

Building Food Security Together

Albury Wodonga
FoodShare

Our Constitution

foodshare.org.au

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Albury Wodonga FoodShare Constitution

PRELIMINARY

1. Name

The name of the organisation is Albury Wodonga FoodShare ACN 154 710 586 (the organisation).

2. Registered Office

The registered office of the Organisation will be situated in Wodonga or at such other place in Australia as the Directors may from time to time decide.

3. Definitions

In this Constitution:

ACNC Act means the *Australian Charities and Not for Profits Commission Act 2012* (Cth);

Board means the governing body of the Organisation established under this Constitution;

Business Day means a day except a Saturday, Sunday or public holiday in the state or territory in which the Organisation is taken to be registered for the purposes of the Corporations Act.

CEO means the chief executive officer of the Organisation from time to time.

Chairperson means the member of the Board elected to that position.

Corporations Act means the Corporations Act 2001 (Commonwealth).

Directors means the Directors for the time being of the Organisation.

Member means those members in Article 15 and "Membership" means being or becoming as a Member, as the context requires.

Objects means the aims and objectives of the Organisation as set out by the Organisation.

Officer is defined in section 9 of the Corporations Act.

Related Body Corporate means related bodies corporate as defined in the Corporations Act;

Seal means the common seal of the Organisation;

Secretary means a person appointed as, or to perform the duties of secretary of the Organisation for the time being and includes an honorary secretary.

4. Interpretation

Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:

(a) a word importing the singular includes the plural (and vice versa);

(b) a word indicating a gender includes every other gender;

(c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(d) the word "includes" in any form is not a word of limitation;

(e) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;

(f) a notice or document required by this Constitution to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law; and

(g) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements.

5. Application of Corporations Act

(a) The replaceable rules in the Corporations Act do not apply to the Organisation

(b) While the Organisation is a registered charity, the ACNC Act and the Corporations Act override any articles in this Constitution which are inconsistent with those Acts.

6. Powers

(a) Subject to article 6(b) the Organisation has all the powers of a natural person, including all the powers of a company limited by guarantee under the Corporations Act, but does not have the power to issue shares.

(b) The powers of the Organisation are ancillary to and exercisable only to pursue the Objects

7. Application of income and property

The income and property of the Organisation, from wherever it is derived, must be applied solely towards the promotion of the Objects.

8. Governance

The organisation will comply with the "governance standards" as that term is defined in the ACNC Act.

9. Enforcement

(a) Each Member submits to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.

(b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that does not affect or impair:

(i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or

(ii) the legality, validity or enforceability pursuant to the law of any other jurisdiction of that or any other provision of this Constitution.

OBJECTS

10. Objects of the Organisation

The objects of the Organisation (**Objects**) are:

(a) to assist financially and socially disadvantaged and vulnerable persons within the North East Victorian and Southern New South Wales region (**Disadvantaged Persons**) to gain independence, social inclusion, improved health, skills and employment to enable them to break the poverty cycle and facilitate better employment and life opportunities through:

(i) providing a coordinated, sustainable and collaborative approach to emergency food relief to reduce the growing incidence of food insecurity;

(ii) delivering large-scale health, wellbeing, education and employment opportunities within the food production, distribution and associated areas for Disadvantaged Persons;

(iii) addressing the social determinates of health associated with food insecurity; and

(iv) engaging in food sourcing, food rescue, food redistribution and sustainable agriculture and food production in the North East Victorian and Southern New South Wales region for the

benefit of Disadvantaged Persons; and

(b) to do all such other things incidental or conducive to the attainment of these Objects.

INCOME AND PROPERTY

11. Application of income and property

(a) Subject to Article 11(b) but notwithstanding any other provision of this Constitution, the Organisation must apply the profits (if any), Gifts or other income and property of the Organisation solely towards the promotion of the non-profit Objects of the Organisation and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of distribution, bonus or otherwise.

(b) Nothing in Article11(a) prevents the Organisation making any payment in good faith of:

(i) reasonable and proper consideration to any Member for any services actually rendered or goods or property actually supplied to the Organisation;

(ii) the payment or reimbursement of out-of-pocket expenses incurred by a Member on behalf of the Organisation where the amount payable does not exceed an amount previously approved by the Directors;

(iii) reasonable and proper rent or fees to a Member for premises leased or licensed by any Member to the Organisation;

(iv) money to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Directors and the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for the service; or

(v) interest to a Member at a reasonable and proper rate not exceeding a rate approved by the Directors on money borrowed by the Organisation from the Member.

(c) The Organisation must issue a receipt to each and every donor of Gifts which complies with the requirements of the *Income Tax Assessment Act 1997* (Cth).

(d) The Organisation must notify the Australian Taxation Office of any

material whole, partial, direct or consequential amendment, modification or repeal of Articles 5, 6, 6(d), 7 or 63 of this Constitution.

