
Constitution

THE RIDDOCH ARTS AND
CULTURAL TRUST INCORPORATED

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1. NAME OF ASSOCIATION

The name of the incorporated association is The Riddoch Arts and Cultural Trust Incorporated.

2. DEFINITIONS AND INTERPRETATION

2.1 In this Constitution:

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

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*.

Annual General Meeting means an annual general meeting of Members of the Association held in accordance with the Act.

Annual Plan means the plan referred to in clause 5.3.

Association means The Riddoch Arts and Cultural Trust Incorporated.

Board means the board of management of the Association.

Board Meeting means a meeting of the Board.

Board Members means members of the Board from time to time.

Board Observers means the Gallery Director, Representative and Council Appointee.

Budget means a budget of expenses of the Association to be compiled by the Board pursuant to clause 5.2.

Chairperson means:

- (a) in respect of the conduct or proceedings of any General Meeting, the person who presides under clause 20;
- (b) in all other respects, the person elected chairperson of the Board under clause 13 from time to time.

Council means the City of Mount Gambier and its successors.

Council Appointee means the person appointed under clause 11.3.

Constitution means this constitution as amended from time to time.

Corporate Patron means a Patron that is a body corporate.

Corporate Representative means a person appointed to represent a Corporate Patron under clause 9.5.4 from time to time.

Deductible Gift Recipient has the meaning given to that term in the Tax Act.

Deputy Chairperson means the person elected deputy chairperson of the Board under clause 13.1 from time to time.

Elected Member means a person elected to the position of Mayor or Councillor of the City of Mount Gambier from time to time.

Executive Officer means the person (if any) appointed executive officer of the Association by the Board from time to time.

Field Expert means an individual who has experience, industry skills and/or connections that the Council considers will be beneficial to the Riddoch Art Gallery.

Financial Year means the 12 months ending on 30 June each year.

Friends of the Riddoch Membership means a special class of rights and entitlements for non-voting associates granted under clause 9.3.

Gallery Director means the Riddoch Art Gallery Director, Manager Arts and Culture Development with the City of Mount Gambier from time to time or their successor.

General Meeting means an Annual General Meeting or a Special General Meeting of the Association.

Gift means any sum of money, product or artefact given to the Riddoch Art Gallery as a donation.

Gift Fund means a gift fund established under clause 31.

Liabilities means liabilities, losses, damages, actions, causes of action, arbitrations, claims, orders, judgments, outgoings, costs and expenses.

Limestone Coast means the combined geographic area of the following Councils: District Council of Grant, District Council of Kingston, City of Mount Gambier, Naracoorte Lucindale Council, District of council of Robe; Tatiara District Council and Wattle Range Council.

Member means a member of the Association and **Membership** has a corresponding meaning.

Non-Voting Associate means any person or body corporate accepted or appointed under clause 9.3, 9.4, or 9.5.

Office Bearer means a person elected office bearer under clause 13.1 from time to time.

Officer means an officer of the Association within the meaning of the Act.

Patron means a Non-Voting Associate appointed under clause 9.5.

Public Officer means the Executive Officer or other person appointed as public officer of the Association by the Board from time to time under clause 29.

Registered Charity means a charity that is registered under the ACNC Act.

Representative means a person appointed to represent the Council under clause 7.1 from time to time.

Riddoch Ambassador means a Non-Voting Associate appointed under clause 9.4.

Riddoch Art Collections means the art and cultural collections owned or in the custody of the Council or the Association from time to time.

Riddoch Art Gallery means the building identifiable as the Riddoch Art Gallery, and the associated activities and operations of the Council and the Association .

Secretary means the person elected as secretary of the Board under clause 13 from time to time.

Special General Meeting means a general meeting of Members of the Association other than an Annual General Meeting.

Special Resolution means a resolution of Members of the Association passed in accordance with clause 22 or otherwise:

- (a) at a duly convened General Meeting of which at least 21 days' written notice specifying the intention to propose the resolution has been given to all Members of the Association; and
- (b) by a majority of not less than three quarters of the Members of the Association who being entitled to do so vote at such General Meeting (in person, by Corporate Representative or by proxy).

