



Custodes

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 **ROYAL VICTORIAN ASSOCIATION OF HONORARY JUSTICES**
OF
HONORARY JUSTICES
SEEKING JUSTICE DONE SINCE 1854

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THE OFFICIAL JOURNAL OF ...

**THE ROYAL VICTORIAN ASSOCIATION
OF HONORARY JUSTICES**

Royal Victorian Association of Honorary Justices

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Holiday Office Closure

The office will be closed for Easter break from Monday, 21 March 2016 and re-open on Wednesday, 30 March 2016.

AUTUMN 2016

In this edition ...

- 3 From the President's Desk
- 4 Proposed changes to Constitution & By Laws explanation
- 5-9 Proposed changes to Constitution
- 9-10 Proposed changes to Branch By Laws
- 10 Box Hill DSC
- 11-14 Powers of Attorney Checklist
- 15 Front Cover Story
- 16 Hamilton DSC Opening
- 17 Wellington Branch
- 18 Mornington Peninsula Branch
- 19 Warrnambool 100 Club
- 20 New RVAHJ App
- 21 New Members, Notice of AGM & Quarter Sessions
- 22 DSC Annual Statistics
- 23 From the Editor's Desk
- 20 RVAHJ Branch Network



Dear Members,
Fellow Justices,

As Alfred Lord Tennyson said "Hope - Smiles from the threshold of the year to come, Whispering it will be happier' ...", and I trust it shall be true for all of you.

It has been a busy year particularly with the introduction of the new *Powers of Attorneys Act 2014* ("EPA"). The RVAHJ has been inundated with requests for information, which we have tried to

disseminate as quickly as possible. Already a number of training sessions have been undertaken at Branches and more are scheduled for early this year. If you would like a training session at your Branch meeting, please contact the office as I am sure we will be able to assist. If you could combine a meeting with another branch it would help the dissemination of information and certainly lessen the load on the training team.

In regards to written information about the new EPA, if you have not received a copy of the Public Advocates publications *Take Control* and *Side by Side* contact Legal Aid on 03 9269 0234 or email cle@vla.gov.au and they will provide you with as many copies as you require.

I have also produced a check sheet, which is in this edition of *Custodes* (it has been purposely placed in the centre section for ease of removal and therefore easy to keep as a reference, that could assist in any of your witnessing undertakings for EPAs.

Of late there have been a number of questions from members questioning why they should be a member of the RVAHJ as to what do they receive by way of benefit.

THE RESPONSE - RVAHJ - What does it do for you?

The RVAHJ is an incorporated entity under the *Corporations Act 2001*, which umbrellas all Branches and, in so doing, gives them a semi-legal status.

It acts as a state-wide, independent lobby group, unaffected by changes to government, which, as a representative body, has access to politicians and other stakeholders.

It does not receive funding from any Government, but is purely reliant on its membership fees to remain viable.

The RVAHJ employs one person to effectively provide all of our administrative support, with all Directors and other Justices participating on a purely voluntary basis.

Some of the specific benefits of membership include:

- personal insurance coverage for its members whilst attending RVAHJ-approved meetings, events or witnessing undertakings;
- quick and easy access to the collective, hands-on, experience of the Directors and staff;
- regular, practical, information via *Custodes* and E-news (to be increased in other electronic forms in the near future);
- opportunities for expense reimbursement through

grants - \$165,000 has been distributed to members to date (these funds being hard fought for and requiring a great deal of administrative work done by Directors);

- recognition of service and support for receiving Awards of Australia;
- mentoring schemes;
- assistance with DOJ&R status confirmation and training requirements (for those without the necessary electronic technology);
- opportunities for a wider variety of activities - for example, through the RVAHJ, members witness Powers of Attorney for State Trustee's clients, they have taken part in the Victoria Police Handgun Buyback Scheme, overseen Australian Federal Police Search Warrants and the collection of Biometric Data by the Department of Immigration;
- The RVAHJ is currently liaising with the Independent Broad-based Anti-Corruption Commission (IBAC) to develop a training program for the oversight of their Search Warrants;

Training - although DOJ&R has introduced their own training, the RVAHJ is still providing refresher courses and adding real life practical experiences.

In the last six months, the Board of Directors have, at their own expense and time, liaised with the DOJ&R regarding training matters and Statutory Declaration Reform, with IBAC regarding Independent Persons, with the Office of the Public Advocate regarding new Powers of Attorney legislation, with the City of Melbourne to establish a signing roster, with Victoria Police regarding Bail Justice safety issues, participated at Youth Justice round table discussions as well as attending various branch meetings across the state, represented RVAHJ at Department of Justice and Regulation introduction sessions to new justices..

Representation of the RVAHJ at the Australasian Council of Justices Associations in Canberra.

Some thoughts for your further consideration:

Support of honorary justices changes from government to government; the RVAHJ has been providing services to its members for more than 100 years.

A few years ago the then incumbent Attorney General decided to do away with Honorary Justices altogether, and it was only by the efforts of the **resources of our combined membership** that we were able to change his mind.

The RVAHJ was the first to have an electronic database of justices, it set up the first Bail Justice call-out system, created the first online lookup of JP's, provided the first photo ID's, and established, and continues to oversee, document signing rosters at Police Stations, Hospitals and Courts.

The RVAHJ has last year, after many years of lobbying respective governments obtained a permanent residence for its office, which has a tenure for 21 years. This will provide not only office accommodation, but also a training area and a facility for Justices to meet, train and fraternize.

Currently work is being undertaken to provide instruction to our members through YouTube and an App is being developed for mobile devices, to keep our members up to date with change and developments.

We believe one strong, independent association is

Continued on page 4

far more effective than several small independent 'groups', each likely to have different views and thus, be far less effective in promoting, influencing and effecting change.

We therefore encourage Members to support the Association and to promote membership within the wider Honorary Justice community.

It is not only members, but all honorary justices, who benefit from the lobbying undertaken by the RVAHJ. With greater numbers, the stronger our voice with stakeholders.

We have purposely keep our fees commensurate with the expectations and affordability of the members of our association as most are retired, and consequently live on fixed incomes. Although younger people are now starting to be appointed, the work that Justices generally do will always require a strong representation of Justices who have retired as they have sufficient free time to man the many Signing Centres during normal work hours.

Last, but certainly not least, it should be noted,

our \$55.00 annual membership fee in a comparative sense is true value for money compared to any other professional membership association.

Our premises at Elwood have been completed, inspected by the DOJ&R and we have been given the 'thumbs up'. It would be remiss of me and all of us, not to publically acknowledge the work and contribution made by Glenda Frost, Immediate Past President and Paul Mracek, Director for their individual contributions in bringing this undertaking to completion, and I hope you enjoy the pictorial presentation of the completed works in this edition.

Remember there is always good in every year.



Norman Wittingslow JP
President RVAHJ



Changes to the Constitution and Branch By-Laws

The CONSTITUTION of the ROYAL VICTORIAN ASSOCIATION OF HONORARY JUSTICES (ACN 004 226 448)

EXPLANATORY NOTES:

The Directors commend and recommend to the members the adoption by the members to changes to the Constitution of the RVAHJ as printed and circulated.

Pursuant to Section 601GC of the *Corporations Act 2001* the responsible entity may make changes to the entity's constitution if it will not affect a member's rights, consequently a number of changes to the constitution have been made, that simplify the language and make it more grammatically correct, which have not been highlighted.

The changes in purple have been made to allow a more liberal voting for life membership and a new membership category to allow retired Justices to maintain their membership with the RVAHJ if they so desire. These changes again are not really affecting members rights as the changes are increasing their rights.

The changes in red indicate changes that require consideration and voting on by the members.

A brief explanation of the changes are as follows:

- to aid in the administration of the entity in allowing sufficient time to publish information
- the maximum number of Directors being reduced to 11 (this change brings the Board to a more efficient and manageable size - most incorporated entities these days have Boards to a

maximum of 8 to 9 persons).

- Change to the election of Directors in order to have a maximum of half of the Board to retire at any election period (over previous years changes in appointments to the Board has resulted in an imbalance in the number of directors to retire at an election time)

BY LAWS

The Directors of RVAHJ intend to amend its By Laws in relation to its Branches, which can be explained as follows:

- to simplify the language and make it more grammatically correct.
- to allow greater autonomy of a Branch in order for it to be more in control of its own destiny.
- to allow membership of the Branch for non-members of RVAHJ (with the view that Branch membership may encourage a that Branch member to become a member of RVAHJ).
- Financial rules and reporting demands have been made more friendly.
- most importantly, the RVAHJ wishes to hand over more decision making to the branches and work side by side to assist the Branch wherever and whenever RVAHJ can.

For anyone wishing to compare, in detail, the proposed Constitution and By Laws with the current Constitution and By Laws both of the current documents are available on the RVAHJ website.



The Constitution of the ROYAL VICTORIAN ASSOCIATION OF HONORARY JUSTICES

ACN 004 226 448

A Company Limited by Guarantee

1. NAME

The name of the Company is "Royal Victorian Association of Honorary Justices".

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution, unless the context otherwise requires:

"**Association**" means the Royal Victorian Association of Honorary Justices.

"**Board**" means the Directors acting as the Board of the Association.