REVOCATION

12. Revocation of deductible gift recipient status

If the Organisation has obtained endorsement as a deductible gift recipient under the *Income Tax Assessment Act 1997* (Cth) and that endorsement is subsequently revoked by the Commissioner of Taxation, as soon as reasonably possible following the revocation of such endorsement, the following funds available to the Organisation must be given or transferred to one or more bodies corporate, associations or institutions to which income tax deductible gifts can be made (whether or not a Member or Members) selected by the Board by resolution:

(a) Gifts for the Objects of the Organisation;

(b) Contributions made to the Organisation in relation to an eligible fundraising event held for the Objects of the Organisation; or

(c) Money received by the Organisation because of such Gifts or contributions.

LIABILITY OF MEMBERS

13. Limited liability

The liability of the Members is limited to the amount of the guarantee in clause 14.

14. Extent of liability

Each Member undertakes to contribute an amount not exceeding $20 to the property of the Organisation if the Organisation is wound up at a time when that person is a Member, or within one year of the time that person ceased to be a Member, for:

(a) payment of the Organisation's debts and liabilities contracted before that person ceased to be a Member;

(b) payment of the costs, charges and expenses of winding up the Organisation; and

(c) adjustment of the rights of the contributories among themselves.

MEMBERSHIP

15. Membership

The members are:

(a) the persons who from time to time comprise the Board, each of whom shall remain a member for such time that they remain a Board Member.

(b) the persons who are deemed to be and fall within the classes of Members as determined by the Board from time to time, each of whom shall remain a Member for such time as that class specifies; and

(c) additional categories of Members, if recommended by the Board, may be created from time to time by the Members in a general meeting.

16. Admissions to Membership

(a) The Directors shall determine the terms and conditions upon which new Members are to be admitted.

17. Register of Members

17.1 A register of Members of the Organisation must be kept by the Organisation.

17.2 The following must be entered in the register of Members in respect of each Member:

17.2.1. the full name of the member;

17.2.2. the residential address, or any alternative address (including electronic) nominated by the Member for the service of notices;

17.2.3. the date of admission to and cessation of membership; and

17.2.4. such other information as the Board requires.

17.3. Each member must notify the Secretary in writing of any change in that person's name, address or alternative address (including electronic) within 1 month after the change.

CESSATION OF MEMBERSHIP

18. Resignation of a Member

18.1. A member may resign from membership of the Organisation by giving written notice to the Secretary.

18.2. The resignation of a Member takes effect on the date of receipt of the notice of registration or any later date provided in the notice.

19. Cessation of Membership

19.1. A person ceases to be a Member:

19.1.1. if they resign or no longer hold the office of Director;

19.2.2 on the death or resignation of the Member;

19.1.3. if they have not responded in three months to a written request from the Secretary that they confirm in writing that they want to remain a Member; or

19.1.4 if the Member is expelled under Article 20.

20. Disciplining Members

20.1. If any Member:

20.1.1. wilfully refuses or neglects to comply with the provisions of this Constitution; or

20.1.2 is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member of prejudicial to the interest of the Organisation;

20.1.3 the Directors may resolve to censure, suspend or expel the Member from the Organisation and, in the case of expulsion, to remove the Member's name from the register of Members.

20.2. At least 1 week before the meeting of the Board at which a resolution of the nature referred to in article 20.1 is passed the Board must give to the Member notice of:

20.2.1. the meeting;

20.2.2. what is alleged against the Member; and

20.2.3 the intended resolution.

20.3. At the meeting and before the passing of the resolution, the Member must have an opportunity of giving orally or in writing any explanation or defence the Member sees fit.

20.4. If at the meeting a resolution is passed by a majority of 2/3 of those present and voting (and the vote must be taken by a secret ballot), the Member concerned must be punished in the manner resolved and in the case of a resolution for expulsion the Member is expelled and the Member's name must be removed from the register of Members.

20.5. If any Member ceases to be a Member under article 20.4, the Board may reinstate the Member and restore the name of that Member to the register of Members upon and subject to any terms and conditions they see fit.

21. Effect of cessation of membership

If any Member ceases to be a Member under this Constitution, the Member remains liable to pay to the Organisation any money which, at the time of the Member ceasing to be a Member, the Member owes to the Organisation on any account or which it subsequently becomes liable to pay under article 13 of this Constitution.

BOARD

22. Membership of the Board

22.1. The minimum number of Directors is six (6). The maximum number of Directors is to be fixed by the Directors but must not be more than twelve (12) unless the Organisation in general meeting determines otherwise. The Directors must not determine a maximum which is less than the number of Directors in office at the time the determination takes effect.

22.2. Provided always the number of Directors complies with article 17.1, the Board will consist of Directors appointed by the Members in accordance with this article 17.

22.3. The Directors in office on the date that this Constitution was adopted by the Organisation continue in office but on the terms and conditions set out.

22.4. Where a person to be appointed as a Director requires the approval of the Members in general meeting the following provisions shall apply:

22.4.1. the Board must pass a resolution nominating the person for appointment to the Board and the nominated person must sign and give to the Secretary an acceptance of or consent to the nomination and a consent to act as a Director;

22.4.2. notice of the name of and other relevant particulars of the person so nominated must be given to Members at least by 21 days before the general meeting to consider the appointment is held; and

22.4.3. a resolution to elect the person nominated is passed by the members in general meeting.