Tax Act means the *Income Tax Assessment Act 1997* (Cth).

Treasurer means the person elected as treasurer of the Board under clause 13 from time to time.

2.2 In this Constitution, unless the context otherwise requires:

- 2.2.1 headings do not affect interpretation;
- 2.2.2 singular includes plural and plural includes singular;
- 2.2.3 words of one gender include any gender;
- 2.2.4 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 2.2.5 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 2.2.6 another grammatical form of a defined word or expression has a corresponding meaning;
- 2.2.7 an expression defined in the Act has the meaning given by that Act at the date of this constitution; and
- 2.2.8 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions.

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- 2.3 While the Association is a Registered Charity, the ACNC Act and the Act override any clauses in this constitution which are inconsistent with those Acts.
- 2.4 If the Association is not a Registered Charity (even if it remains a charity), the Act overrides any clause in this constitution which is inconsistent with that Act.

3. OBJECTS AND PURPOSES

- 3.1 The Association is established for the operation of the Riddoch Art Gallery in order to provide inspiration, and to challenge, educate and present the visual arts in a way that promotes an understanding of the world with a local, national and international perspective for the benefit of the public.
- 3.2 The Association may pursue the above objects by:
- 3.2.1 developing the Riddoch Art Gallery to be an innovative centre and creative hub for art in the Limestone Coast region that presents inspiring and challenging exhibitions and displays of the Riddoch Art Collections and other art and cultural items on tour and loan;
 - 3.2.2 attracting sponsorship and grants, deductible and other gifts of art and cultural and related items, and otherwise raise finance for the acquisition, development and maintenance of works of art and cultural items for the betterment of the Riddoch Art Collections;
 - 3.2.3 Promoting, displaying, exhibiting, touring and related activities relating to the Riddoch Art Gallery and Riddoch Art Collections;
 - 3.2.4 liaising with government departments and other organisations and agencies interested in the arts and culture; and
 - 3.2.5 doing all such other things and entering into all such agreements as may be incidental or necessary to the attainment of such objects.
- 3.3 The assets and income of the Association must be applied exclusively to the promotion of its objects and no portion may be paid or distributed directly or indirectly to the Members, except as bona fide remuneration for services rendered or expenses incurred on behalf of the Association.

4. POWERS

The Association has, subject to the Act and other applicable laws:

- 4.1 the legal capacity and powers conferred by section 25 of the Act;
- 4.2 the power to do all things necessary or convenient to be done for, or in connection with, the attainment of its objects and purposes.

5. PROVISIONS RELATING TO THE ASSOCIATION

5.1 Decision making framework

The Association will exercise any powers, duties, discretions or authorities conferred by this Constitution consistent with the requirements of the Act.

5.2 **Budget**

- 5.2.1 The Board must compile a Budget of expenditure of the Association for each Financial Year which includes, without limitation, the remuneration, expenses and administrative costs of the Association.
- 5.2.2 The Board must monitor the expenditure of the Association in each Financial Year to ensure that the Association's expenses do not exceed the Budget.
- 5.2.3 The Board's expenditure in any Financial Year must be taken into account in formulating the Annual Plan and Budget for the next Financial Year to ensure that the Association remains in balance and operates prudently going forward.
- 5.2.4 The Budget shall be subject to the approval of the Council.

5.3 **Annual Plan**

- 5.3.1 The Board must make an Annual Plan each Financial year that identifies:
 - 5.3.1.1 The proposed activities of the Association for the Financial Year; and
 - 5.3.1.2 The goal or outcomes of the Association for the Financial year, having regard to:
 - (a) the value and financial position of the Association from the previous Financial Year; and
 - (b) any anticipated accretions to the Association for the Financial Year; and
 - 5.3.1.3 the Association's remuneration and expenses for the Financial Year; and
 - 5.3.1.4 any other information the Association considers relevant.
- 5.3.2 The Annual Plan shall be subject to the approval of the Council.
- 5.3.3 The Council may make, or require the Board to make changes to the Annual plan as it sees fit.
- 5.3.4 The Annual Plan may be in any form determined appropriate by the Board.
- 5.3.5 The Board will endeavour to finalise the Annual Plan for each Financial Year prior to the start of the Financial Year to which it relates.
- 5.3.6 The Board must make the Annual Plan available to the Council on request.

