

Constitution

**Leigh Creek Residents and Ratepayers Association
Incorporated**

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Part – 1 Preliminary

1. Name

The name of the incorporated association is the **Leigh Creek Residents and Ratepayers Association Incorporated**.

2. Definitions

2.1 In this constitution:

Act means the *Associations Incorporation Act 1985 (SA)*;

Association means the Leigh Creek Residents and Ratepayers Association Incorporated;

Books has the meaning given to it in the Act;

Business Day means any day that is not a Saturday, Sunday or public holiday in Adelaide, South Australia;

Corporate Member means a Member that is an incorporated body, or a Member that is an agency or instrumentality of the Crown;

Executive Committee means the committee of management of the Association;

Executive Committee Member means a natural person who is a member of the Executive Committee;

Member means a member of the Association and includes a Corporate Member;

OCA means the Outback Communities Authority established under the OCA Act;

OCA Act means the *Outback Communities (Administration and Management) Act 2009 (SA)*;

Officer has the meaning given to it in the Act;

Prescribed Association means an incorporated association that is prescribed for the purposes of the Act or the *Associations Incorporation Regulations 2008 (SA)*;

Resident of Leigh Creek means a natural person whose principal place of residence is within the township of Leigh Creek; and

Special Resolution has the meaning given to it in rule 29.

2.2 In this constitution, unless a contrary intention appears:

- (a) headings do not affect interpretation;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any gender;

- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it; and
- (e) a reference to a person includes a natural person, corporation, joint venture, association, government body, firm and any other entity.

3. Objects or purposes of the Association

3.1 The objects of the Association are to:

- (a) act as the incorporated body representing the Leigh Creek community for the purposes of section 17(1) of the OCA Act;
- (b) promote the interests of the Leigh Creek community by:
 - (1) identifying, supporting and/or undertaking projects to further the development of the township as a regional hub and tourism destination;
 - (2) working with external organisations to maintain and/or improve community services in the township;
 - (3) providing a forum for residents and ratepayers to discuss issues of concern;
 - (4) encouraging the involvement of the community in local decision-making processes;
 - (5) promoting community spirit;
 - (6) obtaining third-party financial support to support these objects; and
- (c) to do anything else incidental or ancillary to the above objects.

4. Powers of the Association

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

Part 2 – Membership

5. Members

5.1 The rights and privileges of Members include, without limitation:

- (a) the right to receive notices of general meetings and all other documents sent to Members in respect of general meetings;
- (b) the right to attend and speak at general meetings; and
- (c) the right to vote at general meetings.

5.2 A Corporate Member may appoint one natural person as its representative. The details of the representative may be updated by the Corporate Member from time to time by notice in writing to the Association. The Association is not bound to enquire into the currency or validity

of a Corporate Member's appointment of a representative. A Corporate Member's representative generally represents the Corporate Member in its interactions with the Association and may attend, speak and vote at general meetings on the Corporate Member's behalf and is eligible for appointment to the Executive Committee.

- 5.3 The details of all Members will be kept on the Association's register of members in accordance with rule 8.

6. Eligibility for membership

6.1 A person who:

- (a) is at least 18 years of age and is a Resident of Leigh Creek;
- (b) owns real property within the township of Leigh Creek; or
- (c) operates a business from premises within the township of Leigh Creek,

may apply for membership of the Association.

6.2 An application for membership of the Association must be:

- (a) in the form prescribed by the Executive Committee; and
- (b) submitted in writing to the secretary.

6.3 The secretary may within 14 days of receiving an application for membership request such further evidence as is reasonably required to substantiate the applicant's eligibility for membership. Unless agreed otherwise, the information must be provided to the secretary within 14 days of the secretary's request.

6.4 Within 14 days of receiving an application for membership, or within 14 days of receipt of the information provided pursuant to rule 6.3, whichever is later, the secretary must either:

- (a) accept the application and enter an applicant's name on the register of members; or
- (b) notify the applicant that they are not entitled to membership.