23. Membership Qualification

A Director must become a Member within 30 days after becoming a Director (or such longer period as the Board permits).

24. Vacancies

24.1. A vacancy arises when there is any vacancy on the Board constituted as contemplated by article 22. The Board shall determine whether a vacancy exists or not.

24.2. The Board may at any time appoint any person to be a Director to fill a vacancy on the Board.

24.3. A person so appointed will hold office until the next succeeding annual general meeting but is then eligible for election in accordance with article 22.

25. Term

The term of office of a Director (other than the CEO) is 3 years excluding any term of office held in filling a vacancy. The expiration of that term is deemed to occur at the conclusion of the third annual general meeting following the appointment or election of that Director as the case may be. Subject to article 26, a retiring Director is eligible for re-appointment or re-election in accordance with this Constitution.

26. Maximum Number of Terms

A person (other than the CEO) who has served 3 terms of office as a Director either consecutively or separated by less than 3 years will cease to hold office at the end of the ninth year of being a Director unless prior to that date the Board has resolved that the Director can re-nominate or continue in office.

27. Director Term Transitional Provisions

On adoption of this Constitution, the Board will consist of the Board in place immediately prior to the adoption of this Constitution (initial board), and for the purposes of clauses 25 and 26;

27.1. the period served by Members of the Initial Board prior to the adoption of this Constitution will be recognised; and

27.2. as a date of adoption of this Constitution, the Members of the Initial Board will be deemed have served that number of three-year terms equal to the number of years of their current appointment divided by three.

BOARD MEETINGS

28. Number of Meetings

The Board will meet at least four times in any period of twelve months.

29. Circulating Resolutions

29.1. The Board may pass a resolution without a Board meeting being held if each of the Director's entitled to vote on the resolution, sign a document containing a statement that he or she is in favour of the resolution set out in the document.

29.2. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

29.3. The resolution is passed when the last Director signs.

29.4. Electronic communication (as that term is defined in the *Electronic Transactions Act 1999* (Cth)) addressed to or received by the Organisation and purporting to be signed or sent by a Director for the purpose of this article must be treated as a document in writing signed by that Director.

30. Meetings of the Board

30.1. The Board may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.

30.2. The minutes of any meeting of the Board must state the method of meeting and the persons present.

31. Calling Board Meetings

A Director may at any time, and a Secretary must on the requisition of a Director, call a meeting of the Directors.

32. Notice of Meeting

32.1. Reasonable notice of every Board meeting must be given to each Director except that it is not necessary to give notice of a meeting of the Board to any Director who has been given special leave of absence

32.2. Any notice of a meeting of the Board may be given personally or in writing, and by electronic means (including providing a URL link to any document or attachment) to the electronic address the Director has supplied for giving notice or any other means of communication.

33. Technology Meeting of Board

33.1. A Board meeting may be held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only

withdraw the consent within a reasonable period before the meeting.

33.2. If a Board meeting is held using any technology and all the Directors take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.

33.3. The following provisions apply to a technology meeting:

33.3.1. each of the Directors taking part in the meeting must be able to hear and be heard by each of the other participants taking part in the meeting; and

33.3.2. at the commencement of the meeting each Director must announce his or her presence to all the other participants taking part in the meeting.

33.4. If the Secretary is not present at a technology meeting one of the Directors present must take minutes of the meeting.

33.5. A Director may not leave a technology meeting by disconnecting his or her link to the meeting unless that participant has previously notified the chair of the meeting,

33.6. A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that Director has previously obtained the express consent of the chair to leave the meeting.

34. Chairing Board Meetings

34.1. The Chairperson is the chair of all meetings of the board.

34.2. At a meeting of the Board if:

34.2.1. no Chairperson has been elected as provided by article 60; or

34.2.2. the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;

The Directors present must elect a Director present to chair the meeting.

35. Quorum

35.1. No business may be transacted at a meeting of Directors unless there is a quorum of Directors at the time the business is dealt with.

35.2. The quorum for general meetings must be a majority of directors is in attendance.

35.3. If the number of Directors is not sufficient to constitute a quorum at a meeting of Directors, the remaining Director or Directors may act only:

35.3.1. in an emergency; or

35.3.2. for the purpose of appointing Directors to the vacancy in accordance with article 24 to a number sufficient to constitute a quorum; or

35.3.3. to convene a general meeting of the Organisation.

36. Passing of Board Resolutions

36.1. A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.

36.2. The chair has a casting vote if necessary in addition to any vote he or she has as a Director. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

POWER OF DIRECTORS

37. Validation of Acts of Directors and Secretaries

37.1. The acts of a Director or Secretary of the Organisation are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.

37.2. Where a person whose office as Director is vacated under a provision of the Corporations Act purports to do an act as a Director, that act is as valid, in relation to a person dealing with the Organisation in good faith and for value and without actual knowledge of the matter because of which the office was vacated, as if the office had not been vacated.

