

# **MERRI CREEK MANAGEMENT COMMITTEE INCORPORATED**

Incorporated Association No. A0018144A

## **RULES OF ASSOCIATION**

Adopted at MCMC AGM 27 February 2025



## TABLE OF CONTENTS

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

29.	Notice of General Meeting.....	12
30.	Meeting Chairperson .....	12
31.	Proxies .....	12
32.	Use of technology .....	13
33.	Quorum at General Meetings.....	13
34.	Adjournment of a General Meeting .....	13
35.	Voting at a General Meeting.....	14
36.	Special Resolutions .....	14
37.	Determining whether a resolution is carried .....	14
38.	Minutes of General Meetings .....	14
<b>PART 5 – COMMITTEE OF MANAGEMENT .....</b>		<b>15</b>
<b>DIVISION 1 – POWERS OF THE COMMITTEE .....</b>		<b>15</b>
39.	Role and Powers .....	15
40.	Delegation.....	15
<b>DIVISION 2 – COMPOSITION OF THE COMMITTEE AND DUTIES OF MEMBERS .....</b>		<b>15</b>
41.	Composition of the Committee .....	15
42.	General duties .....	16
43.	Term of office.....	16
44.	Vacancies and removal of Committee members .....	16
45.	Subcommittees .....	17
<b>DIVISION 3 – OFFICE BEARERS.....</b>		<b>17</b>
46.	Office Bearers of the Association.....	17
47.	Secretary.....	18
48.	Treasurer .....	18
49.	Election of Office Bearers.....	19
<b>DIVISION 4 – MEETINGS OF THE COMMITTEE.....</b>		<b>19</b>
50.	Meetings of the Committee .....	19
51.	Special meetings .....	19
52.	Conflict of Interest .....	19
53.	Voting.....	20
54.	Minutes of the meeting .....	20
<b>PART 6 – FINANCIAL MATTERS .....</b>		<b>20</b>
55.	Sources of funds.....	20
56.	Management of funds .....	20
57.	Financial records .....	20
58.	Financial statements .....	21

59.	Audit .....	21
<b>PART 7 – GIFT FUND .....</b>		<b>21</b>
60.	Merri Creek Environment Fund .....	21
<b>PART 8 – GENERAL MATTERS .....</b>		<b>22</b>
61.	Common seal.....	22
62.	Notice requirements .....	23
63.	Custody and inspection of records .....	23
64.	Winding up and cancellation .....	23
65.	Alteration of Rules .....	24

## PART 1 – PRELIMINARY

### 1. Name

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

### 2. Acknowledgement of Country

Work carried out under these Rules of Association takes place on the lands of the Wurundjeri Woi-wurrung people of the Kulin Nation. Merri creek Management Committee acknowledges the Wurundjeri Woi-wurrung as the Traditional Owners of the land of the Merri Merri and pay respects to elders past and present. Merri Creek Management Committee will work with the Wurundjeri Woi-wurrung people towards the common goal of land justice for First Peoples.

### 3. Purpose

The purpose of the Merri Creek Management Committee (MCMC) is to lead, in partnership, the preservation of the natural heritage, ecological restoration and repair, and community stewardship, and support the preservation of cultural heritage, of the Merri Creek and tributaries, their corridors, and association ecological communities.

MCMC acknowledges that the Merri Creek flows through the cultural landscape of the Wurundjeri Woi-wurrung and that recognition, reconciliation, and engagement with First Peoples is necessary to achieve its purpose.

To achieve its purpose, MCMC will:

- Consult, coordinate, inform, advise, collaborate with, and provide a forum for member organisations and other stakeholders to work together.
- Participate in strategic and statutory planning and development assessment processes at local, state, and federal government levels.
- Advocate for policy, development, and resource allocation decisions.
- Undertake conservation, repair, and restoration programs and works.
- Develop and maintain skills and expertise in ecological restoration of waterway corridors and share these with member organisations and other stakeholders within and beyond the Merri catchment.
- Inform, engage, educate, and encourage participation by the community.
- Support and help facilitate creek-focused community groups to establish and develop skills.
- Advocate for the consolidation and expansion of public open space, for recreation and ecological purposes, along the Creek corridor, particularly in urban and urban fringe areas.
- Undertake and support research and monitoring.
- Maintain a gift fund known as the Merri Creek Environment Fund.