6.5 A person dissatisfied with the decision of the secretary may appeal the decision to the Association at a general meeting. The intention to appeal shall be communicated to the secretary or public officer of the Association within 14 days after the determination of the secretary being communicated to the person. The appeal shall be heard at the next annual or special general meeting of the Association.

7. Cessation of membership

7.1 A person ceases to be a Member if:

- (a) the person ceases to qualify as a Member pursuant to rule 6.1;
- (b) the persons resigns as a Member; or

- (c) the Executive Committee resolves to expel the Member on a charge of misconduct detrimental to the interests of the Association.

Resignation of Member

- 7.2 The resignation of a Member shall take effect upon receipt of the resignation notice by the Association.
- 7.3 The secretary or public officer of the Association must record the resignation of any Member in the register of members.

Expulsion of Member

- 7.4 Subject to giving a Member an opportunity to be heard or to make a written submission, the Executive Committee may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Association.
- 7.5 Particulars of the charge shall be communicated to the Member at least one month before the meeting of the Executive Committee at which the matter will be determined.
- 7.6 The determination of the Executive Committee shall be communicated to the Member, and in the event of an adverse determination the Member shall, subject to rule 7.7, cease to be a Member 14 days after the Executive Committee has communicated its determination to the Member.
- 7.7 It shall be open to a Member to appeal the expulsion to the Association at a general meeting. The intention to appeal shall be communicated to the secretary or public officer of the Association within 14 days after the determination of the Executive Committee has been communicated to the Member. The appeal shall be heard at the next annual or special general meeting of the Association.
- 7.8 In the event of an appeal under rule 7.7, the appellant's membership of the Association shall not be terminated unless the determination of the Executive Committee to expel the Member is upheld by the Members in a general meeting after the appellant has been heard by the Members, and in such event the appellant's membership will be terminated at the date of the general meeting at which the determination of the Executive Committee is upheld.

8. Register of members

- 8.1 The Executive Committee must keep a register of members of the Association.
- 8.2 The register must include the following particulars for each Member:
 - (a) the full name of the Member;
 - (b) the postal or residential address of the Member;
 - (c) the email address of each member;
 - (d) the date of admission as a Member; and
 - (e) any other particulars the Executive Committee or the Members at a general meeting decide.

- 8.3 The register must be open for inspection by Members at all reasonable times.
- 8.4 A Member must contact the secretary to arrange an inspection of the register.
- 8.5 However, the Executive Committee may, on the application of a Member, withhold information about the Member (other than the Member's full name) from the register available for inspection if the Executive Committee has reasonable grounds for believing the disclosure of the information would put the Member at risk of harm.

9. Prohibition on use of information on register of members

- 9.1 A Member must not:
- (a) use information obtained from the register of members of the Association to contact, or send material to, another Member for the purpose of advertising for political, religious, charitable or commercial purposes; or
 - (b) disclose information obtained from the register to someone else, knowing that the information is likely to be used to contact, or send material to, another Member for the purpose of advertising for political, religious, charitable or commercial purposes.
- 9.2 Rule 9.1 does not apply if the use or disclosure of the information is approved by the Association.

10. Notice to Members

- 10.1 Notice may be given to a Member:
- (a) personally;
 - (b) by ordinary pre-paid post to the Member's address appearing in the register of members. Notice by post is deemed to be received as the time at which the letter would be delivered in the ordinary course of the post;
 - (c) by facsimile to the facsimile number last notified by the Member. Notice by facsimile is deemed to be received at the time and on the day shown in the sender's transmission report, if it shows that the whole notice was sent to the facsimile number last notified by the Member; or
 - (d) by e-mail to the e-mail address last notified by the Member, if the Member has provided that e-mail address to the Association for the purpose of receiving notices. Notice by e-mail is deemed to be received at the time and on the day shown in the sender's 'sent items' folder, if it shows that the whole notice was sent to the Member's e-mail address and no automatically generated message is subsequently received by the sender that the email was undeliverable or undelivered.
- 10.2 However, if the notice is deemed to be received on a day which is not a Business Day or after 5pm, it is deemed to be received at 9am on the next Business Day.

