

# THE FRIENDS OF THE BOTANIC GARDENS OF ADELAIDE INCORPORATED

ABN 66 133 0162 528

## CONSTITUTION

### 1. Name of Association

The name of the incorporated association is The Friends of the Botanic Gardens of Adelaide (referred to herein as "the association").

### 2. Definitions

In this Constitution:

**The committee** means the committee of management of the association.

**General meeting** means a general meeting of members of the association convened in accordance with this Constitution.

**The Act** means the Associations Incorporation Act 1985.

### 3. Objects of the Association

The association fosters, advocates for and promotes the botanical, educational, scientific, cultural and conservation efforts of the Botanic Gardens and State Herbarium of South Australia in its three sites, the Gardens of Adelaide, Mount Lofty and Wittunga, by, among other things:

- furnishing practical assistance and volunteer labour to maintain those gardens and their diverse facilities
- providing education and information to visitors, including guided tours of the gardens
- assisting at the range of community events held in the gardens and elsewhere
- raising and donating funds for Garden projects and for the training of staff

### 4. Powers

The association shall have all the powers conferred by the Act and this Constitution.

### 5. Membership

- (1) A person is eligible to become a member of the association if:
  - (a) the person supports the objects of the association and agrees to be bound by its rules, and
  - (b) the person has applied in writing (including by email or other electronic means) and,
  - (c) pays the annual subscription determined by the committee
- (2) The committee may grant honorary life membership to a person who, in the committee's opinion, has rendered extraordinary service in support of the objects of the association.
- (3) Different classes or categories of membership may be determined from time to time by the committee.

### 6. Subscriptions

- (1) The subscription fees for each class of membership shall be a sum determined, from time to time, by the committee.

- (2) A member's subscription will be payable in advance in a nominated month of each year, as determined, from time to time, by the committee.
- (3) Any member whose subscription is outstanding for more than three (3) months after the due date for payment shall cease to be a member of the Association, provided always that the committee may reinstate such a person's membership on such terms as it thinks fit.

## **7. Resignation of membership**

A member may resign from membership of the association by giving written notice (including by email or other electronic means) to the secretary or public officer of the association.

## **8. Expulsion of a member**

- (1) Subject to giving a member an opportunity to be heard, the committee may, by resolution, suspend the membership of any member for a defined period or expel any member for misconduct which, in the opinion of the committee, is detrimental to the interests of the association.
- (2) Particulars of the conduct and an invitation to address the committee in person or in writing (including by email or other electronic means) shall be communicated to the member at least 1 (one) month before the meeting of the committee at which the matter will be determined.
- (3) If, after considering the charge and any submissions made in connection with the charge, the committee is satisfied that suspension or expulsion is warranted, the secretary or public officer must, within 7 days after the resolution is passed, provide, by registered mail or its equivalent, written notice to the member of the reasons for the committee having taken that action and of the member's right of appeal under Clause 8(4).
- (4) It shall be open to a member to appeal the suspension or 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 of receipt of the notification of the committee's resolution to suspend or expel the member.
- (5) In the event of an appeal under Clause 8(4), the appellant's membership shall not be suspended or terminated unless the committee's resolution is upheld by the members of the association in general meeting after the appellant has been heard by those members and, in such event, the membership will be terminated at the date of that general meeting.

## **9. Register of members**

A register of members must be kept and contain:

- i. The name and address of each member and the class of their membership
- ii. The date on which each member was admitted to the association, and
- iii. If applicable, the date and reason(s) for termination of membership.

## **10. The Committee**

- (1) The affairs of the association shall be managed and controlled by a committee which, in addition to any powers and authorities conferred by this Constitution (and subject to the provisions of Clause 11(7)) may exercise all such powers and do all things as are within the objects of the association and are not by the Act or this Constitution required to be done by the association in general meeting.

- (2) The committee shall have the management and control of the funds and other property of the association.
- (3) The 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.
- (4) The committee shall appoint a public officer, as required by the Act.