This statement of purpose applies to the Merri Creek and its catchment, including its tributaries and their sub-catchments.

MCMC may undertake ecological and related works, community education and engagement activities, and advocacy activities outside the catchment area. This is to contribute to MCMC's financial health, knowledge and skills development, and maintenance and/or work team viability, the support of the waterway sector, and where such works are not at the expense of MCMC's purpose.

#### 4. Financial Year

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

#### 5. Definitions

In these Rules:

<b>Association</b>	means Merri Creek Management Committee Incorporated
<b>Casual Vacancy</b>	where a member representative position on the Committee becomes vacant before the term of office expires (for example through resignation or expulsion)
<b>Committee</b>	the Committee of Management of the Association elected in accordance with these Rules
<b>Conflict of Interest</b>	occurs where the personal interests of a committee member or business interest of the organisation they represent, conflict with the interests of the Committee
<b>General Meeting</b>	a general meeting of members convened in accordance with these Rules
<b>Member</b>	means a member organisation of the Association
<b>Member Representative</b>	the individual nominated to represent a Member on the Committee of Management (or their nominated substitute)
<b>Ordinary Member</b>	A member representative who is not an officer bearer of the Association
<b>The Act</b>	<i>The Associations Incorporation Reform Act 2012</i>
<b>The Regulations</b>	Means the regulations under the Act
<b>Special Resolution</b>	A resolution passed by a majority of a minimum of three-quarters of the total number of member representatives, 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

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## PART 2 – POWERS OF THE ASSOCIATION

#### 6. Powers of the Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purpose.
- (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 purpose 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 purpose.

#### 7. 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.

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## PART 3 – MEMBERS, DISCIPLINARY PROCEDURES & GRIEVANCES

### DIVISION 1 – MEMBERSHIP

#### 8. Minimum number of members

The Association must have at least five members.

#### 9. Who is eligible to be a member?

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

#### 10. 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 member representative will be appointed at the Annual General Meeting of the Association each year.

## **11. Application for membership**

A nomination for membership of the Association:

- (1) Must be made in writing and must include:
  - (a) The name and address of the organisation seeking membership.
  - (b) A statement that the applicant agrees to abide by the Rules of Association.
  - (c) The signature of the senior office bearer, executive officer, or similar of the organisation seeking membership.
- (2) Must be lodged with the Secretary at the registered address of the Association.

An application for membership does not include an entrance fee.

## **12. Consideration of application**

As soon as possible after receiving a nomination, the Secretary must refer the nomination to the Committee, and the Committee must determine whether to approve or reject the nomination.

## **13. New membership**

As soon as possible after approval of membership as provided in Rules 11 and 12, the Secretary must enter the member's name in the register of members.

## **14. Annual subscription**

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

## **15. 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 a general meeting; 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.

## **16. Rights not transferable**

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

- (1) Can not be transferred to another organisation or person; and
- (2) Terminates with the end of their membership whether by dissolution of the member organisation or resignation or otherwise.



- (3) Notwithstanding sub-clauses (1) and (2) of this clause, any new organisation which is the natural successor of a previous member will have automatic membership of the Association and will have the rights, privileges, and obligations of its predecessor/s.

### **17. 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. At the end of that period of notice, the member will cease to be a member.

### **18. Ceasing membership**

- (1) Membership ceases on resignation or expulsion (see Rule 20).  
(2) If an organisation ceases to be a member of the Association, the Secretary must, as soon as possible, enter the date the organisation ceased to be a member in the register of members.

### **19. Register of members**

- (1) The Secretary must keep and maintain a register of members with the name, address, and membership start date of each member.  
(2) Any member may, at a reasonable time and free of charge, inspect the register of members.