"**Constitution**" means this Constitution of the Association as amended from time to time.

"**Corporation**" means any body corporate, whether formed or incorporated within or outside the State.

"**Director**" includes any person occupying the position of a Director of the Association.

"**Law**" means the *Corporations Act* 2001 as amended from time to time ("the Act").

"**Member**" means a person appointed to membership in accordance with this Constitution.

"**Office**" means the registered office for the time being of the Association.

"**Officer**" has the same meaning as contained in the Act.

"**Secretary**" means any person appointed for the time being to perform the duties of the Secretary of the Company.

"**State**" means the State of Victoria.

2.2 Interpretation: Meaning of Certain Words

In this Constitution, unless the context otherwise requires:

(a) words importing the singular number include the plural number and vice versa;

(b) words importing the masculine gender include the feminine gender and vice versa;

(c) words importing persons include corporations;

(d) expressions referring to writing must be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;

(e) an expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has in any provision of this Constitution that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division;

(f) all headings contained in this Constitution are for guidance and do not form part of the substance of this Constitution.

2.3 Interpretation: Application of the Corporations Law and

"Replaceable Rules"

The replaceable rules contained in the Act shall be incorporated into this Constitution except to the extent that they are excluded or modified by this Constitution.

3. OBJECTS OF THE ASSOCIATION

The objects for which the Company is incorporated are as follows:

(a) To represent the interests of Honorary Justices.

(b) To promote honourable and professional practice among Honorary Justices.

(c) To foster a high standard of professionalism among Honorary Justices.

(d) To endeavour to improve the status and functions of Honorary Justices.

(e) To provide information and training relevant to Honorary Justices, and others involved in performing honorary duties similar in nature to those performed by Honorary Justices and to other people involved in the justice system in an honorary capacity by whatever means considered appropriate.

(f) To provide any services, products or benefits (subject to Clause 6) considered by the Board to be relevant to Members.

(g) To provide for the social intercourse of Members of the Association

4. POWERS OF THE ASSOCIATION

The Association has the legal capacity of a natural person for the purpose of carrying out its objects as stated in this Constitution.

5. INCOME AND PROPERTY OF THE ASSOCIATION

5.1 Application to Objects

The income and property of the Association, irrespective of its source, must be applied solely towards the promotion of the objects of the Association as set out in this Constitution.

5.2 No Payment to Members

No part of the income or property of the Association must be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Members of the Association.

5.3 Certain Payments Acceptable

Sub-clause 5.2 does not prevent the payment in good faith of:

Remuneration to any Officers of the Association in return for any services

actually rendered to the Association or for goods supplied in the ordinary and usual way of business, provided that in no case shall fees be paid or payable to Directors in return for sitting on the Board

5.4 Restriction on Officeholders

No Member of the Board may be appointed to any salaried office of the Association or any office of the Association paid by fees. No remuneration or other benefit in money or money's worth may be paid or given by the Association to any Member of the Board except reimbursement of out of pocket expenses.

6. MEMBERSHIP

6.1 General

All persons who are Members on the date this Constitution is adopted by Members shall remain Members according to their respective categories but henceforth their respective rights and obligations shall be as hereinafter set out.

6.2 Categories

The Association shall be composed of four categories of Members, namely Ordinary Members, Retired Members, Associate Members and Life Members.

6.3 Application for Membership

Every candidate for Ordinary, Retired or Associate Membership shall make application in writing to the Board. The Board may from time to time prescribe the form of application. Members may be elected by the Board at any Ordinary or Special Meeting and the Board may defer any such election pending inquiry or for any other reason. Voting at such election shall be open.

6.4 Ordinary Members

Every Justice of the Peace and Bail Justice for the State of Victoria shall be eligible for election as an Ordinary Member of the Association.

6.5 Retired Members

Every Honorary Justice who has taken retirement pursuant to Victorian legislation and is not eligible for Ordinary Membership shall be eligible for election as a Retired member of the Association.

6.6 Associate Members

Persons described hereunder shall be eligible for election as Associate Members, namely:

(a) any Justice of the Peace in any of the States or Territories of the Commonwealth of Australia, other than Victoria;

(b) any Magistrate or Judge;

(c) any person engaged in honorary work in the justice field of a class considered appropriate by a simple majority of the Board is also eligible to become an Associate Member.

6.7 Life Members

Any Ordinary Member of the Association in recognition of special services rendered to the Association may be elected as a Life Member of the Association, whereupon he/she shall be entitled to all the benefits and privileges of Ordinary Membership but shall not be liable for subscriptions or any other dues. A Member shall only be elected as a Life Member by a 75% majority of a properly constituted meeting of the Board. Life Members who cease to be a Justice of the Peace or Bail Justice shall retain their Life Membership, except where their appointment has been revoked pursuant to Clause 8.2 (c) herein.

6.8 Rights of Members

Ordinary Membership, Retired and Life Membership of the Association shall carry the following privileges and rights:

(a) The right to attend all lectures and entertainments and all meetings of the Association arranged by the Board of the Association;

(b) The right to receive the Association's journal from time to time;

(c) The right to be elected as a director of the Board; and

6.9 Voting Rights (Ordinary, Retired & Life Members)

The right to attend and vote at the annual and all other General Meetings of the Association. Ordinary Members, Retired and Life Members may be required from time to time to contribute towards the cost of activities of the kind referred to in Clause 6.8(a)

6.10 Voting Rights (Associate Members)

Associate Members shall have all the privileges set out in paragraphs (a) and (b) of Clause 6.8 but shall not be entitled to hold office (unless specially invited by the Board), or to vote or have any voice in the management of the affairs of the Association,

7. MEMBER'S LIABILITY

7.1 Limited Liability

The liability of the Members of the Association is limited.

8. CESSATION OF MEMBERSHIP

8.1 Resignation

Any Ordinary Member, Retired Member or Associate Member of the Association desiring to resign his/her member-

ship may do so by giving a written notice of resignation to the Secretary and by paying all subscriptions due by him/her up to the end of the financial year of the Association in which such resignation applies.

8.2 Suspension or Expulsion

Subject to these Clauses, the Board may by a 75% majority resolution suspend for such period it thinks fit or expel a Member on the following bases:

- (a) In the opinion of the Board, the Member has failed to comply with this Constitution or any rules or By-Laws of the Association, and/or
- (b) In the opinion of the Board, the Member has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association, by failing to comply with the Association's Code of Conduct for Honorary Justices and/or
- (c) That the Member's appointment as an Honorary Justice has been revoked or suspended by the Department of Justice and Regulation.

8.3 Suspension or Expulsion Defence

Members may not be expelled or suspended unless they have been provided with an opportunity to defend themselves before a meeting of the Board. They may be represented at such a meeting and they may send written submissions. They must be given at least 21 days notice in writing of such meeting, such notice to include the grounds for the action, the time and place of the meeting and the Member's rights under this Constitution.

8.4 Notice of Suspension or Expulsion

Notice in writing of suspension or expulsion must be sent to the Member within 48 hours of the resolution.

8.5 Notice of Suspension (Special Meeting)

A Member expelled or suspended for a period exceeding three months may within one month of receipt of notice pursuant to Clause 8.4 demand a Special Meeting of Members. If the Member demands such a Meeting, the Meeting shall be convened by the Board within two months of that demand, where the members will either reject or ratify the Board's decision. The Members' decision will be final.

9. SUBSCRIPTIONS

9.1 Payable

A subscription shall be payable by Ordinary Members, Retired Members and Associate Members annually.

9.2 How Fixed

The subscription shall be such as may be fixed from time to time by the Board; except that any increase exceeding 10% over the prior year may only be approved by Members at a General Meeting.

9.3 Due Date

The annual subscription for each year shall become due on the 1st day of January of that year, and payable within three months of that date.

9.4 Notice

The Board must cause notice of subscriptions to be notified to Members within one month of the date the subscription is payable.

9.5 Failure to Pay

Any Member who fails to pay their subscription within a time stipulated by the Board, not less than three months after the date it was due, and not less than one month after a reminder notice is sent, may be removed as a Member and shall cease to have any benefit of Membership.

9.6 Exemption

The Board may at its discretion, exempt any Ordinary or Associate Member from payment of his/her annual subscription for any specified period or periods and notwithstanding any other provision of this Constitution any such member shall during such a period continue to enjoy full privileges of membership.

10. MEETINGS

10.1 Annual General Meeting

Annual General Meetings of the Members of the Association must be held in accordance with the provisions of the Act.

10.2 General Meetings

All meetings other than Annual General Meetings are called General Meetings.

10.3 Special Meeting

Is a General Meeting called to discuss an agenda item for which the Special Meeting has been specifically called.

10.4 Convening Meetings

The President or any three Directors may request the Secretary to convene a General Meeting. Upon receiving such a request, the Secretary must call a General Meeting in accordance with this Constitution and the Act. Ordinary Members and Life Members may convene a General Meeting in accordance with the Act.

10.5 Notice of Meetings

(a) Subject to the provisions of the Act relating to agreements for shorter notice, at least 21 days notice of any General Meeting or Special Meeting must be given in accordance with the Act and with clause 26 of this Constitution.

