



*For the community*

**Mt Barker & District  
Residents' Association  
Incorporated  
Constitution  
February 2022**

## 1 NAME

The name of the incorporated Association is **Mt Barker & District Residents' Association Incorporated** referred to herein as 'the Association'.

## 2 DEFINITIONS

'Executive' means the committee of management of the Association

'General Meeting' means a general meeting of members of the Association convened in accordance with these rules

'member' means a member of the Association

'the Act' means the Associations Incorporation Act 1985

'special resolution' means a special resolution defined in the Act

'month' shall mean a calendar month

'Elected member' means an elected representative to either the Mount Barker District Council, South Australian Parliament or Australian Federal Parliament

## 3 OBJECTS OR PURPOSES OF THE ASSOCIATION

- 3.1 To provide a forum for residents of the Mount Barker District to express their views and interests on matters relating to the physical and social environment of the Mount Barker District.
- 3.2 To be concerned with preserving and promoting desirable historical, social, environmental, and cultural features of the Mount Barker District.
- 3.3 To review those activities and policies of public, statutory and private organisations which affect the Mount Barker District.
- 3.4 To support and cooperate with other organisations whose aims and activities are compatible with those of the Association.
- 3.5 To represent the views and interests of the residents of the Mount Barker District before public, statutory and private organisations on matters which affect the residents of the Mount Barker District.
- 3.6 To do any other lawful acts as may be incidental or conducive to the attainment of these objects of the Association.

## 4 POWERS OF THE ASSOCIATION

The Association shall have all the powers conferred by section 25 of the Act.

## 5 MEMBERSHIP

Membership of the association shall be open to persons

- a. who are eighteen years of age or older,
- b. who support the objects of the association and agree to be bound by its rules,
- c. who are not an Elected member except where paragraph 5.1.3 applies,
- d. have paid the prescribed membership fee as determined by each Annual General Meeting,
- e. who reside within the Mount Barker District Council area and are not an Elected member. For the purposes of membership, the area of the Mount Barker District Council shall be defined as that area for which the Mount Barker District Council is at that time administratively responsible,
- f. The application for membership shall be made in writing and signed by the applicant. Applications for membership shall be ratified by the members at any General Meeting where that meeting is quorate.

### 5.1 Types

#### 5.1.1 Full member will:

- a. have the right to address all General Meetings,
- b. stand for Executive positions and
- c. have full voting rights.

#### 5.1.2 Concessional membership

Applies to members who hold an Australian Pension Concession Card or Seniors Card. Concessional members have all rights as for full members of the association.

5.1.3 Members who become an Elected member will have their membership suspended until such time as they are no longer an Elected member, except where the Elected member has been a member of the association for two or more consecutive years immediately prior to becoming an Elected member.

#### 5.1.4 Life Membership

- a. An ordinary member may be appointed as a Life Member after at least ten years of continuous service and outstanding contribution and service to the Association.
- b. Any member may propose to Executive another member for Life Membership.
- c. Life Members will be recommended by the Executive to an Annual General Meeting or at another General Meeting or Special General Meeting as agreed by the Executive.
- d. Life Members will be entitled to all the privileges of full membership without payment of the annual subscription.

5.1.5 A member shall be a natural person over eighteen years of age.

### 5.2 Subscriptions

5.2.1 The subscription fees for membership shall be such sum (if any) as the members shall determine from time to time in a General Meeting.

- 5.2.2 The subscription fees shall be payable annually after 1 January or at a time that the committee determines
- 5.2.3 Any member whose subscription is outstanding for more than four months after the due date for payment shall cease to be a member of the Association, provided always that the committee may reinstate such a person's membership on such terms as it thinks fit.
- 5.2.4 Resignation

A member may resign from membership of the Association by giving written or email notice to the Secretary of the Association. Any resigning member shall be liable for any outstanding debts which may be recovered as a debt due to the Association.

### 5.3 Suspension of a member

#### 5.3.1 Members may be suspended:

- a. By a two-thirds majority or more vote at an Executive Committee meeting after consideration of evidence that the member has actively worked against the objects of the Association.
- b. The suspended member shall then be informed in writing within seven (7) days of the suspension.
- c. Notice of consideration of and giving reasons for, the proposed suspension shall be communicated to the member at least twenty-eight (28) days before the Executive Committee Meeting at which the matter will be determined.
- d. Any suspended member may apply in writing within fourteen (14) days of being suspended for the suspension to be reconsidered at the next General Meeting. Suspended members not so applying within the specified time will be considered to have been expelled from the Association.
- e. The Association shall not be required to accept the renewal of membership of a suspended member when renewal falls due, except by a not less than two-thirds majority vote at a General Meeting.