#### **11. Composition and membership of the committee**

- (1) The committee is to consist of:
  - i. the office-bearers of the association, and
  - ii. 5 ordinary committee members, each of whom is to be elected at the annual general meeting of the association.
- (2) The office-bearers of the association shall comprise:
  - i. The president,
  - ii. Two vice-presidents,
  - iii. The secretary, and
  - iv. The treasurer
- (3) The committee may appoint, as ex-officio members of the committee, as many persons as it deems necessary to represent the different interest groups or sub-committees which carry out the work of the association. All members of the committee, including ex-officio members, shall have the right to vote. The committee shall determine all other terms and conditions on which ex-officio members are appointed.
- (4) The committee may invite the immediate past-president to be an ex-officio member.
- (5) The committee may appoint a person to fill a casual vacancy and such a committee member shall hold office until the next annual general meeting of the association.
- (6) A committee member may hold up to 2 offices or positions, other than the offices of president and vice-president, but will be entitled to only one vote on any issue.
- (7) The director of the Botanic Gardens and State Herbarium of South Australia (BGS) or their nominated staff member, shall be an ex-officio member of the committee and shall have the authority to veto any proposal if, in their opinion, such a proposal is not in the best interests of the BGS. If the committee is dissatisfied with the exercise of veto by the Director of the BGS or the nominated staff member, the committee shall have the right of appeal against that veto to the Board of the Botanic Gardens and State Herbarium, whose decision will be final.
- (8) At the request of the committee, the president or, in their absence, a vice-president, may invite any person to attend a meeting of the committee.

#### **12. Disqualification of committee members**

The office of a committee member shall become vacant if a committee member is:

- i. disqualified from being a committee member by the Act, or
- ii. expelled as a member under this Constitution, or is
- iii. absent without apology from more than 3 meetings in a financial year.

#### **13. Proceedings of committee**

- (1) The committee shall meet as required for the dispatch of business but not fewer than 8 times in a financial year.

- (2) The president shall be the chairperson of any committee meeting or, in the case of his or her absence, a vice-president. Exceptionally, another committee member may chair a meeting in the absence of the president or vice-presidents.
- (3) Questions arising at any meeting of the committee shall be decided by a majority of votes and in the event of equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.
- (4) A quorum for a meeting of the committee shall be 7 (seven) persons with a right to vote.
- (5) A member of the committee having a direct or indirect interest, pecuniary or otherwise, in a contract or proposed contract with the association must disclose the nature and extent of that interest to the committee and shall not vote with respect to that contract or proposed contract.
- (6) The committee may consult members or hold a ballot by postal or electronic means (as decided by the committee) to determine any issue or proposal other than an appeal under Clause 8. Committee meetings may be held at 2 or more venues using any technology approved by the committee that gives each member a reasonable opportunity to participate.

#### **14. General meetings**

##### A. Annual general meeting

- (1) The committee shall call an annual general meeting of the association in November each year, on a date and at a place determined by the committee. Notification of the meeting, including a call for nominations, shall be given at least four (4) weeks in advance to all members of the association.
- (2) The order of business at the meeting shall be:
  - i. The confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting,
  - ii. The consideration of the accounts and reports of the committee and the auditor's report,
  - iii. Declaring vacant all positions of office-bearers and other committee members and electing persons to fill those positions from among the members of the association,
  - iv. The appointment of an auditor for the following year, and
  - v. Any other business requiring consideration of the association in general meeting.
- (3) Nominations for all candidates for election as office-bearers and other members of the committee shall be submitted in writing. All nominations shall also be seconded in writing by a member of the association. All nominations shall be provided to the secretary at least two (2) weeks before the annual general meeting.
- (4) If a member proposes to move a motion at the annual general meeting, notice of that motion shall be given in writing to the secretary at least three (3) weeks prior to the meeting. Unless the committee considers it unnecessary in a particular case, the secretary shall notify members of the association in writing about the motion prior to the meeting. Any motion to alter this Constitution must, however, be notified to members of the association in writing before the meeting.
- (5) The quorum of an annual general meeting shall be one-twentieth of the membership of the association or thirty (30) members, whichever is the smaller.