(b) A notice of meeting sent by post is deemed to have been given two (2) business days after it was posted. A notice of meeting sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

10.6 Special Business

All business transacted at a General Meeting is special, and also all that is transacted at an Annual General Meeting, with the exception of the consideration of the accounts, the reports of the Board and auditors, and the authorisation of the remuneration of the auditors.

10.7 Failure to Give Notice

The accidental omission to give notice of a meeting to or the non-receipt of such notice by any person entitled to receive notice thereof does not invalidate any resolution or proceedings of any meeting of the Association.

11. PROCEEDINGS AT MEETINGS

11.1 Quorum

No business may be transacted at any General Meeting or Special Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, eight Members entitled to attend and vote at the General Meeting, who are present in person, constitute a quorum. For the purposes of this clause "Member" includes a person attending as proxy for a Member pursuant to clause 12.

11.2 Chairman

The Chairman of the Board is to preside as Chairman at every General Meeting of the Association. If there is no Chairman of the Board or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the Deputy Chairman of the Board or however characterised is to preside as Chairman of the meeting. If neither the Chairman nor the Deputy Chairman of the Board are present at the meeting within fifteen minutes after the time appointed for the holding of the meeting, or if neither are willing to preside as Chairman of the meeting, the Members present shall elect one of their number to preside as Chairman of the meeting.

11.3 Notice of Motions

(a) To be a valid Notice of Motion it must be in writing and signed by one (1) Financial Member.

(b) Any Notice of motion must be received by the Secretary not less than 30 days prior to the General meeting at which the motion is to be considered.

(c) Any Notice of motion for an AGM must be received by the Secretary by the advertised date.

11.4 Adjournment of Meeting

The Chairman may, with the consent of any meeting at which a quorum is present and must, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

11.5 Notice of Adjourned Meeting

When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

11.6 Secret Ballot

A secret ballot must be held on any resolution if demanded:

- (a) by the Chairman; or
- (b) by at least two Members present in person or by proxy.

11.7 Procedure for Secret Ballot

If a secret ballot is demanded it is to be taken either at once or after an interval or adjournment or otherwise as the Chairman decides, and the result of the secret ballot shall be the resolution of the meeting at which the secret ballot was demanded. A secret ballot demanded on the election of a Chairman or on a question of adjournment must be taken forthwith.

11.8 Appointment of Returning Officer

At all meetings of Members where a secret ballot is to be taken two returning officers must be appointed by the Chairman of the meeting and they shall conduct the ballot. In any case of doubt as to the formality or otherwise of any ballot paper the Returning Officers must refer the same to the Chairman of the meeting whose decision shall be final.

11.9 Determination of Votes

Subject to this Constitution, all questions arising at any meeting of Members must be decided by a majority of votes and a determination by a majority of the Members present either in person or by proxy at a duly constituted meeting thereof shall for all purposes be deemed a determination of the Association.

11.10 Casting Vote of Chairman

In the case of an equality of votes, whether on a show of hands or on a secret ballot, the Chairman of the meeting at which the show of hands or secret ballot takes place has a casting vote but may not exercise more than one vote.

11.11 Voting

A Member may vote in person, or by proxy. On a show of hands every person present who is a Member, and every proxy of a Member, shall have one vote and on a secret ballot every Member present in person or by proxy shall also have one vote.

11.12 Incapacity

A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a secret ballot, by his or her committee or by his or her trustee or by such other person as properly has the management of his or her estate and any such committee, trustee or other person may subject to Clause 12 vote by proxy.

11.13 Challenge to Right to Vote

A challenge to a right to vote at a meeting of the Members may only be made at the meeting and must be determined by the Chairman of that meeting, whose decision is final.

12. PROXIES

12.1 Appointment of Proxies

Any Member may appoint a proxy to act on his or her behalf at any meeting which that Member may be entitled to attend and to exercise all rights and

to discharge all duties which that Member might have.

12.2 Identity of Proxy

A proxy must be a Member of the Association.

12.3 Instrument Appointing Proxies

The instrument appointing a proxy:

(a) must be in writing, under the hand of the appointor or his or her attorney duly authorised in writing; the appointment of a proxy (appointee) may be revoked by the appointor at any time;

(b) must be in or to the effect of the following form or any other form which the Board may approve: "I, of being a member of **Royal Victorian Association of Honorary Justices** hereby appoint as my proxy to vote for me on my behalf at any meetings which I may be entitled to attend and to exercise all rights and duties which I might have by reason of my membership of the Association.

Signed:"; and

(c) will not be recognised by the Association until it has been delivered to the Office or the meeting of the Association.

13. BOARD

13.1 Composition of Board

The Board consists of the Directors, who shall be elected from among the Ordinary Members and Life Members of the Association. Additionally provision is made for the elected members of the Board to appoint up to two (2) external non elected directors to the board.

(a) External Directors are non members of the Association and may only be appointed by unanimous vote of the board. Such a vote will be taken at a meeting of the Board to confirm or reject appointment.

(b) External directors may be appointed for a term of two (2) years and may, by unanimous vote of the board, have a second and final term of two (2) years. Under no circumstance may an External Director be appointed for a period exceeding four (4) years in totality.

13.2 Number of

The maximum number of Directors, both elected and appointed, shall be eleven (11).

13.3 Continuance of Directors

The Board in office at the date of adoption of this Constitution shall continue in office until such time as they would have been required to stand for election under the former Constitution, or until any of them resign. At the said election at least one-half of the Directors shall retire, but be eligible for re-election.

13.4 Vacation of Director's Office

The office of any Director becomes vacant if that Director:

- (a) becomes incapable, for whatever reason, of performing the duties of his or her office;
- (b) is convicted of a criminal offence or an offence which, if committed in Victoria, would be a criminal offence;
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (d) dies;
- (e) becomes prohibited from being a Director by reason of any order made under the Act;
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (g) resigns his or her office by notice in writing to the Association;
- (h) he/she fails to attend or electronically participate in four consecutive board meetings without leave of absence having been granted or apology tendered, or
- (i) ceases to be a Member of the Association for any reason.

13.5 Removal from Office

Any Director or any Office-Bearer of the Association may be removed from office by the votes of a two-thirds majority of the Members present or voting by proxy at a General Meeting or a Special Meeting of the Association called for the purpose of inquiring into and dealing with any charge or charges which may be brought against any such Director or Office-Bearer.

14. APPOINTMENT OF DIRECTORS

The appointment or removal of a Director shall take effect immediately following the Meeting passing the resolution making that appointment or removal, or from such other and/or time as may be specified in that resolution.

15. ELECTION OF DIRECTORS

15.1 Annual General Meeting

At the Annual General Meeting held in each odd numbered year an election shall be held and at least one half of all Directors shall retire, but shall be eligible for re-election.

15.2 Directors to retire

The Directors to retire shall be those who were elected at the Annual General meeting four years prior and those appointed by the Board subsequent to the last election year to fill casual vacancies and such additional members (if any) in order from those who receive the least number of votes at the prior election, failing which, in addition the directors with the shortest term of office, as shall be required to bring the total retirements to at least one half of directors.

15.3 Designations

During their respective terms of office the Chairman and Deputy-Chairman of the Board shall be entitled to be designated as President and Vice-President of the Association and the Chairman of the Board last vacating such office shall whilst he remains a Director shall be entitled to be designated Immediate Past President of the Association.

15.4 Special Elections

At any time during each two year period an election of Directors may be held, if a petition signed by 50 financial Members being Ordinary or Life Members of the Association is lodged with the Secretary requesting an election, or if the Board decides by a two to one majority that an election be held. At any such election the Directors to retire shall be those who would be due to retire at the next election date and the Directors elected at any Special Election Meeting shall only hold office for the unexpired portion of the then current two year term.

15.5 Casual Vacancies

(a) Casual vacancies occurring in any office or amongst Directors of the Board may be filled by the Board, and any member so appointed shall hold office for the time that the person whose seat they fill, would have stood.

(b) The Board shall consider, but is under no obligation to appoint, any nomination to fill a casual vacancy occurring amongst Directors, which is submitted in proper form from any Branch of the Association or from any two Financial Members acting in concert.

15.6 Nominations for Election of Directors

Nominations for election of Directors shall be lodged at the office of the Association before the close of business on or before the last working day of January prior to the Annual General Meeting at which an election is due to be held. Such nominations shall be in writing, and may include 100 words pursuant to Clause 15.7 herein and be signed by the proposer and seconder who shall be either a Life Member, or a financial Ordinary Member or a financial Retired Member. The consent in writing of the person nominated shall be endorsed on each nomination.

15.7 Nominations Exceeds the Number of Vacancies

If the number of nominations exceeds the number of vacancies the Returning Officer shall cause a form of ballot paper to be printed, showing in alphabetical order the names of all candidates who have been duly nominated and indicating with an asterisk each retiring Director seeking re-election. At every such election each candidate who has been duly nominated for election as Director may submit in not more than one hundred words a statement containing his/her name and occupation and his/her public and/or community activities, and a copy of all statements so submitted with their nomination shall be published with the ballot paper. A copy of the ballot paper and statements shall be sent to all members of the Association at least 30 clear days before the Annual General Meeting at which the Election is to take place. The foregoing information shall be published by the Association.