38. General Business Management

38.1. The management conduct and control of the Organisation is vested in the Board.

38.2. The Board may exercise all the powers of the Organisation except any powers that the Corporations Act or this Constitution requires the Organisation to exercise in general meeting.

38.3. No article made or resolution passed by the Organisation in general meeting can invalidate any prior act of the Board which would have been valid if that article or resolution had not been made or passed.

38.4. The Board may pay all expenses incurred in promoting and forming the Organisation from the funds of the Organisation.

38.5. The Board must decide on the responsible financial management of the Organisation including;

38.5.1. any suitable written delegations of power under clause 39; and

38.5.2. how money will be managed, such as how electronic transfers,

negotiable instruments or cheques must be authorised and signed or otherwise approved.

38.6. The Board cannot remove a Director or auditor. Directors and auditors may only be removed by a Members' Resolution at a General Meeting.

39. Delegation of Directors' Powers

39.1. The Board may delegate any of its powers and functions to a committee, a Director, an employee of the Organisation (such as the CEO) or any other person, as they consider appropriate.

39.2. The delegation must be recorded in the Organisation's minute book.

40. Compliance with Law

Each Director must comply with the Corporations Act and the ACNC Act including the duties described in governance standard 5 of the regulations made under the ACNC Act.

41. Borrowing Powers

Without limiting the generality of article 36, but subject to article 11, the Board may exercise all the powers of the Organisation to borrow money, to charge any property or business of the Organisation and to issue debentures or give any other security for a debt, liability or obligation of the Organisation or of any other person.

42. Appointment of Attorney

42.1. The Board may appoint any person or persons to be the attorney or attorneys of the Organisation for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the Board), for the period and subject to the conditions it sees fit.

42.2. A power of attorney may contain those provisions for the protection and convenience of persons dealing with the attorney that the Board sees fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

43. Negotiable Instruments

43.1. Any 2 Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.

43.2. The Board may determine that a negotiable instrument, including a class of negotiable instrument, may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

CHIEF EXECUTIVE OFFICER

44. Appointment

The Board may appoint a CEO from time to time.

SUB-COMMITTEES OF THE BOARD AND REGIONAL BRANCHES

45. Sub-committees of the Board

45.1. The Board may delegate any of its powers to one or more sub-committee of the Board.

45.2. Each sub-committee must contain at least 1 Director.

45.3. A sub-committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of the sub-committee exercising a power in this way is the same as if the Directors exercised it.

45.4. Any sub-committee formed shall conform to any regulations that may be imposed by the Board and subject thereto shall have power to co-opt any Members of the Organisation provided that any Member so co-opted shall have no vote.

45.5. A sub-committee may elect a Chairperson of its meeting. If no such Chairperson is elected or if at any meeting the Chairperson is not present within 10 minutes after the time appointed for holding the meeting the Members present may choose one of their number to be the Chairperson for the meeting.

45.6. A sub-committee may meet and adjourn as it thinks proper, questions arising at any meeting shall be determined by a majority of votes of the Members present and in the case of an equality of votes the Chairperson shall have a second or casting vote.

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

45.8. The meetings and proceedings of any sub-committee are governed by the applicable provisions in this Constitution regulating the meetings and proceedings of the Board.

REMOVAL AND RESIGNATION OF DIRECTORS

46. Removal of Directors

The Organisation may by resolution remove a Director from office.

47. Resignation of Director

A Director may resign as a Director of the Organisation by giving a written notice of resignation to the Secretary of the Organisation at its registered office.

48. Vacation of Office of Director

In addition to any other circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

48.1. becomes bankrupt or suspends payment or compounds with his or her creditors;

48.2. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

48.3. is absent from 3 consecutive meetings of Directors without special leave or absence from the Directors and the Directors declare his or her seat to be vacant;

48.4. ceases to be a Member;

48.5. becomes prohibited from being a Director under the Corporations Act or the ACNC Act;

48.6. is removed by resolution in accordance with article 20; or

48.7. resigns from office in accordance with article 47.

DIRECTORS INTEREST

49. Prohibition on being Present or Voting

49.1. Director who has a material person interest in a matter that is being considered at a meeting of the Board:

49.1.1. must not be counted in a quorum;

49.1.2. must not vote on the matter; and

49.1.3. must not be present while the matter is being considered at the meeting.

49.2. If a Director who has a material personal interest in a matter that is being considered at a meeting of the Board is not prohibited to by Corporations Act from being present at the meeting and voting, the Director may be present, be counted in the quorum and may be heard but may not vote on the matter.

49.3. A Director may still be present and vote if the Directors who do not have a material personal interest in the matter pass a resolution that:

49.3.1. identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Organisation; and

49.3.2. says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

50. Director to Disclose Interests

50.1. A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Organisation must, as soon as practicable after the relevant facts have come to the Director's knowledge, declare the nature of the interest at a meeting of the Board or by written notice to the Secretary.

50.2. A Director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as Director must declare at a meeting of the Board or by written notice to the Secretary the fact and the nature, character and extent of the conflict.

