

# MERRI CREEK MANAGEMENT COMMITTEE INCORPORATED

Incorporated Association No. A0018144A

## **RULES OF ASSOCIATION      ADOPTED AT MCMC AGM 18 February 2016**

### **INDEX**

<b>PART 1 - PRELIMINARY</b> .....	<b>4</b>
1. Name .....	4
2. Purposes.....	4
3. Financial year.....	4
4. Definitions .....	4
<b>PART 2- POWERS OF ASSOCIATION</b> .....	<b>6</b>
5. Powers of Association .....	6
6. Not for profit organisation .....	6
<b>PART 3- MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES</b> .....	<b>6</b>
<i>DIVISION 1- MEMBERSHIP</i> .....	6
7. Minimum number of members .....	6
8. Who is eligible to be a member .....	6
9. Representatives .....	6
10. Application for membership.....	7
11. Consideration of application.....	7
12. New membership.....	7
13. Annual subscription.....	7
14. General rights of members .....	7
15. Rights not transferable.....	7
16. Resigning as a member .....	8
17. Ceasing membership .....	8
18. Register of members .....	8
<i>DIVISION 2-DISCIPLINARY ACTION</i> .....	9
19. Expulsion or suspension of member .....	9
<i>DIVISION 3-GRIEVANCE PROCEDURE</i> .....	10
20. Application.....	10
21. Parties must attempt to resolve the dispute.....	10
22. Appointment of mediator.....	10
23. Mediation process .....	10
24. Failure to resolve dispute by mediation.....	10
<b>PART 4-GENERAL MEETINGS OF THE ASSOCIATION</b> .....	<b>10</b>
25. Annual general meetings.....	10
26. Special general meetings .....	12
27. Special general meeting held at request of members.....	12
28. Notice of general meetings .....	12

29.	Meeting chairperson.....	12
30.	Proxies .....	12
31.	Use of technology.....	12
32.	Quorum at general meetings .....	14
33.	Adjournment of general meeting.....	14
34.	Voting at general meeting.....	14
35.	Special resolutions .....	14
36.	Determining whether resolution carried.....	14
37.	Minutes of general meeting.....	15
<b>PART 5-COMMITTEE OF MANAGEMENT .....</b>		<b>16</b>
<i>DIVISION 1- POWERS OF COMMITTEE .....</i>		<i>16</i>
38.	Role and powers.....	16
39.	Delegation .....	16
<i>DIVISION 2- COMPOSITION OF COMMITTEE AND DUTIES OF MEMBERS.....</i>		<i>16</i>
40.	Composition of Committee.....	16
41.	General duties.....	17
42.	Term of office.....	17
43.	Vacancies and removal of Committee members.....	17
44.	Sub-committees.....	17
<i>DIVISION 3- OFFICE BEARERS.....</i>		<i>18</i>
45.	Office bearers of the Association .....	18
46.	Secretary.....	18
47.	Treasurer.....	18
48.	Election of office bearers.....	20
<i>DIVISION 4 – MEETINGS OF COMMITTEE .....</i>		<i>20</i>
49.	Meetings of Committee.....	20
50.	Notice of meetings.....	20
51.	Special meetings.....	20
52.	Proxies, Use of Technology, and Quorum.....	20
53.	Conflict of interest .....	20
54.	Voting.....	21
55.	Minutes of meeting.....	21
<b>PART 6 – FINANCIAL MATTERS.....</b>		<b>22</b>
56.	Sources of funds .....	22
57.	Management of funds.....	22
58.	Financial records.....	22
59.	Financial statements .....	22
60.	Audit .....	22
<b>PART 7- GIFT FUND .....</b>		<b>22</b>
61.	Merri Creek Environment Fund .....	23
<b>PART 8- GENERAL MATTERS.....</b>		<b>23</b>
62.	Common seal.....	24
63.	Notice requirements.....	24
64.	Custody and inspection of books and records .....	24
65.	Winding up and cancellation .....	24
66.	Alteration of Rules.....	25



## PART 1 – PRELIMINARY

### 1. Name

The name of the incorporated association is “Merri Creek Management Committee Incorporated”.

