



Constitution

WARRNAMBOOL COMMUNITY GARDEN INC.

A0050291C

Incorporated under the *Associations Incorporation Reform Act 2012 (Vic)* (**the Act**)

Under Section 46 of the Act, these Rules are taken to constitute the terms of contract between the Association and its members.

Acknowledgement

We respectfully acknowledge the Maar (Gunditjmara) people as the original custodians of the land on which the community garden operates and we acknowledge the traditions and knowledge of their elders past and present.

The Association

1. The name of the Association is Warrnambool Community Garden Inc. **(the Association)**
2. **Warrnambool Community Garden's purpose is to promote mental health and well-being and to reduce social isolation by providing a welcoming space where people can come together and share activities and projects.** Examples include:
 - a. Developing and maintaining a community garden and promoting sustainable living in Warrnambool.
 - b. Cultivating a productive, beautiful and financially sustainable community garden.
 - c. Supporting other community gardens in the region.
 - d. Using organic and sustainable gardening techniques, based on permaculture principles.
 - e. Welcoming all members and visitors into the garden, providing them with opportunities to use and enjoy the garden.
 - f. Striving to include all members of the community in its activities, including people of diverse ethnic or cultural backgrounds, religion, age, relative ability or economic circumstances.
 - g. Fostering opportunities for different generations and cultures to work together, support and learn from each other.
 - h. Introducing children to the joy of gardening and community.
 - i. Making the garden available as a place for community feasts, events and celebrations.
 - j. Integrating the arts and fostering creativity.
 - k. Promoting gardening as a means of achieving good health and wellbeing.
 - l. Creating opportunities for research, formal and informal learning about gardening, sustainability, healthy foods and co-operative endeavours.
 - m. Contributing to the preservation and improvement of Warrnambool's natural environment.
 - n. Respecting and working in harmony with each other and nature.
 - o. Preserving and enhancing the biodiversity of indigenous habitat and species.
 - p. Protecting and enhancing the genetic diversity of our food.
 - q. Advocating for the values expressed in this statement of purpose. **(the Purposes)**
3. Subject to the Act, the Association has power to do all things that help it to achieve these Purposes.
4. The Association and its Committee may only exercise their powers and use the income and assets of the Association for the Purposes of the Association.

Financial year

5. The financial year of the Association starts on 1st July of each year.

Members

6. The Association has open membership and anyone can apply to join the Association as a member.
7. The Committee can set or change membership fees and annual subscription fees for members. Changes to the amount must be approved by members at a general meeting.
8. A person can join the association by:
 - a. completing the membership form, which will be tabled at a committee meeting,
 - b. paying the appropriate membership fee (if any), and
 - c. the Secretary entering the person's name, address, type of membership and date they became a member on the members register.

The Association must inform the person when their membership has started, and if they have to pay any annual subscription fee, which will be renewed annually. Fees (if any) should be paid within 28 days of invoicing.

9. Members can choose to stop being a member of the Association at any time by writing to the Secretary. The Association will not refund any membership, subscription or plot fees already paid.

If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the members register. This includes members who do not give notification but do not renew their membership when renewals are due.

10. Members must pay the annual subscription fee (if any) within one month of being asked. If a member does not pay in time, their membership will be suspended. When membership is suspended, a member cannot exercise their members' rights such as voting at the Annual General Meeting (**AGM**).
11. Members have rights and liabilities as set out in the Act and in these rules. Each member's liability is limited to the membership and annual subscription fees (if any).

General rights of members

12. A member of the Association who is entitled to vote has the right:
 - a. to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules;
 - b. to submit items of business for consideration at a general meeting;
 - c. to attend and be heard at general meetings; and
 - d. to vote at a general meeting

Any single member is entitled to vote on the basis of one vote per membership type, with the exception of family membership type, where two adults are entered on the register, both are entitled to vote.

