



# **WHITEHORSE-BOROONDARA FM COMMUNITY RADIO INCORPORATED CONSTITUTION AND RULES**

**Association No. A0029570T  
ABN 63 328 823 890**

**as amended  
21st June 2015**

## **STATEMENT OF PURPOSE**

*To provide entertaining and informative radio programmes for the residents of the City of Whitehorse and the City of Boroondara in accordance with the purpose of Community Radio as defined by the Broadcasting Services Act.*

# RULES

## NAME

### Clause 1

The name of the Incorporated Association is Whitehorse-Boroondara FM Community Radio Incorporated ( in these rules called “the Association” ).

## INTERPRETATION

### Clause 2

(1) In these rules, unless the contrary intention appears:

“*Committee*” means the Committee of Management of the Association.

“*Financial year*” means the year ending on 30 June.

“*General Meeting*” means a general meeting of members convened in accordance with rule 11.

“*Member*” means a member of the Association.

“*Ordinary Member of the Committee*” means a member of the Committee who is not an officer of the Association under Rule 21.

“*The Act*” means the Association Incorporated Reform Act 2012. It is not the Broadcasting Services Act acknowledged in the Statement of Purpose.

“*The Regulations*” means the regulations under the Association Incorporation Act.

(2) In these rules, a reference to the secretary or an Association is a reference:

- (a) where a person holds office under these Rules as secretary of the Association – to that person; and
- (b) in any other case, to the public officer of the Association.

(3) Words or expressions contained in these Rules shall be interpreted in accordance with the provisions of the Interpretation of Legislation Act 1984.

## MEMBERSHIP

### Clause 3

(1) A person who has applied and been approved for membership as provided in the rules is eligible to be a member of the Association on payment of the annual subscription payable under these rules.

(2) A person who is not a member of the Association at the time of incorporation of the Association (or who was a member at the time but has ceased to be a member) shall not be admitted to the membership:

- (a) unless an application has been lodged as provided in Sub-Clause ( 3 ) ; and
- (b) the admission as a member is approved by the Committee.

(3) An application of a person for membership of the Association –

- (a) shall be made in writing in the form set out in Appendix 1 ; and
- (b) shall be lodged with the Secretary of the Association.

(4) As soon as practicable after receiving an application for membership, the secretary shall refer the application to the Committee.

(5) Upon an application being referred to the Committee, the Committee shall determine whether to approve or reject an application. An application may only be rejected if –

- (a) there are reasonable grounds to believe that the applicant would not abide by the Rules and Objectives of the Association; or
- (b) there are reasonable grounds to believe that the applicant would not abide by the Community Broadcasting Code of Practice; or
- (c) there are reasonable grounds to believe that the applicant would pose a security risk to members, property or premises of the Association.

(6) Where the Committee resolves –

- (a) to approve an application for membership, the secretary shall, as soon as practicable after that resolution, notify the applicant of the approval and request the applicant to pay within the period of 28 days after receipt by the applicant of the notification the sum payable under these Rules by a member of an annual subscription.
- (b) to reject an application for membership, the applicant shall have the rights of reply and appeal under clause 7A.

(7) The secretary shall -

- (a) on payment by the applicant of the amount referred to in Sub-Clause (6)(a) within the period referred to in that Clause; or
- (b) upon the resolution of the Committee to reject an application being overturned on reply or appeal and payment of the required annual subscription by the applicant. Enter the applicant's name in the Register of Members and, upon the name being so entered, the applicant becomes a member of the Association.

(8) A right, privilege or obligation of a person by reason of membership of the Association-

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates upon the cessation of membership whether by death or resignation or otherwise.

(9) On being accepted and having paid the membership fee, the new member will be permitted to vote after a probationary period of 3 months from the date payment of membership is received.

## **ANNUAL SUBSCRIPTION**

#### **Clause 4**

The annual fee is as determined by the Committee and is payable in advance each year on the anniversary of the date of becoming a member.

#### **Clause 5**

The secretary shall keep and maintain a Register of Members in which shall be entered the full name, address and date of entry of the name of each member and the Register shall be available for inspection by members at the address of the Public Officer.

### **RESIGNATION AND EXPLUSION OF MEMBER**

#### **Clause 6**

(1) A member of the Association who has paid all monies due and payable by him/her to the Association may resign from the Association by first giving one month's notice in writing to the secretary of his intention to resign and upon the expiration of that period of notice, the member shall cease to be a member.