### 5.4 Register of members

#### 5.4.1 A register (electronic or hard copy) of members must be kept and contain:

- 5.4.2 the name and address of each member,
- 5.4.3 the date on which each member was admitted to the Association, and
- 5.4.4 if applicable, the date of and reason(s) for termination of membership.

## 6 THE EXECUTIVE

### 6.1 Powers and duties

- 6.1.1 The decision-making and management of the Association shall be vested in the members of the Association, who by means of General Meetings shall have the final say in these matters.
  - a. The members of the Association will delegate these powers to the Executive elected from amongst the Associations' eligible members at its Annual General Meeting.

- b. The affairs of the Association shall be managed and controlled by the Executive which, in addition to any powers and authorities conferred by these rules, may exercise all such powers and do all such things as are within the objects of the Association, and are not by the Act or by these rules required to be done by the Association in a General Meeting.
- c. The Executive has the management and control of the funds and other property of the Association.
- d. The Executive shall have authority to interpret the meaning of these rules and any other matter relating to the affairs of the Association on which these rules are silent.
- e. The Executive shall appoint a Public Officer as required by the Act.

## 6.2 Appointment

- 6.2.1 The Executive shall be comprised not less than four and not more than seven **members** including the Chairperson, Secretary and Treasurer.
- 6.2.2 The Office Bearers of the Association shall be the Chairperson, Secretary and Treasurer, who shall be elected by the members at the Annual General Meeting prior to the election of the remainder of the Executive members.
- 6.2.3 Failing such election, the office bearers shall be chosen by the Executive from its members at an Executive meeting held within two weeks following the Annual General Meeting.
- 6.2.4 Executive members elected shall hold this position until the next Annual General Meeting. Any vacancy occurring during that term may be filled by a member appointed by the Executive until such time as the next General Meeting of members is due to ratify or over-rule such appointment.
- 6.2.5 Retiring members of the Executive shall be eligible for subsequent re-election.

## 6.3 Proceedings of Executive

- 6.3.1 The Executive shall meet for the dispatch of business at least every second month or at any other time as agreed by a majority of the Executive.
- 6.3.2 Questions arising at any meeting of the Executive shall be decided by consensus and if consensus cannot be reached, then by a majority of votes. In the event of equality of votes the matter shall be determined by a Special General Meeting or General Meeting.
- 6.3.3 A quorum for a meeting of the Executive shall be one half of the members of the Executive.
- 6.3.4 A member of the Executive having a direct or indirect pecuniary interest in a contract or proposed contract with the Association must disclose the nature and extent of that interest to the Executive as required by the Act and shall not vote with respect to that contract or proposed contract. The member of the Executive must disclose the nature and extent of his or her interest in the contract at the next General Meeting of the Association.
- 6.3.5 Executive members shall upon election or nomination become members in their own right and shall not in their capacity as Executive members act as representative of another organisation.

- 6.3.6 No office bearer shall hold the same office for more than three successive years unless special leave to do so is given at the Annual General Meeting.
- 6.3.7 No member of the Association shall represent the Association in any capacity, nor speak on its behalf without the prior approval of the Executive.
- 6.3.8 Disqualification of Executive members

- 6.4 The office of an Executive member shall become vacant if an Executive member is:
  - a. disqualified from being an Executive member by the Act;
  - b. suspended as a member under these rules;
  - c. permanently incapacitated by ill health;
  - d. Absence for three consecutive Executive meetings without explanation acceptable to the Executive; or
  - e. submits their resignation in writing (electronic or hard copy) to the Executive

## 7 THE SEAL

The Association shall have a common seal upon which its corporate name shall appear in legible characters.

The seal shall not be used without the express authorisation of the Executive, and every use of the seal shall be recorded in the minutes of the Association. The affixing of the seal shall be witnessed by the Chairperson and the Secretary.

## 8 GENERAL MEETINGS

- 8.1 Annual General Meetings
  - 8.1.1 The committee shall call an Annual General Meeting in accordance with the Act and these rules. Such Annual General Meeting shall be held between February and April each calendar year on a date nominated by the Executive to be the most appropriate in the then current circumstances.
  - 8.1.2 Subject to 8.1.1 at least 21 days notice of any Annual General Meeting shall be given to members. The notice shall set out where and when the meeting will be held.
  - 8.1.3 A notice may be given by the Association to any member by:
    - a. serving the member with the notice personally; or
    - b. by sending it by post to the address appearing in the register of members (See rule 5.5.); or
    - c. by emailing the notice to the member's email address provided in the register of members
    - d. and by placement of an advertisement in the Public Notices of a local newspaper.
  - 8.1.4 Either ten (10) members or two thirds (2/3) of eligible members, whichever is less present personally or by proxy shall constitute a quorum for the transaction of business at any Annual General Meeting.
  - 8.1.5 The order of the business at the Annual General Meeting shall be:

- a. the confirmation of the minutes of the previous Annual General Meeting and of any Special General Meeting held since that meeting.
- b. the consideration of the accounts and reports of the Executive and the auditor's report (if an auditor's report is required).
- c. the election of Executive members.
- d. the appointment of auditors (not required- see rule 11.5 in template Constitution).
- e. to conduct any other business that is on the agenda.
- f. voting shall be show of hands except any contested election shall be by secret ballot.