### 2. Purposes

The primary purpose of the Merri Creek Management Committee (MCMC) is to ensure the preservation of natural and cultural heritage, and the ecologically sensitive restoration, development and maintenance of the Merri Creek and tributaries, their corridors and associated ecological communities.

MCMC acknowledges that the Merri Creek flows through the cultural landscape of the Wurundjeri and that recognition, reconciliation and engagement with Aboriginal people is necessary to achieve its primary purpose.

In order to achieve its primary purpose, MCMC:

- consults, co-ordinates, informs, advises and provides a forum for member organisations and other stakeholders;
- participates in strategic and statutory planning and development assessment processes;
- advocates for policy, development and resource allocation decisions that are complementary to the primary purpose;
- carries out conservation and restoration programs and works;
- develops and maintains skills and expertise in ecological restoration of waterway corridors, and shares these with member organisations and other stakeholders within and beyond the Merri catchment;
- informs, educates and involves the community;
- provides support, resourcing and facilitation of skills development to community groups;
- seeks the consolidation and expansion of public open space along the Creek corridor, particularly in urban and urban fringe areas;
- undertakes and supports research and monitoring;
- maintains a gift fund known as the Merri Creek Environment Fund to support MCMC’s primary purpose.

The geographic coverage to which this Statement of Purposes applies is the Merri Creek and its catchment, including its tributaries and their sub-catchments. MCMC may also undertake works in adjoining catchment areas, where such works will contribute to the financial health, knowledge and skills development and maintenance and/or work team viability of MCMC, and where such works are not at the expense of MCMC’s core role.

### 3. Financial year

The financial year of the Association is each period of 12 months ending on 30 September.

### 4. Definitions

In these Rules –

**"Association"** means Merri Creek Management Committee Incorporated.

**"Committee"** means the Committee of Management of the Association elected in accordance with these Rules.

**"General Meeting"** means a general meeting of members convened in accordance with these Rules.

**"Member"** means a member organisation of the Association.

**"Ordinary Member"** means a member of the Committee who is not an office bearer of the Association.

**"The Act"** means the *Associations Incorporation Reform Act 2012*

**"The Regulations"** means the Regulations under the Act.

**"Special resolution"** means a resolution passed by a majority of not less than three-fourths of representatives of members, voting in person or by proxy at a general meeting of the Association, of which not less than 21 days notice specifying the intention to propose the resolution as a special resolution was given in accordance with these Rules.

## PART 2 - POWERS OF ASSOCIATION

### 5. Powers of Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Association may—
  - (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) invest its money in any security in which trust monies may lawfully be invested;
  - (d) raise and borrow money on any terms and in any manner as it thinks fit;
  - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (f) appoint agents to transact business on its behalf;
  - (g) employ staff to support the purposes of MCMC;
  - (h) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### 6. Not for profit organisation

- (1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subrule (1) does not prevent the Association from paying a member or their representative—
  - (a) reimbursement for expenses properly incurred by the member or member's representative; or
  - (b) for goods or services provided by the member or member's representative— if this is done in good faith on terms no more favourable than if the member was not a member.

**Note:**Section 33 of the Act provides that the Incorporated Association must not secure pecuniary profit for its members.

## PART 3- MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

### DIVISION 1- MEMBERSHIP

### 7. Minimum number of members

The Association must have at least five members.

### 8. Who is eligible to be a member

A corporation, incorporated association or a body incorporated by statute shall be eligible and may apply to become a member of the Association.

### 9. Representatives

- (1) Each member must nominate representatives as specified in Rule 40, who are authorised by the member to act on its behalf.
- (2) Each member must provide a letter of nomination of its representatives to the Secretary of the Association.

- (3) Each representative will be appointed at the annual general meeting of the Association each year.

## **10. Application for membership**

A nomination for membership of the Association -

- (a) shall be made in writing and shall include:
  - (i) the name and address of the organisation seeking membership,
  - (ii) a statement that the applicant agrees to abide by the Rules of the Association for the time being in force
  - (iii) the signature of the senior office bearer, executive officer or similar of the organisation seeking membership
- (b) shall be lodged with the Secretary at the registered address of the Association
- (c) The entrance fee to be paid by members of the Association shall be nil.