(2) Upon expiration of a notice given under sub-clause (1) the secretary shall make in the Register of Members an entry recording the date on which the members by whom the notice was given, ceased to be a member.

#### **Clause 7**

7. Subject to these rules, the Committee may by resolution

- (a) expel a member from the Association;
- (b) suspend a member from membership of the Association for a specified time; or
- (c) fine a member in accordance with the regulations if the member
  - (i) has refused or neglected to comply with these rules; or
  - (ii) has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association.
  - (iii) The Committee of Management may, at its discretion, refund pro rata membership fee to a member on a member being expelled.

### **GRIEVANCE - RIGHT OF REPLY AND APPEAL FOR REJECTED APPLICANT AND DISCIPLINED MEMBERS.**

#### **Clause 7A**

(1) A resolution of the Committee under clause 7 or clause 3 (6) (b)  
(a) does not take effect unless the Committee, at a meeting held not earlier than 14 and not later than 28 days after the service on the rejected applicant or member of a notice under sub-clause ( 2 ) confirms the resolution in accordance with the clause; and ( b ) where the rejected applicant or member exercises a right of appeal to the Association under this clause, does not take effect unless the Association confirms the resolution.

( 2 ) If the Committee passes a resolution under clause 7 or clause 3(6)(b) the secretary shall, as

soon as practicable cause to be served on the rejected applicant or member a notice in writing –  
(a) setting out the resolution of the Committee and the grounds on which it is based; (b) stating that the rejected applicant or member may address the Committee at a meeting to be held not earlier than 14 and not less than 28 days after the service of the notice; (c) stating the date, place and time of the meeting; (d) informing the rejected applicant or member that he or she may do one or more of the following:  
(i) attend the meeting;  
(ii) give to the Committee before the date of that meeting a written statement seeking the revocation of the resolution; and  
(iii) not later than 24 hours before the date of the meeting lodge with the secretary a notice to the effect that he/she wishes to appeal to the Association in a General Meeting against the resolution.

(3) At a meeting of the Committee held in accordance with sub-clause (1), the Committee-

- (a) shall give to the rejected applicant or member an opportunity to be heard;
- (b) shall give due consideration to any written statement submitted by the rejected applicant or member; and
- (c) shall by resolution determine whether to confirm or to revoke the resolution

(4) If the secretary receives a notice under sub-clause (2), he or she shall notify the Committee and the Committee shall convene a General Meeting of the Association to be held within 21 days after the date on which the secretary received the notice.

( 5 ) At a general meeting of the Association convened under sub-clause ( 4)

( a ) no business other than the question of the appeal shall be transacted: ( b ) the Committee may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; ( c ) the rejected applicant or member shall be given an opportunity to be heard; and ( d ) the members present shall vote by secret ballot on the question whether the resolution should be confirmed or revoked

(6) If at the General Meeting:

- (a) two-thirds of the members vote in person in favour of the confirmation of the resolution, the resolution is confirmed: and
- (b) in any other case,

the resolution is revoked.

## **ANNUAL GENERAL MEETING**

### **Rule 8**

(1) The Association shall, in each calendar year convene an Annual General Meeting of its members.

(2) The Annual General Meeting shall be held on such day as the Committee determines.

(3) The Annual General Meeting shall be specified as such in the notice convening it.

(4) The ordinary business of the Annual General Meeting shall be:-

- (a) to confirm the minutes of the preceding Annual General Meeting and any General Meeting held since the meeting;
- (b) to receive from the Committee reports upon the transactions of the Association during the last preceding financial year;
- (c) to elect members of the committee; and
- (d) to receive and consider the statement submitted by the Association in accordance with section 30 (3) of the Act.

(5) The Annual General Meeting may transact special business of which notice is given in accordance with these rules.

(6) The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year.

(7) Financial members are permitted to vote by proxy, on a proxy form available from the secretary. The form must be completed, and returned in a sealed envelope to the secretary at least 24 hours prior to the time advertised in the scheduled Annual General Meeting.

(8) A minimum of 5% of financial members will constitute a quorum at an Annual General Meeting.

## **SPECIAL GENERAL MEETING**

### **Clause 9**

All General Meetings other than the Annual General Meeting shall be called Special General Meetings.

### **Clause 10**

(1) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this sub-clause, more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

(2) The Committee shall, on the requisition in writing of members representing not less than 5% of the total number of members, convene a Special General Meeting.