15.8 Ballot for Directors

The ballot papers shall indicate the number of Directors to be elected and each Member entitled to vote and desiring to do so shall strike out the number of surplus names as he/she thinks fit, and any ballot paper returned containing either more or less names than the requisite number to be elected, shall be rejected as informal by the Returning Officer, or by his/her deputy appointed by him/her. Every ballot paper for each election shall be returned before the closing of the poll which shall be at 4.00 p.m. on the date advertised.

15.9 Returning Officer

The Board shall appoint at a date not less than two months prior to the date upon which an Election is due to be held a Returning Officer, who must not be a candidate for election, who shall conduct the election, open ballot papers and count all votes. The Returning Officer's decision shall be final as to all matters appertaining to the election. To assist the Returning Officer in making up the poll the Board may appoint two or more scrutineers from amongst the Ordinary Members, Retired Members or Life Members of the Association. Voting shall be deliberate and not preferential. The result of the election shall be recorded with the number of votes received by each candidate, and the same shall be declared by the Returning Officer at the Annual Meeting immediately after the confirmation of the minutes of the previous Annual Meeting.

15.10 Notice

The Secretary shall cause notice of the election of Directors and conditions of nominations to be published and sent to members at least two months prior to the Annual General Meeting.

15.11 Retiring Officers and Directors

All retiring Officers and Directors shall retain office until the end of the Meeting.

16. POWERS AND DUTIES OF DIRECTORS

16.1 Functions of Board

The control, management and conduct of the affairs of the Association, subject to the provisions of this Constitution, is vested in the Board.

16.2 Chairing Director's Meetings

(a) The elected Directors shall at the meeting of the Board immediately following the Annual General Meeting in each and every year elect one of their number to act as Chairman of the Board for the ensuing year. Should this position become vacant for any reason whatsoever the Deputy Chairman shall fill the position until the meeting of the Board immediately following the next Annual General Meeting.

(b) The elected Directors shall at the meeting of the Board immediately following the Annual General Meeting in each and every year elect one of their number to act as Deputy Chairman of the Board for the ensuing year.

Should this position become vacant for any or whatsoever reason the Deputy Chairman position does not have to be filled in that particular year.

16.3 Appointment of Attorneys

The Board may, from time to time, by power of attorney, appoint any corporation, firm or person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Association for such purposes and with such powers, authorities, and discretions not exceeding those vested in or exercisable by the Directors under this Constitution and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board may think fit and may in addition authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the Attorney.

16.4 Bills of Exchange

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be by any two Directors or in such other manner as the Board may from time to time determine.

17. PROCEEDINGS OF DIRECTORS

17.1 Electronic Meetings of Directors

Without limiting the discretion of the Directors to regulate their meetings under clause 17.5, the Directors may, if they think fit, confer by any electronic means of audio or audio-visual communication and a resolution passed by such a conference shall, notwithstanding that the Directors are not present together in one place at the time of the conference, be deemed to have been passed at a meeting of the Board of Directors held on the day on which and at the time at which the conference was held. The provisions of this Constitution relating to the proceedings of Directors so far as they are capable of application and with the necessary modifications apply to such conferences.

17.2 Quorum

The quorum necessary for the transaction of the business of the Board is four (4) Directors then in office, who shall be present for the entire meeting.

17.3 Chairman at Meetings of Board

The Chairman must preside as Chairman at every meeting of the Board, or if the Chairman is not present the Deputy Chairman must preside as Chairman, or if the Deputy Chairman is not present the Directors present may choose one of their number to be the Chairman of the Meeting.

17.4 Director's Interests

A Director of the Board shall not be disqualified from his/her office by contracting or entering into any arrangement with the Association either as vendor purchaser or otherwise, nor shall any such contract or arrangement be voided nor shall a Director so contracting be liable to account to the Association for any profit realised by any such contract or arrangement by reason only of such Director holding that office or of the fiduciary relation thereby established. Any such arrangement must be disclosed in the annual accounts. A member of the Board may not vote in respect of any contract or arrangement in which he/she is personally interested as aforesaid. The Association may accept loans from any member of the Board, and grant such security for such loans as the Board may think fit.

17.5 Frequency of Meetings

The Board shall meet for the transaction of business not less than six (6) times a year. Special Meetings of the Board may be called by the Chairman or any four Directors.

17.6 Donations

The Association shall not donate any money or item to any political organisation or any religious organisation.

17.7 Notice

- (a) Five (5) days notice (not including the day on which the notice is served or deemed to be served or the day for which notice is given) shall be given of any regular meeting of the Board.
- (b) Three days notice (not including the day on which the notice is served or deemed to be served) or any other time agreed by a majority of Directors of the Board shall be given of any Special Meeting of the Board.
- (c) Notice may be given by letter, facsimile transmission or e-mail to each Director of the Board.

18. VALIDITY OF ACTIONS AND RESOLUTIONS

All acts done by any meeting of the Board or of a committee of the Board or by any person acting as a Director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that they or any of them were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a Director.

19. REGISTER OF MEMBERS

The Association must keep a register of Members in which must be entered:

- (a) the names and addresses of the Members;
- (b) the date on which the name of a Member was entered in the register; and
- (c) the date on which any person ceased to be a Member.

20. SECRETARY

The Secretary of the Association must be appointed by the Board in accordance with the Act for such term and upon such conditions as it thinks fit, and any Secretary so appointed may be removed by the Board.

21. TREASURER

21.1 Appointment

The Board may appoint a Member of the Association to act as the Treasurer of the Association.

21.2 Appointment of a Replacement

If the Treasurer dies or leaves the Association, the Board may appoint a replacement.

21.3 Appointment of Acting Treasurer

In the event of the absence of the Treasurer, the Board may appoint one of its members Acting Treasurer.

22. STAFF

22.1 Appointment

The Board may appoint such staff as it sees fit.

22.2 Delegation of Duties

The Board may delegate duties to staff members.

23. AUDITOR

23.1 Appointment

At each Annual General Meeting of the Association an Auditor who shall be a qualified accountant and auditor and who may be a member of the Association shall be appointed by the Members until the next Annual General Meeting, but no Director or any business, partner or employee of his/hers shall be eligible for appointment as Auditor.

23.2 Vacancy

In the event of a vacancy in the position of Auditor occurring during any current year the Board may appoint an Auditor to the vacancy.

24. AUDIT AND ACCOUNTS

24.1 Board to Maintain Proper Accounts

The Board must cause the Association to maintain accounts of the business and affairs of the Association in accordance with the requirements of the Act.

24.2 Audit of Accounts

The Directors must cause the accounts of the Association to be audited in accordance with the requirements of the Act.

24.3 Inspection of Accounts

The accounts of the Association shall be open to inspection by all Members.

25. PATRONS

At any General Meeting any person or persons nominated, at least one month in advance of the meeting, such nomination appearing on the notice of the meeting, may be elected Patron-in-Chief or a Patron of the Association. The Governor of Victoria shall be invited to be Patron-in-Chief of the Association during his or her term of office. The Lord Mayor or other appropriate Office holder may be invited to be a Patron during his or her term of office.

26. NOTICES

26.1 Notices

A notice may be given by the Association to any Member either personally, by facsimile, by any official publication of the Association or other electronic means, or by sending it by post to him or her at his or her registered address, or if he or she has no registered address within the State to the address, if any, within the State supplied by him or her to the Association for the giving of notices to him or her. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on two business days after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

26.2 Notices of Meetings

Notice of every meeting must be given in any manner hereinbefore authorised to:

- (a) every Member entitled to attend and vote at the meeting; and
- (b) the auditor for the time being of the Association.

26.3 Entitlement to Notices

Except as provided in Clause 26.2, no other person shall be entitled to receive notices of general meetings.

27. WINDING UP

27.1 Member's Liability

Every Member of the Association undertakes to contribute to the assets of the Association in the event of its being wound up pursuant to the Act.

27.2 Distribution of Remaining Assets

If on the winding up or dissolution of the Association there remains after the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the Members of the Association but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association or to a registered charity or registered charities, which must prohibit the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association, such institution or institutions or charity or charities to be determined by the Members of the Association at or before the time of dissolution.

28. INDEMNITY

28.1 In this Clause 28: (a) "officer" means:

- (i) a director, secretary, executive officer or employee; or
- (ii) a person appointed as a trustee by, or acting as a trustee at the express

request of, the Association, and includes a former officer; (b) "duties of the officer" includes duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Association to any other corporation; (c) "to the relevant extent" means: (i) to the extent the Association is not precluded by law from doing so; and (ii) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); (d) "liability" means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or otherwise.

28.2 Indemnification

To the relevant extent, the Association may indemnify each officer of the Association out of the assets of the Association against any liability incurred by the officer in or arising out of the conduct of the business of the Association or in or arising out of the discharge of the duties of the officer.

28.3 Acting in Good Faith

Subject to the Act, and without limiting the foregoing, no officer of the Association acting in good faith and within the scope of his or her duties or

what he or she bona fide regards as the scope of his or her duties, is liable for any loss, damage or misfortune which may occur whether the same be occasioned by any mistake, error, oversight or omission on his or her part or not.