## **11. Consideration of application**

As soon as practicable after the receipt of a nomination, the Secretary shall refer the nomination to the Committee, and the Committee shall determine whether to approve or reject the nomination.

## **12. New membership**

The Secretary shall, as soon as practicable after approval of membership as provided in Rule (9), enter the nominee's name in the register of members.

## **13. Annual subscription**

No fees, subscriptions or other payments are required from members.

## **14. General rights of members**

- (1) A member of the Association who is entitled to vote has the right—
- (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a general meeting; and
  - (c) to appoint representatives to attend and be heard at general meetings; and
  - (d) to appoint representatives to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 64; and
  - (f) to inspect the register of members.
- (2) A member is entitled to vote if—
- (a) more than 10 business days have passed since the organisation became a member of the Association; and
  - (b) the member's membership rights are not suspended for any reason, and
  - (c) the member has provided a letter of nomination of its representatives.

## **15. Rights not transferable**

A right, privilege or obligation of a member by reason of their membership of the Association :-

- (1) is not capable of being transferred or transmitted to another organisation or person, and
- (2) terminates upon the cessation of their membership whether by dissolution of the member organisation or resignation or otherwise
- (3) Notwithstanding sub-clauses (1) and (2) of this clause, in the event of name changes of, or

amalgamations or land boundary changes between members, any new organisation which is the natural successor of a previous member shall have automatic membership of the Association and shall have the rights, privileges and obligations of its predecessor/s.

## **16. Resigning as a member**

A member of the Association may resign from the Association by first giving twelve months notice in writing to the Secretary of their intention to resign and upon the expiration of that period of notice, the member shall cease to be a member.

## **17. Ceasing membership**

- (1) Membership ceases on resignation or expulsion.
- (2) If an organisation ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the organisation ceased to be a member in the register of members.

## **18. Register of members**

- (1) The Secretary shall keep and maintain a register of members in which shall be entered the name, address and date of entry of the name of each member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

## DIVISION 2-DISCIPLINARY ACTION

### **19. Expulsion or suspension of member**

- (1) Subject to these Rules, the Committee may by resolution :-
  - (a) expel a member of the Association, or
  - (b) suspend a member from membership of the Association for a specified period if the Committee is of the opinion that the member :-
    - (c) has refused or neglected to comply with these Rules, or
    - (d) has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association.
- (2) A resolution of the Committee under sub-clause (1) :-
  - (a) does not take effect unless the Committee, at a meeting held not earlier than 14 and not later than 28 days after the service on the member of a notice under sub-clause (3) confirms the resolution in accordance with this clause, and
  - (b) where the member exercises a right of appeal to the Association under this clause does not take effect unless the Association confirms the resolution in accordance with this clause.
- (3) If the Committee passes a resolution under sub-clause (1), the Secretary shall, as soon as practicable, cause to be served on the member a notice in writing:-
  - (a) setting out the resolution of the Committee and the grounds on which it is based,
  - (b) stating that the member may address the Committee at a meeting to be held not earlier than 14 and not later than 28 days after the service of the notice,
  - (c) stating the date, place and time of that meeting,
  - (d) informing the member that they may do one or more of the following:-
    - (i) be represented at that meeting,
    - (ii) give to the Committee before the date of that meeting a written statement seeking the revocation of the resolution, and
    - (iii) not later than 24 hours before the date of the meeting lodge with the Secretary a notice to the effect that they wish to appeal to the Association in general meeting against the resolution.
- (4) At a meeting of the Committee held in accordance with sub-clause (2), the Committee:-
  - (a) shall give to the member an opportunity to be heard,
  - (b) shall give due consideration to any written statement submitted by the member, and
  - (c) shall by resolution determine whether to confirm or to revoke the resolution.
- (5) Where the Secretary receives a notice under sub-clause (3), he or she shall notify the Committee and the Committee shall convene a general meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- (6) At a general meeting of the Association convened under sub-clause (5):-
  - (a) no business other than the question of the appeal shall be transacted,
  - (b) the Committee may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution,
  - (c) the member shall be given an opportunity to be heard and,
  - (d) the members' representatives shall vote in person or by proxy by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (7) If at the general meeting :-
  - (a) three-fourths of the members' representatives vote in person or by proxy in favour of the confirmation of the resolution, the resolution is confirmed, and
  - (b) in any other case, the resolution is revoked.