Members' access to documents

13. A member may, subject to rules 15 to 17, inspect the rules of the Association, general meeting minutes, relevant documents (as defined in the Act) and the members register (modified to meet privacy laws) at a reasonable time.
14. A member can write to the Secretary asking for copies of these documents. The decision to provide copies is at the discretion of the Committee. The Secretary can charge a reasonable fee for providing copies.
15. The Secretary can refuse a request to inspect or get copies of relevant documents, or provide only limited access, if the documents contain confidential, personal, employment, commercial or legal matters, or if granting the request would breach a law or may cause damage or harm to the Association.
16. The Committee agrees that the Secretary will email a copy of the Committee meeting minutes to Committee members once completed and at the committee's discretion to all members of the Association.
17. Members can write to ask that the Secretary restrict access to their details on the members register if they have special circumstances.

The committee

18. The Association is governed by a management committee (the **Committee**) that is made up of committee members (**Committee Members**).
19. The Committee can exercise all powers and functions of the Association (consistently with these Rules and the Act), except for powers and functions that the members are required to exercise at a general meeting (under these Rules or the Act).

20. The Committee can delegate any of its powers and functions to a committee member, a sub-committee, a staff member or a member other than the power of delegation or a duty imposed by the Act. The delegation must be in writing and can be revoked by the committee in writing.
21. The Committee is made up of the following roles:
 - a. The Convenor
 - b. The Deputy Convenor
 - c. The Treasurer
 - d. The Secretary
 (these are the **Officers**)
 - e. Up to 5 (five) Ordinary Committee Members.
22. Committee Members are elected by members of the Association at the AGM by nomination and by ballot if nominations received exceed the positions available.
23. At the first Committee meeting after each AGM, the Committee will elect Committee Members to any vacant positions.
24. The Secretary must be over 18 years of age, and live in Australia.
25. If the Secretary stops living in Australia, they cannot remain the Secretary.
26. If the Secretary stops being the Secretary, the Committee must appoint a new Secretary within 14 days.
27. Each Committee Member finishes their time on the Committee (term) at the next AGM after they were appointed, but they can be elected again.
28. A member can nominate to be on the Committee by writing to the Secretary, and another member must support their nomination in writing. The supported nomination must be received at least 1 (one) day before the AGM.
29. If the number of members nominated to be Committee Members is equal to the number of Committee Members, the AGM Chair may declare the positions filled without holding a ballot.
30. If the number of applicants for the Committee is less than the number of positions, other members of the Association can nominate themselves at the AGM.
31. A Committee Member stops being on the Committee if they:
 - a. resign, by writing to the Committee or the Secretary
 - b. are removed by a special resolution of members of the Association
 - c. become insolvent (as the term is used in the *Corporations Act 2001*)
 - d. become a represented person (under the *Guardianship and Administration Act 1986*), or
 - e. die.
32. If a Committee Member stops being on the Committee before the end of their term in accordance with rule 31, the Committee can temporarily appoint a member of the Association to fill the vacancy on the Committee until the next AGM.
33. Among its other responsibilities, the Committee is responsible for making sure that:
 - a. accurate minutes of general meetings and Committee meetings of the Association are made and kept, and
 - b. all records, securities and relevant documents of the Association are kept properly.

Committee meetings

34. The Secretary must give 7 days' notice of a Committee meeting to Committee Members unless the meeting is an urgent meeting. At an urgent meeting, only the issues for which the meeting was called can be considered.
35. The Committee can decide how often it meets.
36. Committee Members may attend meetings through technology (such as phone or video conferencing) so long as everyone can hear and be heard at the same time.
37. The Chair of Committee Meetings is the Convenor, or if the Convenor cannot attend, the Deputy Convenor, and if the Convenor and Deputy Convenor cannot attend, the Committee Members can choose who will be Chair for that meeting.
38. If a vote of the Committee is tied, the Chair of the meeting has the deciding vote.
39. The majority (more than half) of Committee Members must be present (either in person or through the use of technology) for the meeting to be validly held (the quorum).