6. **MEMBERSHIP**

The Council is the sole member of the Association and shall be the only member. The Council agrees to be bound by this Constitution.

7. **REPRESENTATIVES**

- 7.1 The Council must appoint a senior officer as its Representative in writing. In the absence of appointment, the executive officer of the Council is the Representative.
- 7.2 Unless otherwise specified in the appointment, the Representative may exercise all the powers that the Council could exercise at a General Meeting or in voting on a resolution (including a resolution to be passed without a General Meeting).

8. **RESIGNATION**

- 8.1 The Council may resign from Membership by giving written notice to the Board.
- 8.2 On resignation of the Council as the sole Member, the Association will become a memberless association under the Act unless the Board otherwise determines.

9. **NON-VOTING ASSOCIATES**

- 9.1 Notwithstanding clause 6, the Association may recognise certain persons as “members” of the Gallery pursuant to this clause. For the avoidance of doubt, while this clause may prescribe certain benefits to a “member”, any such person is not a Member of the Association for the purposes of the Act, and shall have no rights or entitlement to vote or receive any notices of the Association, and no rights or entitlements to the property of the Association. The title of “member” is a mere descriptor only.
- 9.2 Any person accepted or appointed under this clause 9 that wishes to actively participate other than as an observer or visitor must be formally accepted and inducted as a volunteer of the Council or the Association as determined by the Board in its absolute discretion, and comply with all directions, requirements, conditions, rules and regulations of the Board or its delegate.
- 9.3 **Friends of the Riddoch**
 - 9.3.1 Friends of the Riddoch Membership is open to any person.
 - 9.3.2 An application for Friends of the Riddoch Membership must be:
 - 9.3.2.1 in the form determined by the Board; and
 - 9.3.2.2 accompanied by any application fee determined by the Board.
 - 9.3.3 The Board determines whether to accept or reject an application for Friends of the Riddoch Membership.
 - 9.3.4 The Board is not required to give any reason for the rejection of an application.

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- 9.3.5 If an application for Membership is rejected, the Board must:
- 9.3.5.1 give written notice of the rejection to the applicant; and
 - 9.3.5.2 refund in full any fees paid by the applicant.
- 9.3.6 The rights and privileges of Friends of the Riddoch Membership shall be as determined by the Board from time to time, and are non transferable.

9.4 Riddoch Ambassadors

- 9.4.1 The Board may appoint persons as Riddoch Ambassadors having regard to the contributions made to the Association, Riddoch Art Collections or the Riddoch Art Gallery (including to the Riddoch Art Gallery as operated under previous associations, trusts or entities), and for the purposes of promotional and marketing activities of the Association, nationally and internationally, through promotion-focused approach as well as audience development approach, and any other factors the Board considers appropriate.
- 9.4.2 There shall be no application process and no application fee applicable to Riddoch Ambassadors.
- 9.4.3 The rights and privileges of a Riddoch Ambassador shall be as determined by the Board from time to time, and are not transferable.
- 9.4.4 The Riddoch Ambassadors may be reimbursed for their expenses incurred in relation to their activities as a Riddoch Ambassador to the extent determined by the Board.

9.5 Patrons

- 9.5.1 The Board may appoint persons or bodies corporate (whether a Friends of the Riddoch Member or not) as a Patron of the Association having regard to the contributions made to the Association, Riddoch Art Collections or the Riddoch Art Gallery (including to the Riddoch Art Gallery as operated under previous associations, trusts or entities), and such other factors as the Board considers appropriate.
- 9.5.2 There shall be no application process and no application fee applicable to Patrons.
- 9.5.3 The rights and privileges of a Patron shall be as determined by the Board from time to time, and are not transferable.
- 9.5.4 A Corporate Patron may appoint one individual as its Corporate Representative to represent it and to exercise the rights and privileges granted to it by the Board from time to time.
- 9.5.5 A Corporate Patron must appoint its Corporate Representative by a resolution of its board, and if directed by the Board, must provide a copy of its minutes relevant to the appointment, certified correct by its chairperson or secretary to the Board.