## **DIVISION 2 – DISCIPLINARY ACTION**

### **20. Expulsion or suspension of a 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:
    - (i) has refused or neglected to comply with these Rules, or
    - (ii) 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, the expulsion 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 must, as soon as possible, serve the member with 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 q:

- (i) Be represented at that meeting,
  - (ii) Give a written statement seeking the revocation of the resolution to the Committee before the date of that meeting, 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 against the resolution at a general meeting.
- (4) At a meeting of the Committee held in accordance with sub-clause (2), the Committee:
  - (a) Will give the member an opportunity to be heard,
  - (b) Will consider any written statement submitted by the member, and
  - (c) Will by resolution determine whether to confirm or to revoke the resolution.
- (5) Where the Secretary receives a notice under sub-clause (3) (d) (ii), they must notify the Committee and the Committee will 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 will be transacted,
  - (b) The Committee will present details of the grounds for the resolution and the reasons for the passing of the resolution,
  - (c) the member will be given an opportunity to be heard, and
  - (d) the Committee will 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 quarters of the members' representatives vote 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

### 21. Application

The grievance procedure set out in these Rules applies to disputes under these Rules between:

- (1) A member and another member, or
- (2) A member and the Association.

### 22. 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 the parties.

### 23. Appointment of a 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 independent and:
  - (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) Any cost for the mediation process will be borne equally between the disputing parties.

#### **24. 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 time for all parties to review any written statement submitted by any party, and
  - (c) Ensure that natural justice is given to the parties to the dispute throughout the mediation process.
- (3) The mediator must not determine the dispute.

#### **25. Failure to resolve the 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.

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### **PART 4 – GENERAL MEETINGS OF THE ASSOCIATION**

#### **26. Annual General Meetings**

- (1) The Committee must convene an Annual General Meeting of the Association to be held within five months of the end of each financial year.
- (2) The date of the Annual General Meeting will be determined by the Committee.
- (3) The Annual General Meeting must be specified as such in the notice convening it.
- (4) Members will be provided with notice of the Annual General Meeting no less than 21 days prior to the date.
- (5) The ordinary business of the Annual General Meeting will be:
  - (a) To confirm the minutes of the last preceding Annual General Meeting.
  - (b) To receive from the Officer Bearers reports about the activities and transactions of the Association during the last previous financial year.
  - (c) To receive the financial statements of the Association for the previous financial year submitted by the Committee in accordance with Part 7 of the Act.
  - (d) To elect the Officer Bearers and appoint the ordinary members of the Committee.
- (6) The Annual General Meeting may transact special business of which notice is given in accordance with these Rules.
- (7) The Annual General Meeting must be in addition to any other general meetings that may be held in the same year.

## **27. Special General Meetings**

- (1) The Committee may convene a Special General Meeting of the Association whenever one is required.
- (2) Where there is more than a 15-month gap between Annual General Meetings, the Committee will convene a Special General Meeting before the end of that period. This does not apply to a situation where sub-clause 28(2) applies.

## **28. Special General Meeting held at the request of members**

- (1) A request for a Special General Meeting will state the purpose/s of the meeting, be signed by the member/s making the request and be sent to the address of the Secretary. It may consist of several documents, each signed by one or more of the members making the request.
- (2) The Committee will, at the request of any one member of the Association, in writing, convene a Special General Meeting of the Association.
- (3) If the Committee does not convene a Special General Meeting within one month after the date on which the request is sent to the address of the Secretary, the member or members making the request may convene a Special General Meeting to be held not later than three months after that date.
- (4) A Special General Meeting convened by a member or members in accordance with these Rules, will be convened in the same way as meetings convened by the Committee. All reasonable expenses incurred in convening the meeting will be refunded by the Association to the person or persons who have incurred the expenses (so long as they are consistent with costs expended at a General Meeting).

## **29. Notice of General Meeting**

Members will be provided with notice of a General Meeting of the Association no less than 14 days prior to the date of the meeting. The Secretary of the Association will organise a notice to be sent to each member of the Association, by post, email, or the address that appears in the Register of Members. The notice will state the place, date, and time of the meeting, and include any notices of motion and/or a statement of the nature of the business to be transacted at the meeting.

## **30. Meeting Chairperson**

- (1) The President, or in their absence, one of the Vice Presidents, will preside as Chairperson at each meeting.
- (2) If the President and the Vice Presidents are absent from a meeting the representatives of members present will elect a member representative to act as Chairperson at the meeting.