Part 3 – The Executive Committee

11. Powers and duties of the Executive Committee

- 11.1 The affairs of the Association shall be managed and controlled by the Executive Committee which, in addition to any powers and authorities conferred by this constitution, 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 this constitution required to be done by the Association in general meeting.
- 11.2 The Executive Committee has the management and control of the funds and other property of the Association.
- 11.3 The Executive Committee shall have authority to interpret the meaning of this constitution and any other matter relating to the affairs of the Association on which this constitution is silent.
- 11.4 The Executive Committee may establish sub-committee(s) or advisory bodies for various purposes, consisting of such number of Executive Committee Members and/or Members (being natural persons) or any other person as it thinks fit.
- 11.5 Each Member of the Executive Committee must at all times (while acting in their capacity as an Executive Committee Member):
- (a) act honestly;
 - (b) act with reasonable care and diligence;
 - (c) act in good faith in the best interests of the Association, and for a proper purpose;
 - (d) not make improper use of information acquired by virtue of being an Executive Committee Member so as to gain directly or indirectly any pecuniary or material advantage or benefit for himself or herself or any other person, or to cause detriment to the Association;
 - (e) not make improper use of their position so as to gain directly or indirectly a pecuniary benefit or material advantage or benefit for himself or herself or any other person, or so to cause detriment to the Association;
 - (f) not incur a debt if the Association is insolvent at the time the debt is incurred or becomes insolvent by incurring that debt and immediately before the debt is incurred:
 - (1) there are reasonable grounds to expect that the Association is insolvent; or
 - (2) there are reasonable grounds to expect that, if the Association incurs the debt, the Association will become insolvent; and
 - (g) accept and abide by the rules of this constitution.

12. Composition and appointment of the Executive Committee

- 12.1 The Executive Committee shall comprise a minimum of five and a maximum of nine natural persons. This shall include a chairperson, deputy chairperson, secretary and public officer.

- 12.2 Other than an initial Executive Committee Member holding office upon incorporation of the Association pursuant to rule 12.4, a person is only eligible for appointment to the Executive Committee if the person is a Member or a representative of a Corporate Member.
- 12.3 The secretary or any other Executive Committee Member may also be the public officer.
- 12.4 Each of the initial Executive Committee Members holding office upon incorporation of the Association shall retire at the first general meeting of the Association.
- 12.5 If at any time there are less than five Executive Committee Members, the Executive Committee Members may only act for the purpose of:
- (a) increasing the number of Executive Committee Members to five, pursuant to rule 13.1; or
 - (b) summoning a general meeting of the Members.
- 12.6 Any Executive Committee Member, other than a casual vacancy:
- (a) must only be appointed for a term expiring at an annual general meeting, and that term must not exceed three years; and
 - (b) unless the Executive Committee unanimously agrees in writing to the appointment, must not serve for a consecutive term of more than nine years or a non-consecutive term of more than twelve years.
- 12.7 At each annual general meeting:
- (a) any Executive Committee Member whose term of office is due to expire at the annual general meeting shall retire; and
 - (b) the Members in general meeting must elect new Executive Committee Members to fill any vacancy in the Executive Committee and to replace those retiring.
- 12.8 All retirements and appointments to the Executive Committee pursuant to rule 12.7 shall take effect simultaneously at the end of the annual general meeting.
- 12.9 For the purposes of rule 12.7 and subject to rule 12.6:
- (a) a person is eligible for election as an Executive Committee Member if at least 30 days before the annual general meeting the person submits a nomination for election in the form prescribed by the Executive Committee from time to time;
 - (b) a person whose term of office expires at the annual general meeting is eligible to stand for re-election without nomination.
- 12.10 Notice of persons seeking election and re-election to the Executive Committee shall be given to all Members with the notice calling the meeting at which the election is to take place.