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- 9.5.6 A Corporate Representative is treated as a Patron for all purposes until:
- 9.5.6.1 the Corporate Patron's board resolves to revoke the appointment and, if directed by the Board, provides a copy of its minutes relevant to such revocation, certified correct by its chairperson or secretary to the Board; or
- 9.5.6.2 the Chairperson believes on reasonable grounds that the Corporate Patron's board has resolved to revoke the appointment.

10. FUNCTIONS AND POWERS OF BOARD

- 10.1 The affairs of the Association are governed exclusively by the Board. In addition to the powers and authorities conferred by this Constitution, the Board may exercise all powers and do all things that are within the objects of the Association, and are not by the Act or by this Constitution, required to be done by the Association in General Meeting.
- 10.2 The Board may delegate any of its powers, authorities and discretions to any officer or employee or committee of the Association. A delegation must be in writing. A delegation does not derogate from the powers of the Board to act in any matter.
- 10.3 The Board may revoke, modify or vary any such delegation.
- 10.4 The Board may determine the manner in which its meetings and its business and proceedings are conducted and regulated.
- 10.5 The Board may interpret this Constitution and determine any matter relating to the affairs of the Association on which this Constitution is silent.

11. COMPOSITION OF BOARD

- 11.1 The Board comprises a minimum of three and a maximum of five Board Members and a maximum of three Board Observers.
- 11.2 Notwithstanding clause 11.1, while the number of Board Members is below the minimum, the Board may still convene Board Meetings and pass resolutions to appoint additional Board Members, but for no other purpose.
- 11.3 The Council may appoint any person to be an observer of board meetings by serving written notice on the Board, provided the maximum number of Board Observers is not exceeded.
- 11.4 A person may be appointed or elected a Board Member only if such person:
- 11.4.1 is an individual over 18 years of age and otherwise qualified to hold office in accordance with the Act and the ACNC Act;
- 11.4.2 has obtained all current criminal screenings and background clearances in line with relevant state and national laws having regard to the operations of the Association at the relevant time;

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- 11.4.3 has consented in writing to being a Board Member; and
- 11.4.4 is not an employee of the Council.
- 11.5 Subject to this clause 11, the Council may appoint persons as Board Members and remove Board Members from office.
- 11.6 Notwithstanding clause 11.4.4 the Board Observers shall be present at Board Meetings for the purpose of observing and providing advice and administrative support to Board Members. The term of office for the Board Observers shall end when they are no longer an employee of the Council or their earlier replacement.
- 11.7 In appointing Board Members, the Council may:
- 11.7.1 appoint at least one Board Member with experience and skills relevant to a position of company director and/or company secretary.
- 11.7.2 appoint at least one Board Member with an appropriate national or international profile in the arts and/or cultural fields.
- 11.7.3 appoint no more than 1 Board Member who is an Elected Member of Council; and
- 11.7.4 appoint no more than 2 Board Members who are Field Experts and who do not otherwise come under this clause 11.7.
- 11.8 The first Board comprises the persons listed in Schedule 1. Subject to clause 11.11, those Board Members hold office until the conclusion of the second Annual General Meeting after incorporation at which time half of them, determined by lot, must retire from office.
- 11.9 Subject to clause 11.11, at the conclusion of each subsequent Annual General Meeting, half of the Board Members must retire from office.
- 11.10 The Board Members to retire under clause 11.9 are those who have been longest in office since their last election, and as between persons who became Board Members on the same day, are determined by lot (unless otherwise agreed amongst themselves).
- 11.11 If at the time of the retirement of any Board Members under clause 11.9 the number of Board Members is not a multiple of two, then the number of Board Members to retire is rounded down to the nearest whole number.
- 11.12 Subject to clause 11.13 a Board Member retiring under clause 11.9 is eligible for election under clause 13.2.
- 11.13 A Board Member that has attained a consecutive appointment period of 6 or more years must retire and will not be eligible for re-election under clause 11.12. This clause does not preclude a retired member from being eligible for a further reappointment after the period of 2 years have lapsed.