50.3. For the purposes of articles 50.1 and 50.2, a Director's interest or any conflict must be disregarded if it arises from or relates solely to:

50.3.1 a guarantee to be given by the Director (or by persons including the Director or by a Corporate Member of which the Director is a Member or Officer) in respect of a loan to the Organisation;

50.3.2. the position of the Director as a Director of a Related Body Corporate of the Organisation; or

50.3.3. their interest as a Member, and the other Members have the same interest.

51. Effect on Interest in Contract

51.1. If a Director has an interest in a contract or proposed contact with the Organisation (other than as a Member), or a conflicting interest or duty in relation to any other matter being considered by the Board, and the Director discloses the nature and extent of the interest or duty at a meeting of the Board or by written notice to the Secretary:

51.1.1. the contract may be entered into; and

51.1.2. if the disclosure is made before the contract is entered into:

51.1.2.1. the Director may retain benefits under the contract even though the Director has an interest in the contract;

51.1.2.2. the Organisation cannot avoid the contact merely because of the existence of the interest; and

51.1.2.3. the Director is not disqualified from the office of Director.

51.2. For the purpose of article 51.1 "contract" includes an arrangement, dealing or other transaction.

52. Other Interests

52.1. Without limiting article 48 or article 51 a Director may:

52.1.1. hold any other office or place of profit under the Organisation (other than the office of auditor) in conjunction with the office of Director; and

52.1.2. be interested in any operation, undertaking or business undertaken or assisted by the Organisation or in which the Organisation is or may be interested

53. Extension of Meaning of "Organisation"

For the purposes of articles 50, 51 and 52 "Organisation" includes any subsidiary of the Organisation and any other entity in which the Organisation or any subsidiary of the Organisation is or becomes a shareholder or is otherwise interested.

POWERS OF THE BOARD

REMUNERATION OF DIRECTORS

54. Directors Remuneration

The Members may fix from time to time remuneration for Directors for his or her services in his or her capacity as a Director of the Organisation

55. Directors' Expenses and Remuneration

55.1. The Organisation may pay the Directors' travelling and other expenses that they properly incur:

55.1.1. in attending Board meetings or any meetings of committees of the board;

55.1.2. in attending any general meetings of the Organisation; and

55.1.3. in connection with the Organisation's business

55.2. The Board must approve all payments the Organisation makes to its Directors or Members.

56. Financial Benefit

56.1. A Director must ensure that, if required, the requirements of the Corporations Act and the ACNC Act are complied with in relation to any financial benefit given by the Organisation to any Board Member or to any other related party of the Board Member.

SECRETARY

57. Appointment and Role of Secretary

57.1. The Organisation must have at least one Secretary, who may also be a Director.

57.2. A Secretary must be appointed by the Directors (after giving the Organisation their signed consent to act as Secretary) and may be removed by the Directors.

57.3. The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.

57.4. Subject to the Corporations Act, the role of the Secretary may be specified by the Board.

INDEMNITY AND INSURANCE

58. Indemnity

58.1. To the extent permitted, the Organisation indemnifies:

58.1.1. every person who is or has been an Officer of the Organisation; and

58.1.2 where the Board considers it appropriate to do so, any person who is or has been an Officer of a Related Body Corporate of the Organisation;

58.1.3 against any liability incurred by that person in his or her capacity as an Officer of the Organisation or of the Related Body Corporate (as the case may be).

58.2 In this article, 'to the extent permitted' means:

58.2.1 to the extent that the Organisation is not precluded by law

(including the Corporations Act) from doing so; and

58.2.2 for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

58.2.3 The indemnity is a continuing obligation and is enforceable by an Officer even though that person is no longer an Officer of the Company.

59. Insurance

The Organisation may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an Officer of the Organisation or a Related Body Corporate of the Organisation against liability incurred by the person as an Officer of the Organisation or a Related Body Corporate.

60. Director Voting on Contract of Insurance

Despite anything in this Constitution, a Director is not precluded from voting in respect of any contract or proposed contract of insurance, merely because the contract insures or would insure the Director against a liability incurred by the Director as an Officer of the Organisation or of a Related Body Corporate.

61. Liability

No Officer of the Organisation is liable for the act, neglect or default of any other Officer or for joining in any act or for any other loss, expense or damage which arises in the execution of the duties of his or her office unless it arises through his or her own negligence, default, breach of duty or breach of trust.

INSPECTION OF RECORDS

62. Rights of Inspection

62.1 The Board, or the Organisation by a resolution passed at a general meeting, may authorise a Member to inspect books of the Organisation.

62.2 A Member other than a Director does not have the right to inspect any document of the Organisation, other than the minute books for the meetings of its Members and for resolution of Members passed without meetings, except where authorised by the Board or by the Organisation in general meeting.

MEETINGS OF MEMBERS

63. Circulating Resolutions

63.1 This article 63 applies to resolutions which this Constitution, requires or

permits to be passed at a general meeting.

63.2 The Organisation may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

63.3 Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

63.4 The resolution is passed when the last Member signs.

63.5 A resolution under this article may include copies of documents and signatures that are only held or stored in electronic or digital format.