13. Casual vacancies of the Executive Committee

- 13.1 If a casual vacancy happens on the Executive Committee, the continuing Members of the Executive Committee may appoint a Member to fill the vacancy until the next annual general meeting.
- 13.2 Subject to rule 12.5, the continuing Members of the Executive Committee may act despite a casual vacancy on the Executive Committee.
- 13.3 For the avoidance of doubt, an Executive Committee Member appointed to fill a casual vacancy is taken into account for the purposes of determining whether a quorum is present pursuant to rule 17.4.

14. Appointment of office holders of the Executive Committee

- 14.1 The chairperson, vice-chairperson, secretary and public officer shall be Executive Committee Members and shall be elected by simple majority vote by the Executive Committee Members from their number at the first meeting of the Executive Committee following each annual general meeting.
- 14.2 If the role of an office holder becomes vacant, the Executive Committee Members shall elect a replacement from their number by simple majority vote.

15. Chairperson and vice-chairperson

- 15.1 The chairperson shall chair all meetings of the Executive Committee and general meetings.
- 15.2 The chairperson has a personal deliberative vote, and also a casting vote, at both meetings of the Executive Committee and at general meetings.
- 15.3 The vice-chairperson shall act as and have the rights and powers of the chairperson if the chairperson is absent or unable to act for any reason.
- 15.4 If the chairperson and vice-chairperson are absent or unable to act for any reason at a meeting, the Executive Committee Members present must elect one of themselves to chair the meeting.
- 15.5 Other office holders shall undertake such roles as may be determined by the Executive Committee from time to time.

16. Disqualification of Executive Committee Members

- 16.1 An Executive Committee Member ceases to hold office if that Executive Committee Member:
- (a) ceases to be a Member;
 - (b) is disqualified from being an Executive Committee Member by the Act;
 - (c) is permanently incapacitated by ill health;
 - (d) resigns as an Executive Committee Member by giving notice in writing to the Association;

- (e) is absent without apology for more than three consecutive meetings in a financial year; or
- (f) subject to rule 16.2, is removed from office by a resolution of at least 75% of the votes that may be cast by Executive Committee Members.

16.2 The Executive Committee may only exercise the power of removal under rule 16.1(f) if at least seven days before the meeting of the Executive Committee at which such removal will be considered, the Executive Committee gives the Executive Committee Member:

- (a) written particulars of the reasons for the removal from office, including where relevant details of any relevant conduct, act or omission;
- (b) notice of the date, place and time of the meeting;
- (c) notice that the Executive Committee Member may be heard at the meeting of the Executive Committee or make written submissions to the Executive Committee; and

the Executive Committee hears the Executive Committee Member or considers the Executive Committee Member's written submissions at the meeting of the Executive Committee.

17. Meetings of the Executive Committee

- 17.1 The Executive Committee shall meet together for the dispatch of business at least four times per year, at the times and places as determined by the Executive Committee.
- 17.2 Executive Committee meetings may be conducted face to face, or using technology (such as telephone or video-link) to enable each Executive Committee Member to communicate with the other Executive Committee Members, as long as all Executive Committee Members are able to communicate to each other simultaneously.
- 17.3 Questions arising at any meeting of the Executive Committee must be decided by a majority of Executive Committee Members who, being entitled to do so, vote at that meeting.
- 17.4 A quorum for a meeting of the Executive Committee shall be one half (rounded up to the nearest whole number (where necessary)), plus one:
 - (a) If there is no quorum within 30 minutes after the time fixed for an Executive Committee meeting called on the request of Executive Committee Members pursuant to rule 19, the meeting lapses.
 - (b) If there is no quorum within 30 minutes after the time fixed for an Executive Committee meeting called other than on the request of the Executive Committee Members:
 - (1) the meeting is to be adjourned for at least 1 day; and
 - (2) the Executive Committee Members who are present are to decide the day, time and place of the adjourned meeting.
 - (c) If, at an adjourned meeting mentioned in rule 17.4(b), there is no quorum within 30 minutes after the time fixed for the meeting, the meeting lapses.