29. AMENDMENTS TO THE CONSTITUTION:

Amendments to the Constitution shall only be resolved at a properly constituted and conducted Annual General Meeting and by Special Resolution of which every member shall have due and proper notice.

(a) A Special Resolution to amend the Constitution must comply with Clauses 11.1, 11.3 and 12.1 and must be resolved by a 75% majority of those members present at the meeting.

(b) Amendments to the Constitution shall have immediate effect or at an alternative time included within the Special Resolution.

30. BY LAWS: The Board may at its discretion determine by-laws for the operation of committees or officers of the Association, including Branches not otherwise provided for in this Constitution.



The RVAHJ Board is looking at changes to the By Laws for Branches and presents a copy of this draft which they are considering. Any comments would be most welcome.

The BY LAWS for BRANCHES of the ROYAL VICTORIAN ASSOCIATION OF HONORARY JUSTICES

BY LAWS FOR THE FORMATION, OPERATIONS AND MANAGEMENT OF BRANCHES

INTRODUCTION:

RVAHJ Branches provide a local forum for Association members to meet and discuss issues of interest, conduct training sessions and related activities. It must be noted that RVAHJ Branches are established under the auspices of the Association remain an integral part of the Association.

FORMATION OF BRANCHES:

1. Where the RVAHJ Board is satisfied that it is desirable that an RVAHJ Branch for members of the Association be formed in a defined area in Victoria the Board will establish such a Branch in that area.
2. The objects for which an RVAHJ Branch will be established are:
 - a) To hold meetings of members of the Association at a branch level to meet and discuss matters of mutual interest to the members of that Branch.
 - b) To promote friendship and social networking among Honorary Justices; and
 - c) Generally, to support and assist the Board in carrying out the objects for which the Association was established.
 - d) To assist in the ongoing education and training of Honorary Justices to provide a professional resource for the community and
 - e) To assist in (d) above the branch may arrange for Lectures, Addresses, and Study Courses on subjects related to the powers and duties of Honorary Justices, and by these and other means approved by the Board, instruct and assist the members of the Branch in the proper exercise of the powers and the proper performance of the duties for which they were appointed.
 - f) Promote the reputation and good works of the association and its membership
 - g) Provide the board with such information and knowledge needed to assist in upholding of the good name and image of all honorary justices and the association
3. Each Branch shall be known by the name approved by the Board of the RVAHJ.

BRANCH MEMBERSHIP:

4. Eligibility
 - a) The persons eligible for membership of a Branch shall be honorary justices and retired honorary justices. Branch membership bestows rights to vote at meetings of the Branch and the right to hold Branch office pursuant to rule 6 herein.
 - b) Attendance at Branch meetings is open to all honorary justices and retired honorary justices. Branch members may be joined at all meetings with their spouse/partner and immediate family members as guests.
 - c) All members eligible for membership of a branch, may belong to more than one branch (providing they are financial in each branch).
5. The Branch annual membership subscription shall be due and payable at the beginning of each financial year or as decided, and shall be such sum as is fixed from time to time at an Annual Meeting

of the Branch. Subscriptions should be set only as high as required to offset the costs of postage and administration.

BRANCH EXECUTIVE COMMITTEE:

6. Subject to the RVAHJ's Constitution, directions of the Board of directors and this By-Law, the affairs of the Branch shall be managed and controlled by a Branch Executive Committee consisting of no less than three financial members and no more than six financial members of the RVAHJ. Apart from the Chairman of the Branch, all other positions may be combined into one or more roles that normally name a Vice-Chairman, a Secretary, a Treasurer and other members to make a maximum executive committee of six members. All positions shall be elected annually from members of the Branch by full financial members of the Branch personally present and voting at an Annual Meeting of the Branch. At such an election all retiring members shall be eligible for re-election. The Branch Executive Committee when duly elected shall continue in office until a new Branch Executive Committee is duly elected according to the rules.
7. Any casual vacancy occurring in the Branch Executive Committee may be filled by the said Committee and, in the temporary absence of the Branch Secretary or the Branch Treasurer, the said Committee may appoint one of its own members to act in his/her place. A member elected to fill a casual vacancy shall be elected for the remainder of the term of the member whose place he/she fills.
8. The Branch Executive Committee may regulate its own proceedings, and shall meet at such times as it considers desirable. The Branch Executive Committee shall fix its own quorum.

BRANCH FINANCIAL RULES:

9. Banking - All monies received on behalf of the Branch shall be paid into an account to be opened at a Bank or financial institution approved by the Branch Executive Committee in the name of the RVAHJ Branch and, from such account, the Branch Treasurer shall pay all expenses approved by the Branch Executive Committee.
 - a) The Branch account shall be operated with at least two signatories one of whom must be a member of the branch executive and any other member/s of the branch as the branch executive decides, and are duly registered signatories.
 - b) All branch account names shall have the RVAHJ as the first word followed by the authorised branch name finalized with the designation branch unless contained within the branch name.
10. The Branch Treasurer shall keep such books of account as the Branch Executive Committee directs, and shall furnish to the Branch Executive Committee such statements of accounts and such information as to payment of membership subscriptions and other financial matters as it requires.
11. At the close of each branch financial year the Branch Treasurer shall submit to the next ensuing Annual Meeting of the Branch a Statement of Accounts. Branches are requested to provide a copy of the Statement of Accounts to the Company Secretary of the Association when approved by the Branch Annual Meeting.

BRANCH RECORDS:

12. There shall be kept a Register of

Members. It is recommended that a record be kept of each meeting that will note the location and times of the meeting, those present both members and guests and provide a brief account of the business of the meeting as well as any decisions or actions contemplated or taken. Branches are requested to forward their minutes and details of upcoming meeting so that details of all upcoming meetings, so that any opportunity to publicise them is available to other members and branches.

BRANCH MEETINGS:

13. Branch General Meetings and a Branch Annual General Meeting shall be held during the year as agreed upon. Reasonable notice shall be given of all meetings.

14. No business shall be transacted at any Branch General Meeting unless a quorum previously agreed upon at an Annual Meeting is present.

15. The Chairman, or in his/her absence the Vice-Chairman, shall preside at all meetings of the Branch. If the Chairman and Vice Chairman are absent those present shall elect a Chairman of the Meeting.

16. At all meetings of the Branch all questions, disputes, motions and amendments shall be decided by a majority of full financial members of the Branch personally present and voting, unless the

Chairman rules that the matter is beyond the scope of the Branch, or should be referred to the Board for decision. The method of voting shall be by show of hands unless two financial members or the Chairman, before putting the question, requires the voting to be by secret ballot. In the event of an equality of votes the Chairman shall have a second or casting vote.

COMMUNICATION AND IMAGE:

17. Branches shall refrain from writing to ministers, heads of department and other senior state officials. Branches are encouraged to contact the RVAHJ Board to advocate on their behalf in order to give greater weight to their issue. This rule does not apply to social or speaking engagements and is primarily directed at policy. The Association's logo may be used on Branch letterhead, noting the branch name.

GENERAL:

18. Any Branch has the right to appoint one or more of their members, as an "Honorary Branch Member".



Is your 2016 membership up to date?

All membership fees became due on January 1 and your invoice for 2016 accompanied the December edition of *Custodes*.

Don't allow your membership to lapse – forward your \$55.00 payment now!

Paying your membership -

We regret that we are unable to take payment over the phone however, a variety of payment methods are available:

Cheque/Money Order

Make cheques/money orders payable to: RVAHJ

... and post to: PO Box 317, Elwood, Vic. 3184

Credit Card

Payments by MasterCard or Visa only may be made:

Online - go to our website www.rvahj.org.au, click on Membership then Renew

By Fax – fill out the credit card section on your invoice and fax to (03) 9525 7765

Internet Banking

BSB 063-128

Account No. 10331656

Payer Ref: Your Invoice No/Reg No



Box Hill Police Station Document Signing Centre

The Document Signing Centre at Box Hill has been in operation since November 2013. Currently there are eleven regular attendees, plus two emergencies. Over these two years, the business has increased slowly to where the justices sign between 2,500 and 3,000 documents a month. In November justices signed over 3,000, seeing nearly 700 clients. If each document takes on average 5 minutes, the estimate is that this saved 254 hours of police time in November.

Recently the team and their partners celebrated dinner at the Box Hill Golf Club. Part of the "getting to know you" and informal discussion around problems and interesting points in the Document Signing Centre. Those in attendance had a great time, with 20 attending.

If any justice in the Box Hill area has the time and would like to join a dynamic team under Lyn King JP, the co-ordinator, please contact Lyn on lmking2104@gmail.com, or give her a ring on 9874 4243. Current Roster times are between 10.00am and 6.00pm daily, but there is a move to provide a wider service to the community.

Submitted by Bryan Nütz JP



Enduring Powers of Attorney Witnesses' Certification, Information & Checklist

Powers of Attorney Act 2014 (Vic) ("the Act")

Pursuant to the new legislation, Enduring Powers of Attorney can now cover financial or personal matters or both financial and personal matters combined.