##### B. Special General Meeting

- (1) A special general meeting of the association may be called at the discretion of the committee at any time.
- (2) Upon a requisition to the secretary, in writing, of not less than one-twentieth of the total members of the association, the committee is required, within one (1) month of the receipt of the requisition, to convene a special general meeting for the purpose specified in the requisition. Every such requisition must be signed by the relevant members and must state the purpose of the meeting.
- (3) All members of the association will be notified of the date and place of any special general meeting and the matters to be discussed at least three (3) weeks before the meeting.
- (4) The quorum of a special general meeting shall be one-twentieth of the membership of the association or thirty (30) members, whichever is the smaller.

### **15. Proceedings at all general meetings**

- (1) A question for decision at a general meeting must be determined by a majority of members of the association who vote in person or by proxy at that meeting.
- (2) Voting at all general meetings must normally be by a show of hands.
- (3) A secret ballot on a particular question will take place only where it has been requested by at least five (5) members.
- (4) Where voting is to take place by secret ballot, the chairperson must appoint two (2) returning officers who, upon counting the votes, shall declare the results and immediately destroy the ballot papers.
- (5) Each member present in person or by proxy shall be entitled to one vote, except that in the case of a membership at a family rate, the holders of such a membership shall be entitled to a total of two (2) votes.
- (6) A member shall be entitled to appoint in writing (including by email or other electronic means) a natural person who is also a member of the association to be his or her proxy and to attend and vote at any meeting of the association.
- (7) The president or a vice-president will chair general meetings. In the case of a special general meeting called under Clause 14B (2), the committee and the members in whose name the requisition is lodged may prefer to agree upon an independent third person to chair the meeting.
- (8) A general meeting may be held at two (2) or more venues using any technology approved by the committee that gives each member of the association a reasonable opportunity to participate. A member who participates in a general meeting using that technology is taken to be present at that meeting and, if the member votes, is taken to be voting in person.

### **16. Dispute Resolution**

- (1) In the case of a dispute between a member and another member of the association or between a member and the committee of the association concerning the application of the Constitution or the management of the association, the parties to the dispute must meet and attempt to resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.
- (2) If the parties are unable to resolve the dispute at the meeting, the matter is to be referred to an independent third person to mediate and, if necessary, arbitrate the dispute. The parties must agree to be bound by the third party's decision. Where the assistance of a mediation service is retained, the parties will share any costs incurred.

- (3) In any attempt to resolve disputes, it is imperative that the parties have every opportunity to express their concerns and be heard and that any person seeking to resolve or determine the dispute be an unbiased person, disinterested in the dispute and its resolution.
- (4) No member may raise a dispute over circumstances that arose more than six (6) months before the date on which the dispute was first raised.

#### **17. Seal of association**

- (1) The association shall have a common seal on which its name appears in legible characters.
- (2) The seal of the association shall not be affixed to any document except pursuant to a resolution of the committee and then only in the presence of the president and any two other members of the committee, all of whom must sign the document.

#### **18. Constitution**

This Constitution may be altered (including an alteration to the association's name) or rescinded and replaced by a substituted Constitution, only by a resolution of the members of the association at an annual general meeting or at a special general meeting. No such alteration or substitution shall be valid until approval thereof has been given by the Board of the Botanic Gardens and State Herbarium of South Australia. Any alteration or substitution shall be registered with the Consumer and Business Services, Corporate Affairs Commission, as required under the Act.

#### **19. Dissolution of association**

The association may be dissolved by a unanimous resolution of the members of the Board of the Botanic Gardens and State Herbarium or by resolution of the members of the association at a special general meeting called for the purpose, where three-quarters of the members' present vote in favour of dissolution. If, after the winding up of the association, there remain any surplus assets (as defined by the Act), such assets shall be distributed to the Board of the Botanic Gardens and State Herbarium of South Australia for the benefit of the gardens or to another organisation with similar objects and which prohibits the distribution of its assets and income to its members.

**20.** This Constitution should be read in conjunction with the appended Memorandum of Understanding between the Friends of the Botanic Gardens of Adelaide and the Board of the Botanic Gardens and State Herbarium of South Australia.