## **31. Proxies**

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

### **32. Use of technology**

- (1) Member representatives not able to be physically present at a General Meeting may be permitted to participate in the meeting using technology, as long as the technology allows that member representative, and the member representatives present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purpose of this Part, a member representative 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) A request by any person attending any meeting of the Association, including its subcommittees to record by electronic means any or all part of the meeting, will be determined by a vote of the member representatives present at the meeting, as a first order of business.

### **33. Quorum at General Meetings**

- (1) No item of business will be transacted at a Special General Meeting, Annual General Meeting, or Committee of Management meeting unless a quorum of member representatives entitled under these Rules to vote is present during the time when the meeting is considering that item.
- (2) The number of member representatives (as provided in Rule 41) that constitutes a quorum of a Special General Meeting, Annual General Meeting, or meeting of the Committee of Management, will be equal to the number of organisations that are members of the Association with at least half of the members represented.
- (3) If within half an hour after the appointed time for the start of a General Meeting, Annual General Meeting, or Committee of Management meeting, a quorum is not present, the meeting will be adjourned to a date not more than 21 days after the original meeting date (except where sub-clause (4) applies).
- (4) If the meeting was convened at the request of a member/s and a quorum is not reached within half an hour after the appointed start time, the meeting will be dissolved.
- (5) If, at the adjourned meeting (sub-clause (3)) the quorum is not present within half an hour after the appointed meeting start time, the member representatives present will be a quorum if there are five or more member representatives present.
- (6) Subject to sub-clauses (2), (3), and (4) the Committee may act notwithstanding any vacancy on the Committee.

### **34. Adjournment of a 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. The only business transacted at an adjourned meeting is 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 notice similar to that of the General Meeting, will be given for the adjourned meeting.
- (3) Except as provided in sub-clauses (1) and (2) it is not necessary to give notice of an adjournment or the business to be transacted at the adjourned meeting.

### **35. Voting at a General Meeting**

- (1) Any question arising at a General Meeting may be subject to a vote of members. Each member organisation 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 will be made personally by member representatives or by proxy (Rule 31).
- (3) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

### **36. Special Resolutions**

A Special Resolution is passed if a minimum of three quarters of the member 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 (member representative) from office.
- (b) To alter these Rules, including changing the name or any of the purposes of the Association.

### **37. Determining whether a resolution is carried**

- (1) A question arising at a General Meeting will be determined on a show of hands. A declaration will be made 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. An entry will be made in the meeting minutes as evidence of the result. The number of votes recorded in favour of, or against, that resolution will not be noted.
- (2) In the case of an equal number of votes being cast on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.

### **38. Minutes of General Meetings**

- (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 resolutions on which a vote is taken, and the result of the vote.
- (3) In addition, the minutes of each Annual General Meeting must include all of the following:
  - (a) The names of the member representatives attending the meeting.
  - (b) Proxy forms given to the Secretary under Rule 31.
  - (c) The financial statements submitted to the members.
  - (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.
  - (e) Any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

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## PART 5 – COMMITTEE OF MANAGEMENT

### DIVISION 1 – POWERS OF THE COMMITTEE

#### 39. 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 of the Act require to be exercised by general meetings of the members of the Association.
- (3) The Committee may:
  - (a) Appoint and remove the Chief Executive Officer.
  - (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.

#### 40. 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 THE COMMITTEE AND DUTIES OF MEMBERS

#### 41. Composition of the Committee

The Committee will consist of ordinary members, being:

- (a) Two representatives from each of the following:
  - (i) City of Darebin
  - (ii) City of Hume
  - (iii) City of Merri-bek
  - (iv) City of Whittlesea
  - (v) City of Yarra
  - (vi) Mitchell Shire Council
- (b) Six representatives from the Friends of Merri Creek Inc.
- (c) One representative from Wallan Environment Group Inc.
- (d) One representative from each other member which is admitted to membership.

In the interpretation of this clause the expression “representative” means and includes the representative’s nominated substitute (and has the meaning of member representative in Rule 5. Each member will provide the details of their representatives to the Secretary.