General meetings

40. The Association must hold an AGM within five months of the end of the Association's financial year.
41. The ordinary business of the AGM is to confirm the minutes of the previous AGM, receive reports and statements on the previous financial year, set membership fees and elect Committee Members. The notice of AGM must include any special business or motions to be considered.
42. The Committee or a group of at least 10% of all members may call a Special General Meeting.
43. At least 10% of the members (a quorum) must be present at a general meeting (either in person or through the use of technology for the meeting to be held).
44. Members may not vote by proxy at general meetings.
45. Notice of general meetings must be provided to members at least 21 days before the meeting in writing to each member's postal or email address listed on the members register (in the case of email addresses, so long as the email address was provided for receiving notices).
46. Notices of general meetings must include proposed matters to be dealt with at that meeting.
47. The Chair of a general meeting will be the Convenor, or if the Convenor is not in attendance, the Deputy Convenor, or if the Convenor and Deputy Convenor are not in attendance, the members at the meeting can choose another Committee Member to be Chair.
48. Votes may be held by a show of hands or written ballot, or another method determined by the Chair that is fair and reasonable in the circumstances. If a vote is held initially by show of hands, any member may request a vote be held again by written ballot.
49. If a vote of the members is tied, the Chair of the meeting has the deciding vote.
50. The Chair may adjourn the meeting if there are not enough members at the meeting (see rule 45) within 30 minutes of the meeting time, or if there is not enough time at a meeting to address all business. A new notice must be sent to members before the adjourned meeting (but does not have to comply with time for notice requirements, unless the adjourned meeting is more than 21 days after the original meeting date).

Grievance disputes

51. If there is a dispute between a member and another member, a member and the Association, or a member and the Committee, the parties involved must first attempt to resolve the dispute between themselves for at least 14 days from the date the dispute is known to all parties involved.
52. If the dispute cannot be resolved between the people involved, the following grievance procedure must be followed:
 - a. the party with a grievance must write to the Association and any other people affected, and explain their issue.
 - b. the Committee must appoint an unbiased mediator to hear from all the parties involved and try to find a solution. The Committee must give the people involved reasonable notice of the time and place of the hearing
 - c. at the hearing, each party must have an opportunity to be heard and agrees to do their best to resolve the dispute, and
 - d. if the parties cannot resolve the dispute with the assistance of the mediator, then an unbiased decision-maker must determine the outcome of the dispute.

Disciplining members

53. The Committee can discipline a member of the Association if it considers the member has breached these Rules or if the member's behaviour is causing (or has caused) damage or harm to the Association.
54. The Committee must write to the member to tell them why disciplinary action is proposed to be taken.
55. The Committee must arrange a disciplinary procedure that meets these requirements:
 - a. the outcome must be determined by an unbiased decision-maker
 - b. the member must have opportunity to be heard, and
 - c. the disciplinary procedure must be completed as soon as reasonably practicable.
56. The outcome of a disciplinary procedure can be that the member must leave the Association, for a period of time or indefinitely. The Association cannot fine a member.

Funds

57. The Association must not distribute funds, income or assets to members except as reasonable compensation for services provided or expenses incurred on behalf of the organisation.
58. The Association may derive or generate funds from membership and annual subscription fees, donations, grants, fundraising, interests, and any other sources approved by the Committee that are consistent with furthering the Association's Purposes.
59. Cheques, EFT transfers or cash payments made from the Association's funds must be authorised by two members of the Committee.
60. Financial records must be kept and stored for 7 years, and in accordance with any other applicable laws.
61. The Association does not have a common seal.

Alteration of rules

62. These Rules may be changed, added to, or replaced by special resolution of the Association's members at a general meeting. To pass a special resolution, 75% of votes cast by members present at a meeting and eligible to vote must be in favour of the resolution.

Winding up

63. The members may vote by special resolution at a general meeting to wind up the Association.
64. If the Association has DGR status when it is wound up or if DGR status is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation, fund, authority or institution with similar objects to which income tax deductible gifts can be made:
 - a. gifts of money or property for the principal purpose of the organisation
 - b. contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation, and
 - c. money received by the organisation because of such gifts and contributions.
65. If the Association is wound up and does not have DGR status, any surplus assets must not be distributed to the members or former members of the Association, and (subject to the Act and any Court order) must be distributed to another organisation or organisations with similar purpose, so long as that other organisation or organisations are not carried on for the profit or gain of its members.