64. Calling of General Meeting

64.1 A majority of Directors may call a general meeting whenever they see fit.

64.2 A general meeting, to be called the "annual general meeting", must be held at least once in every calendar year.

65. Extraordinary General Meetings

Extraordinary General Meetings shall be called by the Board at the written request Members who are entitled to at least seventy five per centum (75%) of the votes that may be cast.

66. Notice of Meeting

66.1 Subject to the provisions of the Corporations Act to short notice, at least 21 days' notice of a general meeting must be given to those persons who are entitled to receive notices from the Organisation and the Organisation’s auditor (if any).

66.2 No other person is entitled to receive notice of general meetings.

67. How Notice is Given

67.1 The Organisation may give the notice of meeting to a Member:

67.1.1 personally;

67.1.2 by sending it by post to the address for the Member in the register of Members or the alternative address (if any) nominated by the Member; or

67.1.3 by sending it to the electronic address (if any) nominated by the Member.

68. When Notice is Given

68.1 A notice of meeting sent by post is taken to be given 5 days after it is posted.

68.2 A notice of meeting sent by electronic means, is taken to be given on the Business Day after it is sent.

68.3 Service by electronic mail is not effective if:

68.3.1 in the case of service by electronic mail, the Organisation's computer reports that delivery has failed.

68.3.2 A certificate signed by any CEO, Secretary or other Officer of the Organisation that the notice was posted or given in accordance with this article 68 is conclusive evidence of the matter.

69. Period of Notice

Subject to the Corporations Act and this Constitution where a specified number of days' notice or notice extending over any period is required to be given the day of service is not, but the day upon which the notice will expire is, included in the number of days or other period.

70. Contents of Notice

70.1 A notice of a general meeting must:

70.1.1 set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

70.1.2 state the general nature of the meeting's business;

70.1.3 if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;

70.1.4 contain a statement setting out the following information:

70.1.5 that the Member has a right to appoint a proxy; and

70.1.6 that the proxy must be a Member of the Organisation.

71. Notice of Adjourned Meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

72. Accidental Omission to Give Notice

The accidental omission to give notice of any general meeting to or the non-receipt of the notice by any person entitled to receive notice of a general meeting under this Constitution does not invalidate the proceedings at or any resolution passed at the meeting.

73. Postponement of General Meeting

73.1 The Board may postpone the holding of any general meeting whenever they see fit (other than a meeting requisitioned by Members as provided by Article 65) for not more than 42 days after the date for which it was originally called.

73.2 Whenever any meeting is postponed (as distinct from being adjourned under article 5 or article 0) the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.

74. Technology

The Organisation may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

75. Quorum

75.1 The quorum for a meeting of the Organisation's Members is fifty per centum (50%) plus one person entitled to vote and the quorum must be present at all times during the meeting.

75.2 In determining whether a quorum is present, individuals attending as proxies representative are counted. If an individual is attending both as a Member and as a proxy, the individual is counted only once.

75.3 If a quorum is not present within 10 minutes after the time for the meeting set out in the notice of meeting:

75.3.1 where the meeting was called by the Members or upon the requisition of Members,

75.3.2 the meeting is dissolved; or

75.3.3 in any other case, the meeting is adjourned to the date, time and place the Board specifies. If the Board does not specify 1 or more of those things, the meeting is adjourned to:

75.3.3.1 if the date is not specified - the same day in the next

week;

75.3.3.2 if the time is not specified - the same time; and

75.3.3.3 if the place is not specified -the same place.

75.4 If no quorum is present at the resumed meeting within 10 minutes after the time for the meeting, the meeting is dissolved.

76. Chair at General Meetings

76.1 The Chairperson, if present, presides as chair at every general meeting.

76.2 Where a general meeting is held and:

76.2.1 there is no Chairperson; or

76.2.2 the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the Directors present may appoint 1 of their number to be chair of the meeting and in default of their doing so the members present may appoint any 1 of their number to be chair of the meeting.

76.3 The chair must adjourn a meeting of the Organisation's Members if the Members present with a majority of votes at the meeting agree or direct that the chair must do so.

77. Business at Adjourned Meetings

Only unfinished business is to be transacted at a meeting resumed after an adjournment.

PROXIES

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78. Who Can Appoint a Proxy

A Member who is entitled to attend and cast a vote at a meeting of the Organisation's Members may appoint a person as the Member's proxy to attend and vote for the Member at the meeting. The proxy must be a Member.

79. Rights of Proxies

79.1 A proxy appointed to attend and vote for a Member has the same rights as the Member:

79.1.1 to speak at the meeting;

79.1.2 to vote (but only to the extent allowed by the appointment); and

79.1.3 to join in a demand for a poll.

79.2 If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

79.3 A proxy's authority to speak and vote for a Member at a meeting is suspended while the Member is present at the meeting.

79.4 A proxy may be revoked at any time by notice in writing to the Organisation.

80. When Proxy Form Must Be Sent to All Members

80.1 If the Organisation sends a Member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

80.1.1 if the Member requested the form or list - the Organisation must send the form or list to all Members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or

80.1.2 otherwise - the Organisation must send the form or list to all its members entitled to appoint a proxy to attend and vote at the meeting.