## DIVISION 3 - GRIEVANCE PROCEDURE

### **20. Application**

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

- (a) a member and another member; or
- (b) a member and the Association.

### **21. Parties must attempt to resolve the dispute**

The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

### **22. Appointment of mediator**

- (1) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (2) The mediator must be -
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement -
    - (i) in the case of a dispute between a member and another member, a person appointed by the committee of the Association; or
    - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (3) A member of the Association can be a mediator.
- (4) The mediator cannot be a member who is a party to the dispute.

### **23. Mediation process**

- (1) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (2) The mediator, in conducting the mediation, must -
  - (a) give the parties to the mediation process every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (4) The mediator must not determine the dispute.

### **24. Failure to resolve dispute by mediation**

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

## PART 4-GENERAL MEETINGS OF THE ASSOCIATION

### **25. Annual general meetings**

- (1) The Committee must convene an annual general meeting of the Association to be held within 5 months of the end of each financial year.
- (2) The annual general meeting shall be held on such day as the Committee determines.
- (3) The annual general meeting shall be specified as such in the notice convening it.
- (4) The ordinary business of the annual general meeting shall be :-

- (a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;
  - (b) to receive from the Office Bearers reports upon the activities and transactions of the Association during the last preceding financial year;
  - (c) to receive the financial statements of the Association for the preceding financial year submitted by the Committee in accordance with Part 7 of the Act
  - (d) to elect the Office Bearers and appoint the ordinary members of the Committee.
- (5) The annual general meeting may transact special business of which notice is given in accordance with these Rules.
- (6) The annual general meeting shall be in addition to any other general meetings that may be held in the same year.

## **26. Special general meetings**

- (1) All general meetings of the Association other than the annual general meeting shall be called special general meetings.
- (2) The Committee may, whenever it thinks fit, convene a special general meeting of the Association and, where, but for this sub-clause, more than 15 months would lapse between annual general meetings, shall convene a special general meeting before the expiration of that period.

## **27. Special general meeting held at request of members**

- (1) The Committee shall, on the requisition in writing of any one member of the Association, convene a special general meeting of the Association.
- (2) The requisition for a special general meeting shall state the objects of the meeting and shall be signed by the member making the requisition and sent to the address of the Secretary and may consist of several documents in the like form, each signed by one or more of the members making the requisition.
- (3) If the Committee does not cause a special general meeting to be held within one month after the date on which the requisition is sent to the address of the Secretary, the members making the requisition, or any of them, may convene a special general meeting to be held not later than three (3) months after that date.
- (4) A special general meeting convened by members in pursuance of these Rules shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Committee and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

## **28. Notice of general meetings**

The Secretary of the Association shall, at least 21 days before the date fixed for holding a general meeting of the Association, cause to be sent to each member of the Association by post or email or both at their address appearing in the Register of Members, a notice stating the place, date and time of the meeting, and including any notices of motion and/or a statement of the nature of the business to be transacted at the meeting.

## **29. Meeting chairperson**

- (1) The President, or in his or her absence, one of the Vice Presidents, shall preside as Chairperson at each special general meeting, annual general meeting and Committee of Management meeting.
- (2) If the President and the Vice Presidents are absent from a special general meeting, annual meeting or Committee of Management meeting the representatives of members present shall elect one of their number to preside as Chairperson at the meeting.

## **30. Proxies**

- (1) Each representative shall be entitled to appoint another person as their proxy by notice given to the Secretary prior to or during the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy shall be in the form set out in Appendix 1 to these Rules.

## **31. Use of technology**

- (1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

- (3) That a request by any person attending any meeting of the Association, including its sub-committees to record by electronic means any or all part of the meeting, will be determined by a vote of the representatives present at the meeting, as a first order of business.