18. Conflicts of interest

Requirement to disclose material personal interests

- 18.1 An Executive Committee Member who has a material personal interest in a matter being considered at an Executive Committee meeting must disclose the nature and extent of that interest:
- (a) to the Executive Committee as soon as the member becomes aware of the interest; and
 - (b) at the next general meeting of the Association.
- 18.2 Rules 18.1(a) and 18.1(b) do not apply in relation to a material personal interest:
- (a) that exists only because the member is a member of 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.
- 18.3 A disclosure of a material personal interest required under rules 18.1(a) or 18.1(b) must give details of:
- (a) the nature and extent of the interest; and
 - (b) how the interest is related to the activities of the Association.
- 18.4 The Executive Committee Members must ensure the details mentioned in rule 18.3 are:
- (a) recorded in the minutes of the meeting of the Executive Committee at which the disclosure is made; and
 - (b) if a Member asks for the details, given to the Member.

Requirement not to remain present or vote

- 18.5 An Executive Committee Member who has a material personal interest in a matter being considered at a meeting of the Executive Committee must not be present while the matter is being considered, or vote on the matter.
- 18.6 Rule 18.5 does not apply in relation to a material personal interest:
- (a) that exists only because the member belongs to a class of person for whose benefit the Association is established; or
 - (b) that the member has in common with all, or a substantial proportion of, the Members.
- 18.7 Rule 18.5 does not apply if the Executive Committee (other than the members who have a material personal interest in the matter), decide the member who has a material personal interest may be present while the matter is being considered, or vote on the matter.

- 18.8 If the Executive Committee decides under rule 18.7 that an Executive Committee Member who has a material personal interest in a matter may be present while the matter is being considered, or may vote on the matter, the Executive Committee must ensure that:
- (a) the committee's decision is recorded in the minutes of the meeting and disclosed at the next general meeting of the Association; and
 - (b) details of the Executive Committee's decision are given to a Member, if requested by the Member.
- 18.9 If there are not enough members of the Executive Committee to form a quorum to consider a matter because of rule 18.5:
- (a) 1 or more Executive Committee Members, including the members who have a material personal interest in the matter, may call a general meeting; and
 - (b) the general meeting may pass a resolution to deal with the matter.

19. Special meetings of the Executive Committee

- 19.1 If the secretary receives a written request signed by at least 33% of the Executive Committee Members, the secretary must call a special meeting of the Executive Committee by giving each Member of the Executive Committee notice of the meeting within 14 days after the secretary receives the request.
- 19.2 If the secretary is unable or unwilling to call the special meeting, the chairperson must call the meeting.
- 19.3 A request for a special meeting must state:
- (a) why the special meeting is called; and
 - (b) the business to be conducted at the meeting.
- 19.4 A notice of a special meeting must state:
- (a) the day, time and place of the meeting; and
 - (b) the business to be conducted at the meeting.
- 19.5 A special meeting of the Executive Committee must be held within 14 days after notice of the meeting is given to the Executive Committee Members.

20. Notice to Executive Committee Members

Notice may be given to an Executive Committee Member:

- (a) personally;
- (b) by ordinary pre-paid post to the address last notified by the Executive Committee Member. Notice by post is deemed to be received as the time at which the letter would be delivered in the ordinary course of the post;

- (c) by facsimile to the facsimile number last notified by the Executive Committee Member. Notice by facsimile is deemed to be received at the time and on the day shown in the sender's transmission report, if it shows that the whole notice was sent to the facsimile number last notified by the Executive Committee Member; or
 - (d) by e-mail to the e-mail address last notified by the Executive Committee Member, if the Executive Committee Member has provided that e-mail address to the Association for the purpose of receiving notices. Notice by e-mail is deemed to be received at the time and on the day shown in the sender's 'sent items' folder, if it shows that the whole notice was sent to the Executive Committee Member's e-mail address and no automatically generated message is subsequently received by the sender that the email was undeliverable or undelivered.
- 20.2 However, if the notice is deemed to be received on a day which is not a Business Day or after 5pm, it is deemed to be received at 9am on the next Business Day.