81. Appointing a Proxy

81.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information:

81.1.1 the Member's name and address;

81.1.2 the Organisation's name;

81.1.3 the proxy's name or the name of the office held by the proxy; and

81.1.4 the meetings at which the, appointment may be used.

81.2 An appointment may be a standing one.

81.3 An undated appointment is taken to have been dated on the day it is given to the Organisation.

81.4 An appointment may specify the way the proxy is to vote on a particular resolution. If it does:

81.4.1 the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;

81.4.2 if the proxy has 2 or more appointments that specify different ways to vote on the resolution - the proxy must not vote on a show of hands;

81.4.3 if the proxy is the chair - the proxy must vote on a poll, and must vote that way;

81.4.4 if the proxy is not the chair - the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

81.5 If a proxy is also a Member, this article does not affect the way that the person can cast any votes the person holds as a Member.

81.6 An appointment does not have to be witnessed.

81.7 A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

82. Form of Proxy Sent Out by Organisation

82.1 A form of proxy sent out by the Organisation may be in a form determined by the Board but must:

82.1.1 enable the Member to specify the manner in which the proxy must vote in respect of a particular transaction; and

82.1.2 leave a blank for the Member to fill in the name of the person primarily appointed as proxy.

82.2 The form may provide that if the Member leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the chair of the meeting is appointed proxy.

82.3 Despite article 79 an instrument appointing a proxy may be in the following form or in a form that is as similar to the following form as the circumstances allow:

Albury Wodonga FoodShare.

ACN

*I/We, being a member/members of the above named Organisation, appoint of or, in his or her absence, of as my/our proxy to vote for me/us on my/our behalf at the *annual general/*general meeting of the Organisation to be held on and at any adjournment of that meeting.*

*† This form is to be used *in favour of/*against the resolution.*

Signed on
** Strike out whichever is not desired. †To be inserted if desired.*

83. Receipt of Proxy Documents

83.1 For an appointment of a proxy for a meeting of the Organisation's Members to be effective, the following documents must be received by the Organisation at least 24 hours before the meeting:

83.1.1 the proxy's appointment; and

83.1.2 if the appointment is signed by the appointer's attorney the authority
under which the appointment was signed or a certified copy of the authority

83.2 If a meeting of the Organisation's Members has been adjourned, an appointment and any authority received by the Organisation at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

83.3 The Organisation receives an appointment or authority when it is received at any of the following:

83.3.1 the Organisation's registered office;

83.3.2 a facsimile number at the Organisation's registered office; or

83.3.3 a place, facsimile number or electronic mail address specified for the purpose in the notice of meeting

83.4 An appointment of a proxy is ineffective if:

83.4.1 the Organisation receives either or both the appointment or authority at a fax number or electronic address; and

83.4.2 a requirement (if any) in the notice of meeting that:

83.4.2.1 the transmission be verified in a way specified in the notice; or

83.4.2.2 the proxy produce the original appointment and authority (if any) at the meeting;

84. Validity of Proxy Vote

84.1 A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

84.2 Unless the Organisation has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will

be valid even if, before the proxy votes:

84.2.1 the appointing Member dies;

84.2.2 the Member is mentally incapacitated;

84.2.3 the Member revokes the proxy's appointment; or

84.2.4 the Member revokes the authority under which the proxy was appointed by a 3rd party.

85. Attorney of Member

An attorney for a Member may do whatever the Member could do personally as a Member, but if the attorney is to vote at a meeting of Members or a class of Members the instrument conferring the power of attorney or a certified copy of the authority must be produced to the Organisation at least 24 hours before the meeting, in the same way as the appointment of a proxy.

VOTING AT MEETINGS OF MEMBERS

86. Voting

At every general meeting, a Member shall be entitled to one vote.

87. Objections to Right to Vote

87.1 A challenge to a right to vote at a meeting of Members:

87.1.1 may only be made at the meeting; and

87.1.2 must be determined by the chair, whose decision is final.

87.1.3 A vote not disallowed following a challenge is valid for all purposes.

88. How Voting is Carried Out

88.1 A resolution put to the vote at a meeting of the Organisation's Members must be decided on a show of hands unless a poll is demanded.

88.2 On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.

89. Matters on Which a Poll May Be Demanded

89.1 A poll may be demanded on any resolution.

89.2 A demand for a poll may be withdrawn.

90. When a Poll is Effectively Demanded

90.1 At a meeting of the Organisation's Members, a poll may be demanded by:

90.1.1 at least 3 members entitled to vote on the resolution; or

90.1.2 the chair.

90.2 The poll may be demanded:

90.2.1 before a vote is taken;

90.2.2 before the voting results on a show of hands are declared; or

90.2.3 immediately after the voting results on a show of hands are declared.

91. When and How Polls Must Be Taken

91.1 A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.

91.2 A poll on the election of a chair or on the question of an adjournment must be taken immediately.

91.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

91.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

92. Chair's Casting Vote

92.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting has a deliberative and casting vote in addition to any vote he or she may have in his or her capacity as a Member or proxy.