(3) The requisition for a Special General Meeting shall state the objects of the meeting and shall be signed by the members making the requisition and be sent to the address of the Secretary and may consist of several documents in a like form, each signed by one or more of the members making the requisition.

(4) If the Committee does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the address of the secretary, the members making the requisition or any of them, may convene a Special General Meeting to be held not later than 3 months after the date.

(5) A Special General Meeting convened by members in pursuance of these Rules shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Committee and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

## **NOTICE OF MEETING**

### **Rule 11**

. ( 1 ) The secretary of the Association shall, at least 14 days or, if the Special Resolution has been proposed, at least 21 days before the date fixed for the holding a General Meeting of the Association, cause to be sent to each member of the Association at his address appearing in the Register of Members, a notice by pre-paid post stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting. ( 1b ) As an alternative to the delivery of notices to a member by prepaid post a member may elect to receive notices via email. Upon application to the secretary, the member will be provided with a form wherein the member can supply his/her name, postal address and email address. Upon return to the secretary of the form duly completed the secretary will thereafter deliver notices to the member by email until notice in writing is received by him/her requesting future notices should be sent by post.

(2) No business other than that set out in the notice convening the meeting shall be transacted at the meeting.

(3) A member desiring to bring any business before a meeting may give notice of that business in writing to the secretary, who shall include that business in the notice calling the next General Meeting after the receipt of the notice.

## **PROCEEDINGS AT MEETINGS**

### **Rule 12**

(1) All business that is transacted at a Special General Meeting and all business that is transacted at the Annual General Meeting with the exception of that specially referred to in these Rules as being the ordinary business of the Annual General Meeting shall be deemed to be Special Business. (a) The secretary, or his deputy is to records all business transacted at meetings.

(2) No item of business shall be transacted at a General meeting unless a quorum of members entitled under these Rules to vote is present during the time when the meeting is considering that item.

(3) 5 members personally present (being members entitled under these Rules to vote at a General Meeting) constitute a quorum for the transaction of the business of a General Meeting.

(4) If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and ( unless another place is specified by the Chairman at the time of the adjournment or by written notice given to members given before the day to which the meeting is adjourned ) at the same place and if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being not less than three (3) shall be a quorum.

### **Clause 13**



(1) The President, or in his absence, the Vice-President shall preside as Chairman at each General Meeting of the Association.

(2) If the President and the Vice-President are absent from a General Meeting, the members present shall elect one of their number to preside as Chairman at the meeting.

#### **Clause 14**

(1) The Chairman of a General Meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at a adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting shall be given as in case of the General Meeting.

(3) Except as provided in Sub-Clauses (1) and (2) it is not necessary to give notice of an adjournment or of the business transacted at an adjourned meeting.

#### **Clause 15**

A question arising at a General Meeting of the Association shall be determined on a show of hands and unless before or on the declaration of the show of hands a poll is demanded, a declaration by the Chairman that a resolution has, on the show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that fact effect in the Minute Book of the Association is evidence of the fact, without proof of the number or proposition of the votes recorded in favour, or against that resolution.

#### **Clause 16**

(1) Upon any question arising at a General Meeting of the Association, a member has one vote only.

(2) All votes should be given personally.

(3) In the case of an equality of voting on a question, the Chairman of the meeting is entitled to exercise a second or casting vote.

#### **Clause 17**

(1) If at a meeting a poll on any question is demanded by not less than three members, it shall be taken at that meeting in such a manner as the Chairman may direct and the resolution of that poll shall be deemed to be the resolution of the meeting on that question.

(2) A poll that is demanded on the election of a Chairman or on a question of an adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the Chairman may direct.

#### **Rule 18**

A member is not entitled to vote at a General Meeting unless all monies due and payable by him/ her to the Association have been paid, other than the amount of the annual subscription payable in respect of the current financial year.

## **Rule 19**

To be eligible to stand for the Committee of Management, a member must have been a financial for a period of 12 months.

## **COMMITTEE OF MANAGEMENT**

### **Rule 20**

(1) The affairs of the Association shall be managed by a Committee of Management constituted as provided in Clause 22.

(2) The Committee:

(a) shall control and manage the business and affairs of the Association.