When a Witness peruses an Enduring Power of Attorney under the new Act, first and foremost, they should be aware of the essential elements of the document, which can be broken down into the following:

1	Names & Addresses of <u>ALL</u> of the parties	<i>Principal 's name & Address</i> <i>Attorney's Name & Address</i> <i>Alternate Attorney's Name & Address</i>
2	What is the Power <u>for</u> ?	<u>Personal Matters - Financial Matters</u> or both <u>Financial and Personal Matters</u>
3	When does the power start?	Immediately When the Principal loses capacity? At another time or circumstance which will trigger the power to start?
4	Witnessing	Two witnesses required, one must be a person authorized to witness an Affidavit or a Medical Doctor, the other a person must be over the age of 18 years, but <u>NOT</u> a relative of the Principal or any of the Attorneys, a care worker or an accommodation provider. The Attorney and the Alternate Attorney must also be witnessed by a person over the age of 18 years (Note: this does not have to be done at the same time as the witnessing of the Principal's signature, and should only be dated when signed).
5	Attorney's Awareness of their responsibilities. The Attorney signs a statement under section 37 of the Act to acknowledge the obligations they undertake when taking on the role of Attorney.	Pursuant to section 135 of the Act, it is an offence for an Attorney to obtain a financial advantage or to cause loss to the Principal. By signing a statement complying with section 37 of the Act the Attorney acknowledges that they understand and are aware that a breach of this condition may exposes them to a penalty of five (5) years imprisonment or a penalty of \$90,000.00 or BOTH.

Section 63 outlines the Duties of an Attorney:

Act honestly, diligently and in good faith

- Exercise reasonable skill and care
- Not use the position for profit
- Avoid acting where there is or may be a conflict of interest unless the power authorises to do so
- Not disclose confidential information

Keep accurate records and accounts as required by Section 66

They should be told, never to mix their own funds with those of the Principals and to keep up to date and accurate, with records of their account keeping.

Section 135 also makes it an offence to cause loss to "another person", which in effect could be any beneficiary or potential claimant, under the will of the Principal and could still have full force after the death of the Principal.

Therefore it is important that the Attorney is fully aware that they cannot obtain a financial advantage nor cause loss to the Principal or any other person.

They take on a very responsible position, which if breached by them could have severe consequences, including a substantial fine or imprisonment (see above).

Both witnesses to an EPA must certify that the Principal (previously the donor)

(a) signed the *EPA* freely and voluntarily, and

(b) appeared to have *the decision making capacity* in relation to making the Power of Attorney: section 36 of the Act.

Capacity of the Principal is now defined in the Act and is a very important consideration when witnessing a Power of Attorney.

CAPACITY

Section 4 Decision making capacity - The Principal must;

- Understand the information relevant to the decision and the effect of the decision; and
- Retain the information to the extent necessary to make the decision; and
- Use or weigh that information as part of the process of making the decision ; and
- Communicate the decision and the person's views and needs as to the decision in some way, including speech, gestures or other means

To have the capacity to make an EPA, the Principal **MUST** *understand the nature and effect* of the document: section 4 of the Act sets out the things the Principal must understand in order to show that they comprehend and appreciate the nature and effect of the document, particularly the powers they

are giving to their Attorney.

The checklist below sets out some questions to assist the witnesses to determine whether the prerequisites of capacity and understanding have been met.

Before the donor signs the EPA, the authorized witness should ask the Principal a series of questions, in the presence of the other witness, with both witnesses observing the Principal's responses.

If either witness doubts a Principal has capacity, or does not seem to understand the powers they are giving away further evidence should be obtained. For example, more detailed questions should be asked, or a medical opinion obtained.

Suggested Questions:

1	Do you know that that you may, in the power of attorney, specify conditions or limitations on, or instructions about, the exercise of the power to be given to your attorney/s;	Do you understand that your EPA <u>can</u> contain conditions, limitations or instructions?
		<p><i>If the EPA contains any conditions, limitations, or instructions:</i></p> <p>Given that your EPA contains certain conditions, limitations &/or instructions. Are these in accordance with your wishes?</p>
		<p><i>If the EPA <u>does not</u> contain any conditions, limitations, or instructions:</i></p> <p>Is this in accordance with your wishes?</p>
2	When the power is exercisable?	<p><i>If the EPA is to be activated immediately:</i></p> <p>Do you understand that your attorney may begin to act under your EPA straight away?</p>
		<p><i>If the EPA will not be activated immediately:</i></p> <p>Do you understand that your attorney may begin to act under our EPA only if you lose capacity or instruct them to act?</p>

3	<p>That once the power is exercisable, the attorney has the same powers as the Principal had (when not under a legal incapacity) to do anything for which the power is given subject to any limitations or restrictions on exercising the power included in the EPA;</p>	<p>Do you understand that once your attorney begins to act that they will be able to do anything that you would have been able to do in relation to your financial and legal affairs?</p> <p><i>[Give appropriate example, such as, take money out of your bank, use your pension to pay your living expenses]</i></p> <p><i>If the Principal does not give a response indicating a full understanding, the following optional questions may be applied to further assess their understanding:</i></p> <p>Do you understand your attorney would be able to make a withdraw money from your bank account!</p> <p>Do you think your attorney would be able to sell belongings, for example those you no longer want or need?</p>
4	<p>That the Principal may revoke the EPA in writing or at any time the Principal is capable of making a new EPA;</p>	<p>Are you aware that you can you revoke your EPA at anytime whilst you have the mental capacity to do so, providing that you do so in writing?</p>
5	<p>That the power the attorney is given continues even if the Principal subsequently ceases to have legal capacity.</p>	<p>Are you aware that your attorney will be able to act on your behalf even after you have lost capacity?</p>
6	<p>That at any time that the Principal is not capable of revoking the enduring power of attorney, the donor is unable to effectively oversee the use of the power.</p>	<p>Do you understand that at any time you are not capable of revoking the EPA you will be unable to effectively oversee the use of the EPA?</p>
7	<p>Section 36:</p>	<p>Are you making this EPA voluntarily and freely?</p>
8	<p>Personal matters defined in Section 3: Any matter relating to the Principal's personal or lifestyle affairs</p>	<p>The following are examples of personal matters — (a) where and with whom the principal lives; (b) persons with whom the principal associates; (c) whether the principal works and, if so, the kind and place of work and employer; (d) whether the principal undertakes education or training, the kind of education or training and the place where it takes place; (e) daily living issues such as diet and dress; (f) health care matters, including matters provided for in Part 4A of the <i>Guardianship and Administration Act 1986</i></p>

Enduring Powers of Attorney (Medical Treatment)

remain unchanged and are still valid under section 5A of the *Medical Treatment Act 1988*.



Front Cover Story



Director, Community Operations and Victims Support Agency, Clare Morton of the Department of Justice & Regulation (centre), visited the RVAHJ office at Elwood, to inspect the building upgrade. On her left is President Norman Wittingslow JP and her right is Immediate Past President Glenda Frost JP.

The front cover depicts some of the changes made to the RVAHJ office in Elwood. As a result of the request for a confirmation in writing of a favourable lease for the premises in Elwood, the building owners via the Department of Justice & Regulation agreed with the RVAHJ long term lease proposal under the condition that the building be brought up to current Australian Building Code Regulations for public access, at the expense of the RVAHJ.

Of the three building quotes requested a quote of \$92,230 including GST was selected.

RVAHJ Director Paul Mracek JP managed the works for the association, as he is a qualified engineer, and has had previous project management experience.

The major part of the works were:

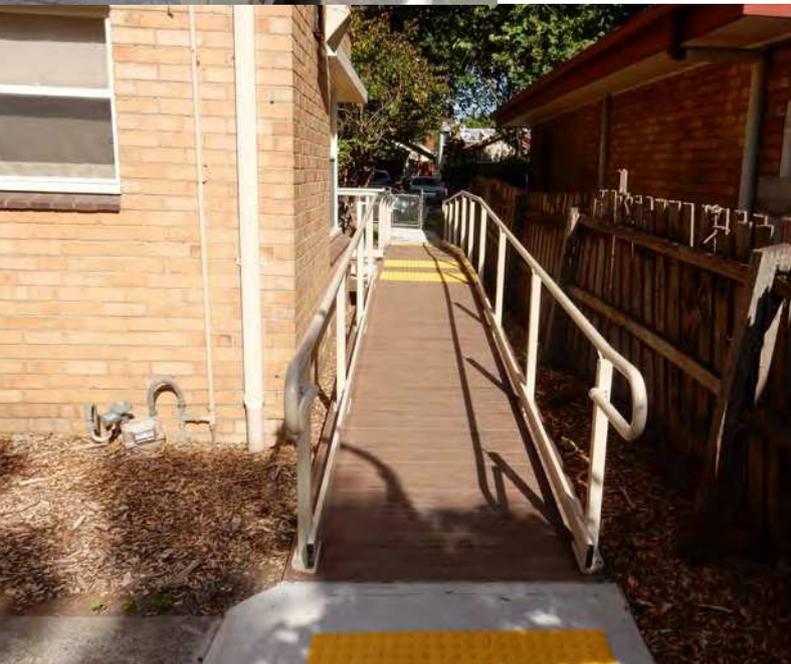
- Removal of trees
- Pruning of overhanging branches across neighbours yard
- Replacement of guttering
- Wheel chair access to main entrance installed
- Front door installed allowing for disabled access
- Painting internally and externally
- Railing – on stairs installed & height of partition wall upstairs installed
- Internal doors – repaired and replaced as required
- Front door lighting updated (additional item, due to low height of old light being a safety concern)
- Emergency exit lighting and signs

- updated and installed
- Front door electric lock and video-audio system installed
- installation of the security service door
- adjustment of the video – remote entry system
- audit and obtaining of the Certificate of Occupancy by the building surveyor
- electrical safety certificate
- outline of the annual essential safety measures report
- landscaping of the rear of property after removal of trees
- installation of safety non slip grips to disable ramp
- acceptance and authorization of ‘Essential Safety Measures’ annual audit and issue of report
- repair of outside tap on rear of building, damaged during works
- supply of plumbing safety certificate
- replacement of guttering
- replacement of side wood fence

All the furniture and equipment has now been placed back into its normal position and normal activities are now ongoing.