The Friends of Merri Creek Inc. will nominate up to six people to form a panel of substitutes and provide their details to the Secretary. Substitutes will be appointed at the Annual General Meeting of the Association each year.

#### **42. General duties**

- (1) As soon as possible 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: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 by resolution at a General Meeting.

#### **43. Term of office**

- (1) Each ordinary member of the Committee will, subject to these rules, hold office until the next Annual General Meeting after the date of their election. They are eligible for reappointment.
- (2) In the event of a casual vacancy occurring for an ordinary member of the Committee, the relevant member may appoint a new representative to fill the vacancy. That representative will hold office, subject to these Rules, until the conclusion of the next Annual General Meeting following the date of their appointment.

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

- (1) For the purposes of these Rules, the position of a member representative becomes vacant if that member representative:
  - (a) Ceases to be a representative of a member of the Association,



- (b) Becomes an insolvent under administration,
  - (c) Resigns their position by notice in writing given to the Secretary, or
  - (d) Ceases to attend three consecutive meetings without a leave of absence.
- (2) Where a member representative position becomes vacant under Rule 44(1), the member will nominate a new representative who will be appointed at the next scheduled General Meeting.
- (3) The Association, in a General Meeting, may, by resolution, remove any representative on the Committee before the end of their term of office and request the member organisation to appoint another person to the position until the end date of the term of the former representative on the Committee.
- (4) Where the member of the Committee to whom a proposed resolution referred to in sub-clause (3) makes written representations to the Secretary or President and requests that members of the Association be notified, the Secretary or President may either:
- (a) Send a copy of the representations to each member, or
  - (b) Read those representations out at the next Committee meeting.

#### **45. Subcommittees**

- (1) The Committee of Management may by resolution form standing or temporary subcommittees, which may consist of Committee members but may include members co-opted from other organisations.
- (2) At the time of forming a subcommittee, the Committee must by resolution establish:
- (a) Membership of the subcommittee
  - (b) Purpose or objectives of the subcommittee
  - (c) Quorum of the subcommittee`
  - (d) Lifespan of the subcommittee
- (3) The Committee may by resolution alter any matter referred to in sub-clause (2).
- (4) The Office Bearers will form a permanent standing subcommittee to be called the Executive Subcommittee.

### **DIVISION 3 – OFFICE BEARERS**

#### **46. Office Bearers of the Association**

- (1) The Office Bearers of the Association will be:
- (a) A President
  - (b) Two Vice Presidents
  - (c) A Treasurer
  - (d) A Secretary

each elected in accordance with these Rules.

- (2) Each Office Bearer of the Association will hold their position 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 Bearer position referred to in sub-clause (1), the Committee may appoint one of its ordinary members to the vacant position. The appointed member may continue in the Office Bearer position up to

and including the conclusion of the Annual General Meeting next following the date of their appointment.

- (4) Every change made to the Office Bearer positions must be notified to the Registrar, Australian Charities and Not-for-profit Commission, Australian Taxation Office, and Australia Business Register.

#### **47. Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporation 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 19, and
- (b) Keep custody of the common seal of the Association and, except for the financial records referred to in Rule 57(3), all records of the Association in accordance with Rule 63, 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 records and documents, and
- (d) perform any other duty or function imposed on the Secretary by these Rules.

- (3) The Secretary must give notice of their appointment within 14 days after the appointment, to the Registrar.

#### **48. 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) Will ensure that all monies received are paid into the account of the Association.
- (c) Will ensure that any payments are made that have been authorised by the Committee, or by a person delegated to authorise payments specified under Rule 40, or by a General Meeting of the Association, from the Association's funds.
- (d) Will ensure electronic payments are 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 40.

- (2) The Treasurer must:

- (a) ensure that the financial records of the Association are kept in accordance with the Act.
- (b) Coordinate 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.