(b) may, subject to these Rules, the Regulations and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules to be exercised by General Meetings of the members of the Association; and

(c) subject to these Rules, the Regulations and the Act, has powers to perform all such acts and things as appear to the Committee to be essential for the proper management of the business and affairs of the association.

### **Clause 21**

(1) The officers of the Association shall be:

(a) a President;

(b) a Vice-President;

(c) a secretary; and

(d) a Treasurer

all of whom shall be appointed by the Committee and shall be members of the committee.

### **Clause 22**

(1) The Committee of Management shall consist of seven (7) members, each of whom shall be elected at the Annual General Meeting of the Association in each year, and each member of the Committee shall hold office until the Annual General Meeting next after the date of his/her election but is eligible for re-election.

(2) In the event of a casual vacancy or vacancies in the Committee, all financial members shall be informed, nominations called for, and the vacancy or vacancies filled at the next General Meeting except where insufficient nominations are received, the Committee may appoint a member to fill the casual vacancy or vacancies.

(3) Any financial member of Whitehorse-Boroondara FM Community Radio Inc. may attend as an observer at any committee or sub-committee meeting and for the purpose of this clause the term "observer" shall be consistent with the Oxford Dictionary definition "interested spectator" person who attends conference etc. to note proceedings but does not participate.

(4) Any Committee of Management member who fails to attend two consecutive meetings shall be required to seek leave for non-attendance at any further meetings. Failure to do so will cause that member's position be declared vacant.

### **Clause 23**

(1) Nominations of candidates for election as members of the Committee:

(a) shall be made in writing, signed by two members of the Association and accompanied by the written consent of the candidate ( which may be endorsed on the form of nomination); and

(b) shall be delivered to the secretary not less than seven (7) days before the date fixed for the holding of the Annual General Meeting.

(2) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.

(3) If the number of nominations exceeds the number of vacancies to be filled, a ballot shall be held.

(4) If the number of nominations received is equal to the number of vacancies, the persons nominated shall be deemed to be elected.

( 5 ) The ballot of election of members of the Committee shall be conducted at the Annual General Meeting in such usual and proper manner as the Committee may direct .

### **Clause 24**

For the purpose of these Rules, the office of an officer of the Association or of an ordinary member of the Committee becomes vacant if the officer or member:

(a) ceases to be a member of the Association;

(b) becomes insolvent under administration within the meaning of the Companies (Victoria) Code; or

(c) resigns his/her office by notice in writing to the secretary.

## **PROCEEDINGS OF MEETINGS**

### **Clause 25**

(1) The Committee shall meet at least 3 times in each year and at such place and times as the Committee may determine.

(2) Special meetings of the Committee may be convened by the President or by any 4 of the members of the Committee.

(3) Notice shall be given to members of the Committee of any special meeting specifying the general nature of the business to be transacted and no other business shall be transacted at such a meeting.

(4) Any four (4) members of the Committee constitute a quorum for the transaction of the business of a meeting of the Committee.

(5) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week unless the meeting was a special meeting in which case it lapses.

(6) At meetings of the Committee:

- (a) the President or in his absence the Vice-President shall preside; or
- (b) if the President and the Vice-President are absent, such one of the remaining members of the Committee as may be chosen by the members present shall preside.

(7) Questions arising at the meeting of the Committee or of any Sub-Committee appointed by the Committee shall be determined on a show of hands, or, if demanded by a member, by a poll taken in such a manner as the person presiding at the meeting may determine.

(8) Each member present at a meeting of the Committee or Sub-Committee appointed by the Committee (including the person presiding at the meeting) is entitled to one vote, and, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(9) Written notice of each Committee meeting shall be served on each member of the committee by delivering to him/her in reasonable time before the meeting or by sending it pre-paid post addressed to him/her to his/her usual or last known address place of abode or address or where the member has elected to receive notices electronically, by email, at least two business days before the date of the meeting.

(10) Subject to Sub-Clause (4) the Committee may act notwithstanding any vacancy on the Committee.

## **SECRETARY**

### **Clause 26**

The Secretary of the Association shall keep Minutes of the resolutions and proceedings of each General Meeting and each Committee Meeting in books provided for that purpose together with a record of the names of persons present at Committee Meetings.

(1) The secretary, on being elected will, as well as accepting the duties of secretary will also assume the duties of the associations Public Officer.

(2) The secretary will provide members with access to the register of members, the minutes of general meetings and other books and documents on request.

(3) A newly elected secretary must give the Registrar notice of his/her appointment within 14 days after the appointment.