The renovation work at Elwood is complete with all documentation now received. President Norman Wittingslow JP, Immediate Past President Glenda Frost JP and Director Paul Mracek JP met with Clare Morton from DoJ&R, for finalization of the Elwood works.

The project is now completed.



Hamilton Document Signing Station Opens



Left to right: Rotary President Noel Howard, Mayor Cr Peter Dark then Robert Penny JP.

The Hamilton Document Signing Station was opened on Tuesday 8th December 2015 by the Mayor of Southern Grampians Shire, Councillor Peter Dark.

The DSS will operate out of the Hamilton Municipal Library two days a week, Tuesdays 10.00 am till noon and Thursdays 2.00 pm till 4.00 pm.

The DSS co-ordinator, Mr Robert Penny JP thanked the Southern Grampians Shire for their co-operation in providing accommodation for the centre and the Hamilton Rotary Club for a generous donation of \$400 to provide signage. Mr Penny announced that the centre would be staffed by seven Justices from the Hamilton area operating on a roster system and invited other interested Justices to join them.

Mr Noel Howard, President of Hamilton Rotary Club said that Rotary was only too pleased to support initiatives like this within the community.

The initiative was the brain child of Mr Penny JP

who should be congratulated on his endeavour.

This is the third DSS operating in southwest Victoria with other centres operating in Warrnambool at the Warrnambool Police Station Monday to Friday Noon till 2.00 pm and in Portland at the Glenelg Library on Fridays from noon till 2.00 pm.

The DSC will be staffed by a JP on a roster basis at the Hamilton Library every Tuesday at 10.00am to 12.00pm and Thursdays 2.00pm to 4.00pm. This new service was covered by the local Spectator newspaper, radio station 3HA and this Monday ABC radio South West, plus other means, i.e. flyers, small town newsletters/bulletin etc.

The first client arrived at 10.12am who read the launch details in the local newspaper last week and another at 10.45am; the latter heard the radio station interview which was put to air.

Submitted by Bob Penny JP & Bernard Reid JP



Rotarians at the opening.

Mr Noel Howard, President of Hamilton Rotary Club said that Rotary was only too pleased to support initiatives like this.

Wellington Branch Christmas Barbeque



Pictured Left to right John Phillips JP, John Jackson JP, John Anderson (Husband of Margaret), Margaret Anderson JP, & Terry Fisher JP

The Wellington Branch of the Royal Victorian Association of Honorary Justices held a Christmas BBQ in late November. The day was warm and quite windy as 9 Justices of the Peace with their families and friends met at the home of John Jackson JP in Stratford. The BBQ was, as always, well-cooked by the men, the sausages, as tradition dictates, were quite burnt although eatable. The conversation was lively and interesting. The Wellington Branch has several social events throughout the year and holds quarterly meetings at the Sale RSL. Our next meeting is the branch AGM for 2016

on 21st March.

Our Branch has been operating the signing station at the Sale Police Station on Wednesdays and Fridays for some time now and from 11th January 2016 we will commence operating on Mondays also. This extra day a week is at the request of the Victoria Police Force as the public have demonstrated the need for extra days. As we have 10 JP's volunteering in Sale we are able to meet this request gladly.

Submitted by Lyn McLindin JP



Rod Lavin JP talking to guests over lunch.



Mornington Peninsula Branch

Pictured are Alan Davidson JP flanked by Branch Secretary/ Treasurer Fay Hunter JP & Chairman Graham Unwin JP.



The Annual General Meeting of the Mornington Peninsula Branch was held on November 4th at Frankston Police Station. In attendance were Suzanne Phillips (outgoing Vice Chair), Marie McIntosh, Glenda Stanley, Lawrie Lawrenson, Peter Fulton, Dawne Wallace, Trevor Duddy, Ben Loois, Bob Bolch, Barry Lewis, Graham Unwin, Fay Hunter & Ian Lyons.

The guest speaker for the evening was Alan Davidson who conducted the election of office bearers for the ensuing year. Graham Unwin was re-elected as Chairman with Fay Hunter continuing in her role as Secretary/Treasurer. Barry Lewis was elected as Vice Chairman with Ian Lyons continuing as Publicity Officer.

The AGM was followed by the general meeting with Alan Davidson presenting to the members his reason for creating "Mornington Peninsula On-line News". Alan's vocational life started at the Herald & Weekly Times Ltd (now Herald Sun) in Flinders Street, Melb; where he was a proof reader. He moved into the role of Publicity Manager for Random House and worked with high profile personalities such as Joan Collins and Shane Warne until he retired.

With printers ink still running in his veins, complete retirement for Alan was not an option; he still intended to connect with people. With this in mind Mornington Peninsula On-line (MPON) was born.

The colourful presentation carrying GOOD NEWS of local events which included, Sports, health, social activities, emergency organisations & Peninsula People was well received by a minority of the population who supported the publication by supplying articles with pictures to Alan for publication. MPON always featured Signing Station times at the 5 centres and interesting pictorial articles on our members.

Unfortunately owing to the fact that the production needed to generate a bigger readership, which in turn would lead to paid advertising, the production is on hold

for the time being.

Alan's hope is to start the publication in 2016 with a new banner. He encouraged members to consider a 10/10 idea 'If ten members sent a copy of MPON to 10 friends and so on, his readership would increase which would give him bargaining power to generate income for the on-line news; his present format would remain with more pages to include the advertising.

Branch Secretary, Fay is quoted "It is obvious Alan's dedication and passion for people is what drives him to continue this venture, we support and admire his vision."

SIGNING STATION reports were presented with Bob Bolch noting that 10,679 documents had been processed since the last meeting. Security remained an issue, Bob reported that the front counter at Frankston Police Station was being re-designed with work to commence immediately. Dawne Wallace (Mornington S S) reported that all is going well with 12 volunteers on roster. Rosebud is still quiet but fulfilling its purpose.

The Publicity Officer has contacted the Dept of Justice, supplying relevant post codes requesting that they contact all JPs re volunteering at Signing Stations.

During General Business there was a discussion on residents handing in firearms at Police Stations - some JPs feel extremely vulnerable when weapons are placed on the counter in front of them. Peter Fulton asked if the DoJ had any intention of outlawing members of the public attending homes for JP services, it was agreed that this practice is not encouraged for safety reasons, however it was up to the individual.

Bob Bolch was congratulated on receiving the "Paul Harris Fellowship Award" from Rotary International.

The next branch meeting is on February 3rd 2016 - 7.30pm at Frankston Police Headquarters, further details from Fay on 5976 1258.

Submitted by Ian Lyons JP





Left to right: Inspector Gary Coombes, Kevin Fry BJ JP, David Atkinson BJ JP, Collin Brinkmann JP, Geoff Harlock JP and Senior Sergeant Russell Tharle.

Warrnambool 100 Club

Justices in the Warrnambool area has been providing a Document Signing Station (DSS) service at the Warrnambool Police Station since 2006. In that time 23 Justices have attended a total of approximately 1400 times and witnessed some 32,000 documents. 17 of those Justices are still very active in providing this service that started out 3 days a week (Tuesday, Thursday and Saturday) and have now expanded to 5 days a week (Monday to Friday). While most of the JPs live within the Warrnambool city some travel up to 50 kilometres each way to do their duty.

On Tuesday, 2nd September at the quarterly meeting of the Warrnambool DSS Justices, the service of 5 members was recognised with “100 Club” certificates presented to Justices Geoff Harlock, David Atkinson, Ian Slockwitch, Kevin Fry and Collin Brinkmann.

Geoff Harlock JP led the way, clocking up 170 sittings at Warrnambool over his time volunteering as a Justice of the Peace.

Inspector Gary Coombes and Senior Sergeant Russell Tharle from Warrnambool police station were on hand to present certificates to the men at the JP’s informal meeting on Tuesday.

Senior Sergeant Tharle told the group that JPs made a valuable contribution to the community.

Submitted by Bernard Reid JP



Left to right: Ian Slockwitch JP with his certificate and DSS coordinator Rodney McKenzie JP.

Senior Sergeant Tharle told the group that JPs made a valuable contribution to the community.

RVAHJ

NOW HAS ITS OWN APP



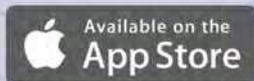
Your Team. Your App.

Download our awesome new app now and stay up to date with all the latest information!

Install the RVAHJ App on your smartphone or tablet now!