#### **49. Election of Office Bearers**

- (1) The ballot for the election of Office Bearers of the Association will be conducted at the Annual General Meeting of the Association as directed by the Committee.
- (2) Nominations of candidates for election as Office Bearers of the Association:
  - (a) Will be made in writing, signed by two members of the Committee along with the written consent of the candidate (which may be endorsed on the form of nomination), and
  - (b) Will be delivered to the Secretary of the Association at least seven days before the date set for the Annual General Meeting.
- (3) If insufficient nominations are received to fill all Office Bearer positions, the candidates nominated will be deemed to be elected. Further nominations for the vacant positions will 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 will be deemed to be elected.
- (5) If the number of nominations received is equal to the number of vacancies to be filled, a ballot will be held.
- (6) If at any election for the position of President there is an equal number of votes per nominee the decision to elect a President will be decided by lot (for example, drawing a name from a box).
- (7) Candidates can only nominate for one Office Bearer positions.

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

#### **50. Meetings of the Committee**

The Committee will meet at least four times per calendar year. The Committee will determine the time and place of each meeting.

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

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

#### **52. 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.
  - (c)

**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.

### 53. Voting

- (1) On any question arising at a committee meeting, each member representative present at the meeting has one vote.
- (2) A motion is carried if a majority of member representatives 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.

### 54. Minutes of the meeting

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record:
  - (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 52.

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## PART 6 – FINANCIAL MATTERS

### 55. Sources of funds

Finance will be obtained from donations, grants, philanthropic sources, voluntary contributions from member organisations, fundraising efforts, trading, and other approved means.

### 56. 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 electronic payments must be authorised by at least two people who are:
  - (a) Committee members, or
  - (b) Other persons authorised by the Committee to confirm any payments specified by the Committee under Rule 40.
- (3) The Committee may by resolution appoint a member of staff as co-authoriser of electronic payments, and other negotiable instruments.

### 57. 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 seven years after the transaction covered by the records are completed.
- (3) The Treasurer must keep in their custody, or under their control:
  - (a) The financial records for the current financial year, and
  - (b) Any other financial records as authorised by the Committee.

## **58. Financial statements**

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to 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 lodgment with the ACNC of the financial statements and accompanying reports, certificates, statements, and fee.

## **59. Audit**

The Auditor appointed by the Association will be a member of a recognised institute of accountants. The Association's books of account will be audited every financial year of the Association's legal existence, in accordance with approved practice and guidelines, or as otherwise required by clause 99 of the Act.

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# **PART 7 – GIFT FUND**

## **60. 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 and schedule 3 of the Treasury Laws Amendment Bill 2023.
- (2) The Fund will be used only to support the Merri Creek Management Committee Inc.'s environmental purpose.
- (3) Members of the general public can make gifts of money or property to the Fund for the environmental purpose 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 organisation 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 purpose 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 three 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 Association, or if the endorsement of the organisation as a Deductible Gift Recipient is revoked, any surplus assets of the Fund are to be transferred to another fund with similar objectives that holds a current Deductible Gift Recipient status, and which is charitable at law.
  - (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 Management Environment Fund Subcommittee apart from proper remuneration for administrative purposes.
  - (12) Any changes to the membership of the Merri Creek Management Committee Executive Subcommittee will be advised to the Registrar of the Australian Business Register, the Australian Charities and Not-for-profits Commission and Consumer Affairs Victoria 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 Australian Charities and Not-for-profits Commission and Consumer Affairs Victoria within a reasonable time following the making of the changes.
  - (14) Merri Creek Management Committee agrees to comply with any rules that the Australian Taxation Office and the Australian Charities and Not-for-profits Commission may make to ensure that gifts made to the Fund are only used for its purpose.
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## PART 8 – GENERAL MATTERS

### 61. Common seal

- (1) The Common Seal of the Association will be kept in the custody of the Secretary.
- (2) The Common Seal will not be affixed to any instrument without the authority of the Committee. Affixing the Common Seal will be certified by two members of the Committee signing, or one member of the Committee and of the Secretary of the Association signing.

## **62. 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 will, unless proved otherwise, 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.

## **63. Custody and inspection of 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, 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 the purposes of this rule, relevant documents mean 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 members records,
  - (b) Its financial statements,
  - (c) Its financial records,
  - (d) Records and documents relating to transactions, dealings, business, or property of the Association.

## **64. 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.

## **65. Alteration of Rules**

These Rules may only be altered by Special Resolution of a General Meeting of the Association.