8.1.6 An ordinary resolution is a resolution passed by a simple majority of fifty percent (50%) plus one (1) at an Annual General Meeting.

## 8.2 Special General Meeting

8.2.1 The Executive may call a Special General Meeting of the Association at any time.

8.2.2 Either ten (10) members or two thirds (2/3) of eligible members, whichever is less present personally or by proxy shall constitute a quorum for the transaction of business at any Special General Meeting.

8.2.3 Upon a requisition in writing of not less than 5 members or 10% of the total number of members of the Association, whichever is the most, the committee shall, within one month of the receipt of the requisition, convene a Special General Meeting for the purpose specified in the requisition.

8.2.4 Every requisition for a Special General Meeting shall be signed by the relevant members and shall state the purpose of the meeting.

8.2.5 If a Special General Meeting is not convened within twenty-eight (28) days of receipt of requisition, as required by 8.2.3 above, the requisitionists, or at least 50% of their number, may convene a Special General Meeting. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the committee, and for this purpose the committee shall ensure that the requisitionists are supplied free of charge with particulars of the members entitled to receive a notice of meeting.

8.2.6 An ordinary resolution is a resolution passed by a simple majority of fifty percent (50%) plus one (1) at a Special General Meeting.

8.2.7 The reasonable expenses of convening and conducting such a meeting shall be borne by the Association.

## 8.3 Notice of General Meetings

8.3.1 Subject to 8.3.2, at least 14 days' notice of any General Meeting shall be given to members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.

8.3.2 Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.

8.3.3 A notice may be given by the Association to any member by

- a. serving the member with the notice personally, or
- b. by sending it by post to the address appearing in the register of members (See rule 5.4.), or

- c. by emailing the notice to the member's email address provided in the register of members.

8.3.4 Where a notice is sent by post:

- a. the service is effected by properly addressing, prepaying and posting a letter or packet containing the notice, and
- b. unless the contrary is proved, service will be taken to have been effected at the date and time at which the letter or packet would be delivered in the ordinary course of post

8.3.5 Where a notice is sent by email:

- a. the service is effected by properly addressing and sending the email or attachment containing the notice, and
- b. unless the contrary is proved, service will be taken to have been effected at the date and time at which the email was sent.

8.3.6 There shall be at least four (4) general meetings per annum, one of which may coincide with the Annual General Meeting.

8.4 Proceedings at General Meetings

8.4.1 Either ten (10) members or two thirds (2/3) of eligible members, whichever is less present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.

8.4.2 If at any General Meeting there is no quorum present within thirty (30) minutes of the time appointed for the meeting then the meeting can proceed, but no major decisions shall be taken. For decisions on major matters, the meeting can be adjourned for seven (7) days and a further meeting held and if no quorum is present at that further meeting, the meeting shall proceed, those present being a quorum.

8.4.3 Subject to 8.4.4, the Chairperson shall preside as Chairperson at a General Meeting of the Association.

8.4.4 If the Chairperson is not present within an agreed time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the members may choose an Executive member or one of their own number to be the Chairperson of that meeting.

8.5 Voting at General Meetings

8.5.1 Subject to these rules, every member of the Association has only one vote at any meeting of the Association.

8.5.2 Subject to these rules, a question for decision at a General Meeting, other than a special resolution, must be determined by a majority of members where each member attending may vote and where proxies are held, at that meeting.

8.5.3 Written or verbal proxy votes must either specify the member's intentions on particular items of business or delegate their vote to a particular person to vote on their behalf.

8.5.4 Unless a poll is demanded by at least five members, a question for decision at a General Meeting must be determined by a show of hands.

8.6 Poll at General Meetings



- 8.6.1 If a poll is demanded by at least five members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- 8.6.2 A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

## 8.7 Special and ordinary resolutions

- 8.7.1 A special resolution is that as defined in Section 3 of the Act.
  - a. Where the rules of the Association provide for the membership of the Association—a resolution passed at a duly convened meeting of the members of the Association if:
  - b. at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all members of the Association; and
  - c. it is passed at a meeting referred to in this paragraph by a majority of not less than three-quarters of such members of the Association as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at that meeting
  - d. An ordinary resolution is a resolution passed by a simple majority of fifty percent (50%) plus one (1) at a General Meeting.

