection and compensation of an appropriate mediator; or
- (b) another dispute resolution technique and procedures; or

(c) an actual resolution of the dispute;

then the parties to the dispute must mediate it in accordance with the mediation rules of the Law Society of Tasmania. The mediator is to be a person nominated by the President of the Local Government Association of Tasmania who may also determine the mediator’s remuneration.

4.7 Arbitration

(1) If the mediator appointed under clause 4.6 certifies that the mediation has been unable, and is unlikely, to resolve the dispute, or any part of it, then the dispute, or that part which is unresolved, is to be referred to arbitration under the Commercial Arbitration Act 1986. If the parties cannot agree on an arbitrator, the arbitrator is to be a person nominated by the President of the Local Government Association of Tasmania.

(2) Subclause (1) only applies if the unresolved dispute is one in respect of which a party has a right enforceable in a Court of law and that party wishes to enforce that right.

4.8 Other Processes

The parties to a dispute may agree on any other process for resolving a dispute or any part of it.

SCHEDULE 5
(deleted)

Certification of Rules

I certify in accordance with Section 32(2) Local Government Act that these Rules are in accordance with the law.

Dated

.....
Geoffrey Tremayne
Qualified legal practitioner, Hobart

I certify in accordance with Section 32(2) Local Government Act that these Rules have been made in accordance with the Local Government Act.

Dated / /2011

.....
General ManagerCouncil