(4) In the event it comes to the notice of the executive that the secretary had not fulfilled the duties satisfactorily or he/she has acted inappropriately he/she will be stood down until an investigation is held and a decision made.

## **TREASURER**

## **Clause 27**

(1) The Treasurer of the Association:

- (a) shall collect and receive all monies due to the Association and make all payments authorised by the Association; and
- (b) shall keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

(2) The accounts and books referred to in Sub-Clause (1) shall be available for inspection by members.

## **REMOVAL OF MEMBER BY COMMITTEE**

### **Clause 28**

(1) The Association in General Meeting may by resolution remove any member of the Committee before the expiration of his/her term of office and appoint another member in his/her stead to hold office until the expiration of the term of the first-mentioned member.

(2) Where the member to whom a proposed resolution referred to in Sub-Clause (1) makes representations in writing to the Secretary or President of the Association (not exceeding a reasonable length) and requests that they be notified to the members of the Association, the Secretary or the President may send a copy of the representations to each member of the Association or, if they are not sent, the member may require that they be read out at the meeting.

## **CHEQUES**

### **Clause 29**

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two members of the Committee.

## **SEAL**

### **Clause 30**

(1) The Common Seal shall be kept in the custody of the Secretary.

(2) The Common Seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the Common Seal shall be attested by the signatures either of two members of the Committee or of one member of the Committee and the Public Officer of the Association.

## **ALTERATION OF RULES AND STATEMENT OF PURPOSE**

### **Clause 31**

These rules may only be altered by special resolution of a general meeting of the Association.

## **NOTICES**

### **Clause 32**

(1) A notice may be served by or on behalf of the Association upon any member either personally or by sending it by post to the members at his/her address , or if the member has elected to receive notices by email, to his/her address shown in the Register of Members.

(2) Where a documents is properly addressed pre-paid and posted to a person as a letter, or emailed to the email address submitted to the secretary, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary post or emailing as appropriate

## **WINDING UP OR CANCELLATION**

### **Clause 33**

If upon winding up of the Association there remains, after satisfaction of all debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Association, but shall be given or transferred to some other institution or institutions having objects similar to those objects of the Association, and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association under the Act<sup>1</sup> and these Rules such institution or institutions to be determined by the Members of the Association.

## **CUSTODY OF RECORDS**

### **Clause 34**

Except as otherwise provided in these Rules, the Secretary shall keep in his custody or under his control all books, documents and securities of the Association.

## **FUNDS**

### **Clause 35**

The funds of the Association shall be derived from annual subscriptions, donations and such other sources as the Committee determines.

## **DISPUTES AND MEDIATION**

### **Clause 36**

(1) The grievance procedure set out in this rule applies to disputes under Rules between:-

- (a) a member and another member; or
- (b) a member and the Association.

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<sup>1</sup> See Part V111 of the Act for winding up and cancellation.

- (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 parties.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (4) The mediator must be –
- (a) a person chosen by agreement between the parties; or
  - (b) In the absence of an agreement –
    - (i) in the case of a dispute between a member and another, a person appointed by the Committee of the Association; or
    - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (5) A member of the Association can be a mediator.
- (6) The mediator cannot be a member who is a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation
- (8) The mediator, in conducting the mediation, must-
- (a) give the parties to the mediation process every opportunity to be heard and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute.
- (10) If the mediation process does not a result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act otherwise at law.

## **LIFE MEMBERSHIP**

### **Clause 37**

In recognition of long and distinguished service to the Association the Committee may, at its discretion award life membership, free of subscriptions to a member who, in the opinion of the Committee has demonstrated their dedication to the advancement of the Association.

- (1) The awarding of Life Membership in any one year will be at the discretion of the Committee of Management with a maximum of three (3) in any one year.

1. An Incorporated Association must have the word “Incorporated: as the last word in its name..

2. The regulations provide that the Committee of the Incorporated Association may impose a fine not exceeding \$20:00 on a member who commits a breach of the Rules of the Incorporated Association

3. Section 30 of the Act provides that an Incorporated Association shall, at least once in each calendar year, convene, a General Meeting, to be called an Annual General Meeting.

4. Section 22 of the Act provides that an incorporated Association may, by special resolution, alter the Statement of Purpose or its Rules. Section 29 of the Act defines a special resolution.

5. See Part V111 of the Act for Winding Up and Cancellation.