Follow these steps:

1. Download Team App from the Apple or Google Play app store.



2. Sign up to Team App. You will be sent an email to confirm your registration.
3. Log into the App and search for "RVAHJ".
4. Choose your applicable access group(s).
5. If you don't have a smartphone go to rvahj.teamapp.com to sign up and view this App online.



Need help?

Contact: Administration

Email: training@rvahj.org.au

Phone: 0418885122 (Paul)

teamapp.com

New Members

The president and directors warmly welcome the following new members:

Douglas Cordell JP	HORSHAM	Arthur Roberts JP	NARRE WARREN SOUTH
Terry Hall JP	INVERLOCH	Geoffrey Trevor-Hunt JP.....	WANGARATTA
Alan Perry JP	BULLENGAROOK		



NOTICE OF THE ANNUAL GENERAL MEETING OF MEMBERS 2016

Notice is hereby given that the Annual General Meeting of Members for 2016 will be held on Thursday, 26 May 2016 at 7.30 pm at 53 Broadway, Elwood 3184.

Business

- To confirm the minutes of the 105th Annual General Meeting held on Thursday, 28 May 2015;
- To consider and if thought fit adopt the Annual Report of the Board;
- To consider and if thought fit adopt the Balance Sheet and Statement of Income and Expenditure for the year ended December 31, 2015;

- To appoint an Auditor for the ensuing year; and
- To consider and if thought fit adopt the following Special Resolution, received prior to the advertised closing time of 4.00pm Friday, 29 January 2016 -

(1) That the members of the Royal Victorian Association of Honorary Justices accept the recommended changes to the Constitution as reproduced in the 2016 Autumn edition of Custodes.

Michael Tse JP - Company Secretary



Ian Symons

Position in RVAHJ: Member
Branch: Cranbourne Branch
Year appointed: 2008
Birthplace: East Brunswick
Present home town/suburb: Cranbourne
Wife: Judy
Children: Adult son & daughter and 3 grandchildren
Occupation: Retired - CFA - Executive level 35 yrs, & Hire a Hubby 2005-2014
Football team: The Mighty Cats of course
Like Dog or Cat: Definitely Dogs
Favourite book: Anything by Alistair MacLean or Robert Ludlum
Favourite film: Forrest Gump
Favourite food: Anything Asian - well almost
Which 4 people would you invite to dinner: Angela Merkel, Andre Rieu, Nelson Mandela and Anna Bligh
Hobbies: Rotary, Caravan, Classical Music
Sports played: Cycling and Golf



QUARTER SESSIONS

We thank all those who have contributed to Quarter Sessions. They were received with much interest. We wish to continue this successful section in Custodes. Any member is most welcome to make a contribution. Please email me on jp33@bigpond.com for a copy of a form to complete. *Michael Cheshire - Editor.*

Document Signing Centre Reports

DSC	Oct	Nov	Dec	Year Total
Altona Library	296	169	80	2,056
Altona RSL	70	83	56	1,836
Ballarat	5,333	3,817	3,420	59,967
Benalla	40	29	46	302
Bendigo	649	887	1,062	12,462
Box Hill	281	3,053		21,558
Bright	69	33	45	739
Broadmeadows	3,722	3,464	2,992	39,969
Carrum Downs	-	-	1,469	2,265
Caulfield				2,683
Corryong	80	45	19	512
Corio	466		303	4,470
Craigieburn	1,207	1,034	1,070	13,681
Cranbourne	2,143	1,818	1,006	20,856
Dandenong	9,537	8,203	6,246	100,647
Drysdale		11	35	440
Eltham	156	198	122	2,419
Epping	1,834	1,810	2,003	20,920
Family Court				6,216
Fawkner	1,306	1,350	1,067	19,851
Flemington	124	188	30	1,615
Footscray	2,360	2,480	2,128	33,418
Frankston	5,092	4,602	3,108	55,027
Geelong	3,324		2,474	25,570
Glen Waverley				62,357
Hamilton	-	-	29	29
Hastings				652
Horsham		120	130	1,032
Laverton Hub	26			223
Leongatha				253
Mansfield	23	29	17	404

DSC	Oct	Nov	Dec	Year Total
Melbourne Town Hall	1,861	-	1,145	12,159
Mildura	1,750	1,829	1,406	22,876
Monash Uni		10	9	168
Moonee Ponds	1,876	1,353	914	22,615
Mornington	275	280	246	2,680
Morwell	290	218	414	3,767
Myrtleford	318	57	100	1,272
Northcote	135	272	236	2,312
Oakleigh	1,589	1,099	630	16,824
Pakenham	868	1,064	435	10,452
Portland	45	95	71	408
Preston	1,141	981	640	11,444
Probate Court				12,283
Ringwood	540	451	167	4,467
RMH	1,564	1,477	1,261	18,828
Rosebud	173	119	123	1,509
Sale	-	-	1,542	3,190
Springvale	8,192	8,088	7,009	94,804
St Kilda				1,486
Sunbury	133	185		2,074
Torquay	42			91
Traralgon	-	-	3,598	6,700
Wangaratta	425	594	368	5,957
Wangaratta Library	77	219	32	1,137
Warragul				11,684
Warrnambool	682	643	537	7,851
Werribee	6,619	6,357	5,024	87,984
Williamstown	601	274	468	6,317
Wodonga	1,886	1,588	1,330	21,423
Wonthaggi	-	-	3,530	6,206
Monthly Totals	69,220	60,676	60,192	915,397

Hello Everyone,

I have just been compiling the statistics that you have sent in and I am blown away by the amount of work that you are doing for the community! JPs provide such an excellent resource that frees up time for the police and also makes it easier for the public to utilise our services in a safe environment.

So far we have reached a figure of just over 838,724 and that's only reflective of the figures that we have. Potentially this figure could be over 1 million!

I would like all rostered JPs to know how much they have achieved and how much they are appreciated by the police and the community.

Please keep those document signing centre figures coming in via rosters@rvahj.org.au so they may be included in Custodes.

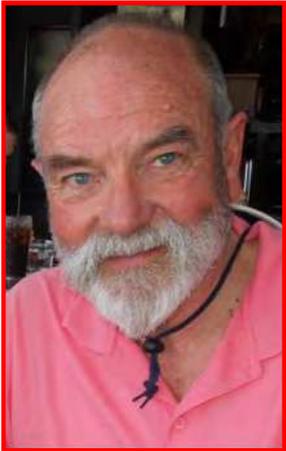
Document Signing Centres are still short of JPs, so please contact Cathy at the office if you would like to be involved.

There is a new roster operating now at Melbourne West Police Station 313 Spencer St Melbourne that also requires more people to join. Hours Monday, Wednesday and Friday 11am - 3pm.

Keep up the fabulous work that you do.

Linda Rainsford BJ
Document Signing Centres Liaison





Fellow Readers

"It's all happening!" as one cricket commentator is wont to say.

Yes - proposed changes to the constitution at the AGM, notice of changes to the Branch By-Laws, changes to Powers of Attorney, changes to the Bail Act, completion of works to the association office at Elwood, a new app for association members, and much branch activity as shown in this edition of Custodes!

We have added another 4 pages to this edition, to provide all this information for you.

Document Signing Centres Liaison and director Linda Rainsford points out the ever increasing numbers of people requiring the services of justices throughout the State. This edition shows the newly opened DSC in Hamilton and the 100 club report from Warrnambool. The pressure that puts on volunteers needs to be recognised with an increase to newly appointed justices of the peace in the very near future.

In other jurisdictions they are able to provide similar services in large shopping centres to be more available to their local community. I would love to see the same

services made available here in Victoria, but without the numbers, that would seem a long way off.

The successful Quarterly Sessions section now requires more members to send in their responses for all to share. In many ways it shows just how much work as volunteers, justices perform.

We are all interested in what makes branches successful. Some would love to increase their attendance at meetings. So if you have some good ideas, please send me your story to share with other branches.

As we are now into the new year, I hope it proves to be one that brings you much happiness and achievement that you wish yourself.

A handwritten signature in blue ink that reads "Michael".

Michael Cheshire BJ JP
Editor

State Trustees would like to say Thanks with a 20% off special offer

State Trustees has been helping Victorians with their financial needs for 75 years.

We recognise that JPs have played a crucial role in helping State Trustees to achieve this. By way of thanks for your ongoing assistance, we'd like to offer you and your partner 20% off the standard State Trustees price for a Will and Enduring Power of Attorney (Financial).

To make an appointment or for more information, call 03 9667 6444 or visit statetrustees.com.au



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EDITORIAL POLICY

The official journal of the Royal Victorian Association of Honorary Justices has appeared in various formats since 1910. As is practice in publications, the current *Custodes* does not necessarily represent the views of the RVAHJ since it encourages contributions from a wide cross-section of members and beyond. Articles and letters are most welcome, but are subject to the discretion of the editor.

ADVERTISING OPPORTUNITIES

Advertising in *Custodes* reaches a state wide audience of influential community leaders and business professionals. Advertising costs: full page : \$345; half page : \$175; quarter page : \$90 & business card : \$45; member discount 20%. Contact the editor for advertising for your business.

CUSTODES DEADLINES

| Winter - May 1 | Spring - August 1 | Summer - November 1 | Autumn - February 1 |