21. Circulating resolutions of the Executive Committee

- 21.1 The Executive Committee Members may pass a resolution without a meeting being held, if all of the Executive Committee Members entitled to vote on the resolution:
- (a) sign a document containing a statement that they are in favour of the resolution set out in the document; or
 - (b) state by means of electronic communication (including by email), without the necessity of signing, that they are in favour of the resolution, or words of like effect.
- 21.2 Each Executive Committee Member must be given a copy of a document used for signing or notice of the proposed resolution.
- 21.3 Separate copies of a document may be used for signing or for giving notice of a resolution, if the wording of the resolution and statement is identical in each copy.
- 21.4 The resolution is passed when the last Executive Committee Member signs or states their assent.
- 21.5 Passage of the resolution must be recorded in the Association's minute book.

Part 4 – General Meetings

22. Annual general meetings

- 22.1 The Executive Committee shall call an annual general meeting in accordance with the Act and this constitution.
- 22.2 The first annual general meeting shall be held within 18 months after the incorporation of the Association, and thereafter within five months after the end of its financial year.
- 22.3 The order of the business at the 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 Committee and the auditor's report (if an auditor's report is required);
- (c) voting on the election or re-election of Executive Committee Members;
- (d) the appointment of an auditor, if required; and
- (e) any other business requiring consideration by the Association in general meeting.

23. Special general meetings

- 23.1 The Executive Committee may call a special general meeting of the Association at any time.
- 23.2 Upon a requisition in writing of not less than 25% percent of the Members of the Association, the Executive Committee shall, within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition, which must be a proper purpose.
- 23.3 Every requisition for a special general meeting shall be signed by the relevant Members and shall state the purpose of the meeting, which must be a proper purpose for determination by Members and not otherwise within the remit of the Executive Committee.
- 23.4 If a special general meeting is not convened within one month, as required by rule 23.2 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 Executive Committee, and for this purpose the Executive Committee shall ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the Association.

24. Virtual meetings

A meeting of Members may be held by virtual or other electronic means, including a hybrid of virtual and in-person meeting, provided the technology used gives Members entitled to attend, as a whole, a reasonable opportunity to participate in the meeting.

25. Notice of general meetings

- 25.1 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. If the meeting is to be held by virtual means (or a hybrid of in-person and virtual means) the notice shall contain sufficient information to allow participation in the meeting.
- 25.2 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.
- 25.3 A notice must be given by the Association to a Member in accordance with rule 10.

26. Proceedings at general meetings

- 26.1 Five Members who are entitled to vote and are present personally or virtually pursuant to rule 24 shall constitute a quorum for the transaction of business at any general meeting.
- 26.2 If within 30 minutes after the time appointed for the meeting a quorum of Members is not present, a meeting convened upon the requisition of Members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present shall form a quorum.
- 26.3 If the chairperson is not present within 30 minutes after the time appointed for holding the meeting, or he or she is chairperson but declines to take or retires from the chair, the vice-chairperson shall be appointed to be the chairperson of that meeting. If the vice-chairperson declines to take or retires from the chair, one of the Members shall chair the meeting.
- 26.4 Members are not entitled to attend a meeting by proxy.

27. Voting at general meetings

- 27.1 Subject to this constitution, every Member has only one vote at a meeting of the Association.
- 27.2 Subject to this constitution, a question for decision at a general meeting, other than a Special Resolution, must be determined by a majority of Members who vote in person, or virtually pursuant to rule 24, at that meeting.
- 27.3 Unless a poll is demanded pursuant to rule 28, a question for decision at a general meeting must be determined by a show of hands.

28. Poll at general meetings

- 28.1 If a poll is demanded by at least 25% of the Members present and entitled to vote at the meeting either in person or virtually pursuant to rule 24, 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.
- 28.2 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.