### **32. Quorum at general meetings**

- (1) No item of business shall be transacted at a special general meeting, annual general meeting or Committee of Management meeting unless a quorum of representatives of members entitled under these Rules to vote is present during the time when the meeting is considering that item.
- (2) The number of representatives of members (as provided in Rule 40) that constitutes a quorum for the transaction of the business of a special general meeting, annual general meeting or meeting of the Committee of Management, shall be equal to the number of organisations that are members of the Association with at least half of the organisations represented.
- (3) If within half an hour after the appointed time for the commencement of a general meeting, annual general meeting or Committee of Management meeting, a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson at the time of the adjournment or by written notice to members given before the day to which the meeting is adjourned) at the same place and if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the representatives present (being not less than five (5)) shall be a quorum.
- (4) Subject to sub-clauses (2) and (3) the Committee may act notwithstanding any vacancy on the Committee.

### **33. Adjournment of general meeting**

- (1) The Chairperson of a general meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting shall be given as in the case of the general meeting.
- (3) Except as provided in sub-clauses (1) and (2) it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **34. Voting at general meeting**

- (1) Upon any question arising at a general meeting of the Association or a meeting of the Committee, each member is entitled to the same number of votes as it has representatives to the Committee of Management, subject to sub-clause (2) of this clause.
- (2) All votes shall be given personally by representatives of members or by proxy.
- (3) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

### **35. Special resolutions**

A special resolution is passed if not less than three quarters of the members' representatives voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

**NOTE:** In addition to certain matters specified in the Act, a special resolution is required –

- (a) to remove a committee member from office;
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

### **36. Determining whether resolution carried**

- (1) A question arising at a general meeting of the Association or a meeting of the Committee shall

be determined on a show of hands and unless before or on the declaration of the show of hands a poll is demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect in the minute book of the Association is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

- (2) In the case of equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) If at a meeting a poll on any question is demanded by a representative of members, it shall be taken at that meeting in such manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- (4) A poll that is demanded on the election of a Chairperson or on a question of an adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the Chairperson may direct.

### **37. Minutes of general meeting**

- (1) The Committee must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
  - (a) the names of the members attending the meeting; and
  - (b) proxy forms given to the Secretary under rule 29; and
  - (c) the financial statements submitted to the members; and
  - (d) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 5-COMMITTEE OF MANAGEMENT**

### **DIVISION 1- POWERS OF COMMITTEE**

#### **38. Role and powers**

- (1) The business of the Association must be managed by or under the direction of the Committee of Management.
- (2) The Committee may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.
- (3) The Committee may-
  - (a) appoint and remove staff;
  - (b) establish subcommittees consisting of -
    - (i) representatives of members of the association; and/or
    - (ii) ex officio personswith terms of reference it considers appropriate.
  - (c) establish a Public Fund to be administered and managed in accordance with Part 7 of these Rules.

#### **39. Delegation**

- (1) The Committee may delegate to a member of the Committee, a subcommittee or staff, any of its powers and functions other than—
  - (a) this power of delegation; or
  - (b) a duty imposed on the Committee by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (3) The Committee may, in writing, revoke a delegation wholly or in part.

### **DIVISION 2- COMPOSITION OF COMMITTEE AND DUTIES OF MEMBERS**

#### **40. Composition of Committee**

The Committee shall consist of ordinary members being:-

- (a) one representative from each of the following :
  - (i) each other member which is admitted to membership from time to time
- (b) two representatives from each of the following:
  - (i) City of Darebin,
  - (ii) City of Hume,
  - (iii) City of Moreland,
  - (iv) City of Whittlesea,
  - (v) City of Yarra
  - (vi) Shire of Mitchell
- (c) six representatives from Friends of Merri Creek Inc.
- (d) one representative from Wallan Environment Group Inc.

and in the interpretation of this clause the expression "representative" shall be deemed to mean and include the representative's nominated substitute (written particulars of which shall be lodged with the Secretary), or in the case of Friends of Merri Creek Inc., one or more of no more than six people nominated as a panel of substitutes, (written particulars of which shall be lodged with the Secretary) each of whom shall be appointed at the annual general meeting of the Association in each year.