- 8.7.2 At any General Meeting of the Association a resolution shall be carried by a simple majority of fifty percent (50%) plus one of those members votes eligible to be counted at the meeting. The only exceptions to this shall be where a two-thirds (2/3) majority is required by this constitution.

## 8.7.3 Special and ordinary resolutions

- a. A special resolution as defined in the Act.
- b. An ordinary resolution is a resolution passed by a simple majority at a General Meeting.

## 8.8 Proxies

- 8.8.1 A member shall be entitled to appoint a natural person who is also a member of the Association to be their proxy and attend and vote at any General Meeting of the Association.

## 9 MINUTES

- 9.1.1 Proper minutes of all proceedings of General Meetings of the Association shall be filed within one month after the relevant meeting in hard copy or electronic format kept for the purpose.
- 9.1.2 The minutes kept pursuant to this rule must be confirmed by the members of the Association at a subsequent meeting.
- 9.1.3 The hard copy minutes (if held) kept pursuant to this rule shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting at which the minutes are confirmed. An electronic signature may be used on an electronic version.

- 9.1.4 Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

## 10 DISPUTE RESOLUTION

- 10.1 The dispute resolution 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.
- 10.1.1 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.
- 10.1.2 If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- 10.1.3 In this rule 'member' includes any person who was a member not more than six months before the dispute occurred.
- 10.1.4 Section 40 of the Act provides that where the committee exercises any power of adjudication in relation to a dispute between the members, or a dispute between itself and member of the Association, the rules of natural justice must be observed.
- 10.1.5 Section 61 of the Act provides that an application to the Court for an order under the section may be made by a member of an incorporated Association or by a former member expelled from the Association (provided that the application is made within six months of the expulsion), who believes that the affairs of the Association are being conducted in a manner that is oppressive or unreasonable.

## 11 FINANCIAL REPORTING

- 11.1 Financial year  
The financial year of the Association shall be the period commencing on 1 January and ending on 30 December of each year.
- 11.2 Accounts to be kept  
The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act (Refer to regulation 8 of the Associations Regulations).
- 11.3 Accounts and reports to be presented to members  
The accounts, the committee's financial statement and the committee's report, shall be presented to members at the Annual General Meeting. (Refer to section 35(6) of the Act) of rules for an Incorporated Association.

## 12 PROHIBITION AGAINST SECURING PROFITS FOR MEMBERS

The income and capital of the Association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the Association.

## 13 WINDING UP

13.1 The Association may be wound up in the manner provided for in the Act.

13.1.1 The Association shall not be wound up and dissolved except by approval of not less than three quarters (3/4) majority of members present and voting at a Special General Meeting of members called specifically and solely for that purpose of which not less than twenty-eight (28) days written notice including notice of the proposed dissolution has been distributed to all members

13.1.2 In the event of the Association being wound up and dissolved all assets remaining after payment of all legal liabilities shall be transferred to such other local body formed for promoting similar objects or for charitable objects as shall be approved by the Association at that Special General Meeting provided that:

- a. such other body shall also prohibit the distribution of income and property to the members to the extent stated herein;
- b. if the Association shall have been approved pursuant to Section 78(1) of the Income Tax Assessment Act then such other body shall also be so approved

## 14 APPLICATION OF SURPLUS ASSETS

If after the winding up of the Association there remains 'surplus assets' as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members. The Association may determine to distribute surplus assets to nominated charities.

Such organisation or organisations shall be identified and determined by a resolution of members in a general meeting.

## 15 RULES

The Constitution, Rules and by-laws of the Association shall be kept by the Secretary and every member shall be entitled to a copy thereof and shall be considered to have assented to and agreed to be bound by them.

This Constitution may be repealed or amended by resolution of two-thirds (2/3) majority of members present and voting at a General Meeting of which not less than seven (7) days' written notice including notice of the proposed repeal or amendment has been distributed to all members.

Rules for the proper administration of meeting or business may be made, repealed or amended by a General Meeting (or by an Executive Meeting subject to consequent disallowance at a General Meeting), provided not less than seven (7) days' written notice including notice of the proposed new rule, repeal or amendment has been distributed to all members. The Secretary shall keep a register of the rules.

The alteration shall be registered with the Office of Consumer and Business Services, South Australian Government, as required by the Act.

The registered rules shall bind the Association and every member to the same extent as if they have respectively signed and sealed them and agreed to be bound by all the provisions thereof.

The Act provides that an alteration to a rule may be made by special resolution of the Association unless other provision is made in the rules.

Note requirements of Section 24(6) and 24(7):

Subject to any provision in the rules or a resolution to the contrary, an alteration to the rules comes into force at the time that the alteration is passed. This does not apply to an alteration to the name of the Association which does not come into force until registered by the Office of Consumer and Business Affairs, Corporate Affairs Commission.