29. Special and ordinary resolutions

- 29.1 A Special Resolution means a resolution passed at a duly convened meeting of the Members if:
- (a) at least 21 days' written notice specifying the intention to propose the resolution as a Special Resolution has been given to Members; and
 - (b) it is passed at a meeting referred to in this rule by a majority of not less than three-quarters of such Members as, being entitled to do so, vote in person at that meeting.

29.2 An ordinary resolution is a resolution passed by a simple majority at a general meeting.

Note: by reason of the wording of the Act, a special resolution will require a 75% majority of members present, excluding members present at a meeting virtually pursuant to rule 24.

30. Minutes

- 30.1 Proper minutes of all proceedings of general meetings of the Association and of meetings of the Executive Committee, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- 30.2 The minutes kept pursuant to this rule must be confirmed by the Members or the Executive Committee (as relevant) at a subsequent meeting.
- 30.3 The minutes 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.
- 30.4 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.

Part 5 – General

31. Dispute resolution

- 31.1 Except as otherwise expressly provided in this constitution, the dispute resolution procedure set out in this rule applies to disputes under this constitution between:
- (a) a Member and another Member; or
 - (b) a Member and the Association.
- 31.2 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.
- 31.3 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.

32. Financial reporting and banking

- 32.1 The financial year of the Association shall be the period commencing on 1 July and ending on 30 June of each year.
- 32.2 The accounts, together with the auditor's report on the accounts (if an auditor has been appointed), and the Executive Committee's statement and report (if required by the Act), shall be laid before Members at the annual general meeting.

- 32.3 The Association shall keep and retain in English such accounting records as are necessary to:
- (a) correctly record and explain the financial transactions and financial position and performance of the Association;
 - (b) enable a true and fair financial statement for each reportable financial year of the Association to be prepared, that present fairly the results of the operations of the Association; and
 - (c) enable the accounts of the Association to be conveniently and properly audited in accordance with the Act, if audited accounts are required.
- 32.4 The accounts and records of the Association shall be available for inspection by the Executive Committee, and to a Member in accordance with the Act.
- 32.5 The funds of the Association must be kept in an account in the name of the Association in a financial institution decided by the Executive Committee.
- 32.6 All amounts must be deposited in the financial institution account as soon as practicable after receipt.
- 32.7 The Executive Committee has the power to establish bank accounts for the proper functioning of the Association and its administration. The Executive Committee may from time to time decide upon the authorised signatories and operators of the Association's bank account ("**Authorised Operators**") and establish protocols for dealing with the Association's funds provided that the joint signature or authorisation of at least two Authorised Operators is required for all cheques, transfers, payments, withdrawals, transactions or use of the Association's bank account.
- 32.8 Any expenditure which exceeds a budget approved by the Executive Committee requires the Executive Committee's prior approval.
- 32.9 A petty cash account must be kept on the imprest system, and the Executive Committee must decide the amount of petty cash to be kept in the account.
- 32.10 If the Association is a Prescribed Association, the periodic (annual) return shall be lodged with Consumer and Business Services within six months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditor's report, the Executive Committee's statement, and the Executive Committee's report.

33. Appointment of auditor and preparation of audit report

- 33.1 It is acknowledged that in the event that a community contribution scheme is operable in Leigh Creek pursuant to an agreement between the OCA and the Association, the collection, holding and disbursement of the contribution scheme funds will be managed by the OCA such that there will be no necessity for the appointment of an auditor. However, if:
- (a) required by the Act; or
 - (b) a majority of members have voted in favour of the appointment of an auditor and the auditing of accounts at a general meeting held before the end of the financial year,

within five months of the end of the financial year of the Association, the Executive Committee shall ensure an auditor has been appointed, and the financial statement for the last financial year has been audited.