#### **41. General duties**

- (1) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act.
- (2) The Committee is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Committee comply with these Rules.
- (3) Committee members must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Committee members must exercise their powers and discharge their duties—
  - (a) in good faith in the best interests of the Association; and
  - (b) for a proper purpose.
- (5) Committee members and former committee members must not make improper use of—
  - (a) their position; or
  - (b) information acquired by virtue of holding their position—  
so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

**Note:** See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.

- (6) In addition to any duties imposed by these Rules, a committee member must perform any other duties imposed from time to time by resolution at a general meeting.

#### **42. Term of office**

- (1) Each ordinary member of the Committee shall, subject to these Rules, hold office until the annual general meeting next after the date of their election but is eligible for re-appointment.
- (2) In the event of a casual vacancy occurring in the office of an ordinary member of the Committee, the relevant member may appoint a new representative to fill the vacancy and the representative so appointed shall hold office, subject to these Rules, until the conclusion of the annual general meeting next following the date of their appointment.

#### **43. Vacancies and removal of Committee members**

- (1) For the purposes of these Rules, the office of a representative becomes vacant if that representative :
  - (a) ceases to be a representative of a member of the Association;
  - (b) becomes an insolvent under administration; or
  - (c) resigns their office by notice in writing given to the Secretary.
- (2) The Association in a general meeting may by resolution remove any representative on the Committee before the expiration of their term of office and request the member organisation to appoint another person in their stead to hold office until the expiration of the term of the first mentioned representative on the Committee.
- (3) Where the member of the Committee to whom a proposed resolution referred to in sub-clause (1) makes representations in writing to the Secretary or President of the Association (not exceeding a reasonable length) and requests that they be notified to the members of the Association, the Secretary or President may send a copy of the representations to each member of the Association or, if they are not so sent, the member of the Committee may require that they be read out at the meeting.

#### **44. Sub-committees**

- (1) The Committee of Management may by resolution and from time to time form standing or temporary sub-committees, which may consist of Committee members but may include members co-opted from other organisations.
- (2) At the time of forming a sub-committee, the Committee must by resolution establish:
  - (a) membership of the sub-committee

- (b) purpose or objectives of the sub-committee
  - (c) authority of the sub-committee
  - (d) quorum of the sub-committee
  - (e) lifespan of the sub-committee.
- (3) The Committee may by resolution alter any matter referred to in sub- clause (2).
- (4). The Office Bearers shall form a permanent standing sub-committee to be called the Executive sub-committee.

### DIVISION 3- OFFICE BEARERS

#### **45. Office bearers of the Association**

- (1) The Office Bearers of the Association shall be :-
- (a) a President;
  - (b) two (2) Vice Presidents;
  - (c) a Treasurer; and
  - (d) a Secretary,
- each elected in accordance with these Rules.
- (2) Each Office Bearer of the Association shall hold office until the annual general meeting next after the date of their election but is eligible for re-election.
- (3) In the event of a casual vacancy in any office referred to in sub-clause (1) the Committee may appoint one of its ordinary members to the vacant office and the member so appointed may continue in office up to and including the conclusion of the annual general meeting next following the date of their appointment.

#### **46. Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.
- Example: Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.
- (2) The Secretary must—
- (a) maintain the register of members in accordance with rule 18; and
  - (b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in rule 58(3), all books, documents and securities of the Association in accordance with rule 64; and
  - (c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
  - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

#### **47. Treasurer**

- (1) The Treasurer of the Association :-
- (a) is responsible for the collection and receipt of all monies due to the Association and the making of all payments on behalf of the Association;
  - (b) shall ensure that all monies received are paid into the account of the Association;
  - (c) shall ensure that any payments are made that have been authorised by the Committee, or by a person delegated to authorise payments specified under rule 39, or by a general meeting of the Association, from the Association's funds;
  - (d) shall ensure cheques are signed or electronic payments authorised by at least two

people who are

(i) Committee members; or

(ii) other persons authorised by the Committee to confirm any payments specified by the Committee under rule 39.