92.2 The chair has discretion both as to use of the casting vote and as to the way in which it is used.

ANNUAL GENERAL MEETING

93. Business of an Annual General Meeting

93.1 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

93.1.1 the consideration of the annual financial report, Directors' report and auditor's report;

93.1.2 the election of Directors;

93.1.3 the appointment of the auditor; and

93.1.4 the fixing of the auditor's remuneration.

All other business transacted at an annual general meeting and all other business transacted at any other general meeting is special business.

93.2 The business of the annual general meeting also includes any other business which under this Constitution ought to be transacted at an annual general meeting.

93.3 The chair of the annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Organisation.

93.4 If the Organisation's auditor or the auditor's representative is at the meeting, the chair of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask the auditor or their representative questions relevant to the conduct of the audit and the preparation of the auditor’s report.

94. Resolutions Proposed by Members

94.1 No Member may at any meeting move any resolution relating to special business unless:

94.1.1 the Member has given not less than 30 Business Days' previous notice in writing of the Member's intention to move an ordinary resolution or 2 months' notice in writing to the Member's intention to move a special resolution at the meeting by leaving the and a signed copy of the resolution at the registered notice office of the Organisation; or

94.1.2 the resolution has previously been approved by the Directors.

94.2 Upon receiving a notice referred to in article 94.1.1 the Secretary must:

94.2.1 if the notice convening the meeting has already been dispatched, immediately notify the Members of the proposed resolution; or

94.2.2 otherwise include notice of the proposed resolution in the notice convening the meeting.

MINUTES

95. Minutes to be kept

95.1 The Board must keep minute books in which they record:

95.1.1 proceedings and resolutions of meetings of the Organisation's Members;

95.1.2 proceedings and resolutions of Board meetings (including meetings of a committee of the Board);

95.1.3 resolutions passed by Members without a meeting; and

95.1.4 resolutions passed by the Board without a meeting.

95.2 The Board must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:

95.2.1 the chair of the meeting; or

95.2.2 the chair of the next meeting.

95.3 The Board must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

95.4 Without limiting article 95.1 the Board must record in the minute books

95.4.1 all appointments of Officers and executive employees;

95.4.2 the names of all parties present at all meetings of the Board and the Organisation; and

95.4.3 the method by which a meeting of Board was held.

ACCOUNTS, AUDIT AND RECORDS

96. Accounts

96.1 The Board must make or keep proper accounting and other records.

96.2 The Board must distribute copies of every profit and loss account, balance sheet and statement of cash flows .

97. Audit

97.1 A registered Organisation auditor must be appointed.

97.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

EXECUTION OF DOCUMENTS

98. Common Seal

98.1 The Organisation may, but need not, have a Seal.

99. Use of Common Seal

99.1 If the Organisation has a Seal the Board must provide for its safe custody.

99.2 The Seal may not be fixed to any document except by the authority of a resolution of the Board or of a committee of the Board duly authorised by the Board.

99.3 The Organisation executes a document with its Seal if the fixing of the Seal is witnessed by:

99.3.1 2 Directors of the Organisation; or

99.3.2 a Director and Secretary of the Organisation.

100. Execution of Documents Without Common Seal

The Organisation may execute a document without using the Seal in any way permitted by the Corporations Act, including where the signatory uses an electronic signature or electronic communication (as that term is defined in the *Electronic Transaction Act 1999* (Cth)).

101. Execution of Document as a Deed

The Organisation may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with this Constitution.

102. Execution General

102.1 The same person may not sign in the dual capacities of Director and Secretary.

102.2 A Director may sign any document as Director, with or without the Seal,

although the document relates to a contract, arrangement, dealing or other transaction in which he or she is interested and his or her signature complies with the requirements of this Constitution as to execution despite his or her interest.

102.3 Articles 99 and 100 do not limit the ways in which the Directors may authorise documents (including deeds) to be executed on behalf of the Organisation.

INADVERTANT OMISSIONS

103. Formalities Omitted

103.1 If some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission has directly prejudiced any Member financially. The decision of the Board is final and binding on all Members.

WINDING UP

104. Winding Up

104.1 If upon the winding up or dissolution of the Organisation any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the Members of the Organisation but must be given or transferred to some other institution or institutions determined by the Members of the Organisation at or before the time of dissolution which has similar Objects to the Organisation and which is approved by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth Taxation Act.

104.2 If the Members do not make the necessary determination under article 104.1, the Organisation may apply to the Supreme Court to determine the institution or institutions.

104.3 No distribution of profits to Members on winding up a deductible gift recipient organisation:

104.3.1 if the Organisation is a deductible gift recipient and is either wound up or if the endorsements of the organisation as a deductible gift recipient is revoked, the following assets, remaining after the payment of the organisation's liabilities shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made:

104.3.1.1 gifts of money or property for the principal purpose of the Company

104.3.1.2 contributions made in relation to an eligible fundraising event held for the principal purpose of the Organisation; and

104.3.1.3 money received by the Organisation because of such gifts and contributions.