- 33.2 The auditor must not be:
- (a) a Member; or
 - (b) an Executive Committee Member; or
 - (c) an employee of the Association; or
 - (d) a partner, employer or employee an Executive Committee Member; or
 - (e) a spouse of a person mentioned in rules 33.2(a) to 33.2(d); or
 - (f) wholly or partly dependent on a person mentioned in rules 33.2(a) to 33.2(d).
- 33.3 The Executive Committee shall select an auditor who is a member of the Institute of Chartered Accountants, CPA Australia or the National Institute of Accountants.
- 33.4 The auditor shall hold office until the Executive Committee meets to appoint an auditor for the next financial year of the Association, and is eligible for re-appointment.

34. Prohibition against securing profits for Members

- 34.1 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.
- 34.2 Nothing in rule 34.1 shall prevent payments in good faith:
- (a) of reasonable remuneration to any Officer or employee of the Association;
 - (b) to any Executive Committee Member in return for services actually rendered to the Association or for goods sold to the Association (subject to compliance with rule 18) or for out-of-pocket expenses in attending to the Association's business.

35. Common seal

- 35.1 The Association may have a common seal which shall have inscribed thereon the name of the Association in English legible characters.
- 35.2 All Members of the Executive Committee shall be the seal holders.
- 35.3 The common seal may only be used where a meeting of the Executive Committee has resolved to affix the seal to a particular document or documents.
- 35.4 Subject to rule 35.3, the affixing of the seal must be witnessed by any two such seal holders and recorded in the minute book of the Association.

- 35.5 The common seal must be kept at the offices of the Association, in the custody of the secretary or any other person the Executive Committee thinks fit.
- 35.6 A seal register shall be set up for the purpose of recording the use of the seal. Each use of the seal will be recorded in the minutes of a meeting of the Executive Committee and in the seal register.

36. Winding up

- 36.1 The Association may be wound up in the manner provided for in the Act.
- 36.2 For the avoidance of doubt, a Member is not liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of winding up of the Association.

37. Application of surplus assets

- 37.1 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.
- 37.2 Such organisation or organisations shall be identified and determined by a resolution of members in general meeting.

38. Altering this constitution

- 38.1 This constitution may be altered (including an alteration to the Association's name) by Special Resolution of the Members. This includes rescission or replacement by substitute rules.
- 38.2 The alteration shall be registered as required by the Act.
- 38.3 The registered constitution 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 of the provisions thereof.

39. Indemnity of Officers

- 39.1 To the extent permitted by the Act, the Association:
- (a) must indemnify each person who is or has been an Officer of the Association against any liability reasonably incurred by the person in the course of their functions or duties as an Officer of the Association;
 - (b) may pay a premium for a contract insuring an Officer of the Association against such liability.
- 39.2 To the extent permitted by the Act, the Association may enter into an agreement or deed with an Officer of the Association under which the Association must do all or any of the following:
- (a) keep a set of the Association's Books (including minute books) and allow the Officer and the Officer's advisers access to the Books for any period agreed;

- (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
 - (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.
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40. Notice to the Association

Notice may be given to the Association:

- (a) by giving the notice to the secretary in any way in which notice may be given to an Executive Committee Member pursuant to rule 20;
- (b) by leaving the notice at the Association's offices;
- (c) by ordinary pre-paid post to the Association's address. Notice by post is deemed to be received as the time at which the letter would be delivered in the ordinary course of the post;
- (d) by facsimile to the Association's facsimile number. Notice by facsimile is deemed to be received at the time and on the day shown in the sender's transmission report, if it shows that the whole notice was sent to the Association's facsimile number; or
- (e) by e-mail to the Association's e-mail address. Notice by e-mail is deemed to be received at the time and on the day shown in the sender's 'sent items' folder, if it shows that the whole notice was sent to the Association's e-mail address and no automatically generated message is subsequently received by the sender that the email was undeliverable or undelivered.

40.2 However, if the notice is deemed to be received on a day which is not a Business Day or after 5pm, it is deemed to be received at 9am on the next Business Day.

41. Standing orders and by-laws

42. The Executive Committee may establish a set of administrative standing orders, by-laws and other administrative procedures and policies not inconsistent with this constitution and the Act, to facilitate the effective operation of the Association. These and any alterations and/or amendments shall be made available to Members upon request.