(2) The Treasurer must:-

(a) ensure that the financial records of the Association are kept in accordance with the Act;

(b) co-ordinate the preparation of the audited financial statements of the Association prior to their submission to the annual general meeting of the Association

(3) The Treasurer must ensure that all current Committee members have access to the accounts and financial records of the Association.

#### **48. Election of office bearers**

- (1) The ballot for the election of Office Bearers of the Association shall be conducted at the annual general meeting of the Association in such usual and proper manner as the Committee may direct.
- (2) Nominations of candidates for election as Office Bearers of the Association:-
  - (a) shall be made in writing, signed by two members of the Committee and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
  - (b) shall be delivered to the Secretary of the Association not less than 7 days before the date fixed for the holding of the annual general meeting.
- (3) If insufficient nominations are received to fill all Office Bearer positions, the candidates nominated shall be deemed to be elected and further nominations shall be received and voted upon at the next Committee meeting.
- (4) If the number of nominations received is equal to the number of vacancies to be filled the persons nominated shall be deemed to be elected.
- (5)
  - (a) If the number of nominations exceeds the number of vacancies to be filled, a ballot shall be held.
  - (b) If at any election for the position of President there is an equality of voting it shall be decided by lot who of those members with an equal number of votes shall be President.
- (6) A nomination of a candidate for election under this clause is not valid if that candidate has been nominated for another office for election at the same election.

### **DIVISION 4 – MEETINGS OF COMMITTEE**

#### **49. Meetings of Committee**

The Committee shall meet at least three times in each year at such place and such times as the Committee may determine.

#### **50. Notice of meetings**

Written notice of each Committee meeting shall be served on each member of the Committee by delivering it to them at a reasonable time before the meeting or by post or email or both, addressed to them at their usual address at least two business days before the date of the meeting.

#### **51. Special meetings**

- (1) Special meetings of the Committee may be convened by the President.
- (2) Notice shall be given to members of the Committee of any special meeting specifying the general business to be transacted and no other business shall be transacted at such a meeting.

#### **52. Proxies, Use of Technology, and Quorum**

The rules relating to proxies, use of technology and quorum for general meetings of the Association (rules 30, 31 and 32) also apply to Committee meetings.

#### **53. Conflict of interest**

- (1) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.
- (2) The member—
  - (a) must not be present while the matter is being considered at the meeting; and

(b) must not vote on the matter.

**Note**

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

(3) This rule does not apply to a material personal interest—

- (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or
- (b) that the member has in common with all, or a substantial proportion of, the members of the Association.

**54. Voting**

- (1) On any question arising at a committee meeting, each committee member present at the meeting has one vote.
- (2) A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is permitted.

**55. Minutes of meeting**

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following—
  - (a) the names of the members in attendance at the meeting and any proxies;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;
  - (d) any material personal interest disclosed under rule 65.

## PART 6 – FINANCIAL MATTERS

### 56. Sources of funds

Finance shall be obtained from the subscriptions and contributions of members, endowments, grants, public subscriptions, voluntary contributions, fund raising efforts, trading and other approved means.

### 57. Management of funds

- (1) Subject to any restriction imposed by a general meeting of the Association, the Committee may approve expenditure on behalf of the Association.
- (2) All cheques must be signed and electronic payments authorised by at least two people who are
  - (i) Committee members; or
  - (ii) other persons authorised by the Committee to confirm any payments specified by the Committee under rule 39.
- (2) The Committee may by resolution appoint a member of staff as a co-signatory to cheques, electronic payments, drafts, bills of exchange, promissory notes or other negotiable instruments.

### 58. Financial records

- (1) The Association must keep financial records that—
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- (2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control—
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Committee.

### 59. Financial statements

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (1), those requirements include—
  - (a) the preparation of the financial statements;
  - (b) the auditing of the financial statements;
  - (c) the submission of the financial statements to the annual general meeting of the Association;
  - (d) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

### 60. Audit

The Auditor appointed by the Association shall be a member of some recognised institute of accountants and he or she shall in every financial year during the currency of the Association cause the Association's books of account to be audited in accordance with approved practice and guidelines, or as otherwise required by clause 99 of the Act.

## PART 7- GIFT FUND

## **61. Merri Creek Environment Fund**

- (1) The Merri Creek Environment Fund (the Fund) must comply with subdivision 30-E of the Income Tax Assessment Act 1997.
- (2) The Fund will be used only to support the Merri Creek Management Committee Inc.'s environmental purposes.
- (3) Members of the general public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the Merri Creek Management Committee Inc.
- (4) Money from interest on donations, income derived from donated property, and money from the realisation of such property are to be deposited into the Fund.
- (5) The fund must not receive any other money or property, including corporate sponsorship money, and gifts to it are to be kept separate from other funds of the Merri Creek Management Committee Inc.
- (6) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon.
- (7) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.
- (8) Any allocation of funds or property to other organisations, persons or groups will be made in accordance with MCMC's statement of purposes and will not be influenced by the expressed preference or interest of a particular donor.
- (9) The Fund will be administered by a standing subcommittee of the Committee of Management of the Merri Creek Management Committee Inc. to be known as the Merri Creek Environment Fund Subcommittee. The subcommittee will comprise no fewer than 3 persons. A majority of the members of the subcommittee are required to have the requisite degree of responsibility to the general community, that is, persons who, because of their tenure of some public office or their position in the community have a degree of responsibility to the community as a whole as distinct from obligations solely in regard to the environmental objectives of the Merri Creek Management Committee.
- (10) In the event of the winding up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.
- (11) The fund will be operated on a non-profit basis. None of the money or property accumulated by the Fund will be distributed to members of the Association or Members of the Merri Creek Environment Fund Subcommittee apart from proper remuneration for administrative purposes.
- (12) Any changes to the membership of the Merri Creek Environment Fund Subcommittee will be advised to the Department of the Environment within a reasonable time following the making of the changes.
- (13) Any changes to the Rules of the Fund are to be advised to the Department of the Environment within a reasonable time following the making of the changes.
- (14) Statistical data about gifts to the Fund during the financial year will be provided to the Department of the Environment within four months after the end of the financial year and in the form required by the Department."
- (15) MCMC agrees to comply with any rules that the Treasurer and the Minister with responsibility for the Environment may make to ensure that gifts made to the fund are only used for its principal purpose.

## **PART 8- GENERAL MATTERS**

## **62. Common seal**

- (1) The Common Seal of the Association shall be kept in the custody of the Secretary.
- (2) The Common Seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the Common Seal shall be attested by the signatures either of two members of the Committee or of one member of the Committee and of the Secretary of the Association

## **63. Notice requirements**

- (1) A notice may be served by or on behalf of the Association upon any member by sending it by post or email to the member at their address shown in the Register of Members or by handing the notice to the member personally.
- (2) Where a document is properly addressed, pre-paid and posted to a person as a letter, the document shall, unless the contrary is proved, be deemed to have been given to the member at the time at which the letter would have been delivered in the ordinary course of post.

## **64. Custody and inspection of books and records**

- (1) Members may on request inspect free of charge—
  - (a) the register of members;
  - (b) the minutes of general meetings;
  - (c) subject to subrule (2), the financial records, books, securities and any other relevant document of the Association, including minutes of Committee meetings.
- (2) The Committee may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- (3) The Committee must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to subrule (2), a member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this rule—

relevant documents means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following—

  - (a) its membership records;
  - (b) its financial statements;
  - (c) its financial records;
  - (d) records and documents relating to transactions, dealings, business or property of the Association.

## **65. Winding up and cancellation**

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

**66. Alteration of Rules**

These Rules may only be altered by special resolution of a general meeting of the Association.

**APPENDIX 1**

**MERRI CREEK MANAGEMENT COMMITTEE INCORPORATED**

**FORM OF APPOINTMENT OF PROXY**

I, .....(name),

being a representative of .....(member name),

to the Merri Creek Management Committee Incorporated hereby appoint

.....(name),

of .....(member name)

being a member of the Merri Creek Management Committee Incorporated, as my proxy to vote for me on my behalf at the general meeting of the Association/meeting of the Committee of Management (delete as appropriate) to be held on

.....(date) and at any adjournment of that meeting.

My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details)

.....  
.....  
.....  
.....

Signed : .....

Date: .....