12. BOARD MEMBER VACANCIES

- 12.1 The office of a Board Member becomes vacant if the Board Member:
- 12.1.1 reaches the end of their term of office;
 - 12.1.2 dies or becomes a person whose estate is liable to be dealt with in any way under laws relating to mental health;
 - 12.1.3 becomes disqualified from holding office under the Act;
 - 12.1.4 resigns from office by notice in writing to the Board or Executive Officer;
 - 12.1.5 is removed from office under clause 11.5; or
 - 12.1.6 is absent from three consecutive Board Meetings without the leave of the Board.
- 12.2 Subject to clause 11.4, the Board may appoint a person to fill a casual vacancy on the Board. A Board Member so appointed holds office until replaced in accordance with clause 11.5.

13. ELECTION OF OFFICE BEARERS

- 13.1 At the first Board Meeting after each Annual General Meeting the Board must appoint a chairperson, deputy-chairperson, secretary and treasurer from among their number. The Board must also appoint a Public Officer. Subject to this Constitution, those Office Bearers hold office until the conclusion of the election of Office Bearers at the first Board Meeting after the next Annual General Meeting.
- 13.2 A retiring Office Bearer is eligible for re-election.
- 13.3 Nominations for office of an Office Bearer are made in the manner determined by the Board.
- 13.4 If there is only one nomination for the office of an Office Bearer, the nominee stands elected to such office.
- 13.5 If there is more than one nomination for the office of an Office Bearer, then there must be an election for such office conducted by secret ballot.
- 13.6 The office of any Office Bearer becomes vacant if the Office Bearer:
- 13.6.1 reaches the end of their term of such office;
 - 13.6.2 resigns from such office by notice in writing to the Board or Executive Officer;
 - 13.6.3 is removed from such office by resolution of the Board (and in doing so, the Board is not obligated to provide reasons); or
 - 13.6.4 ceases to be a Board Member.

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- 13.7 Should a vacancy occur in the office of any Office Bearer, the Board must promptly fill such vacancy by appointment from among their number.

14. PROCEEDINGS OF BOARD MEETINGS

14.1 Ordinary meetings

The Board must meet at least four times a year or more often as required at a time, date and place fixed by the Chairperson from time to time.

14.2 Notice

14.2.1 Except in the case of an emergency (for example, to consider a matter of urgent or pressing necessity), at least seven days' notice of all Board Meetings must be given to all Board Members and Board Observers and such notice must be given in writing by email or letter or by any other means consented to by all the Board Members and Board Observers. The consent may be a standing one and can only be withdrawn on seven days' notice.

14.2.2 The notice given under clause 14.2.1 is to be accompanied by an agenda listing the items of business for the Board Meeting and any reports and attachments to be considered for each item of business.

14.3 Quorum

14.3.1 The presence of more than half the Board Members and at least one Board Observer constitutes a quorum at a Board Meeting and no business may be transacted unless a quorum is present.

14.3.2 If at any Board Meeting a quorum is not present, the meeting must be adjourned until no sooner than the following day and all Board Members are to be notified of such adjournment. When the meeting is reconvened, the Board Members present at the reconvened meeting constitute a quorum.

14.3.3 The quorum must be present at all times during the meeting.

14.4 Voting

14.4.1 All matters before the Board for decision at any Board Meeting must be decided by a majority of votes of the Board Members present. Subject to this Constitution, each Board Member present at a Board Meeting is entitled to one vote only except for the Board Member chairing the Board Meeting who has a deliberative, and in case of equality of voting, a casting vote.

14.4.2 Board Observers and Elected Members will have no voting rights.

14.5 Special meetings

Special Board Meetings may be convened by the Chairperson, or by direction of the Chairperson, at the requisition in writing of two or more Board Members, or by any one of the Gallery Director or Representative.

14.6 Chairing of meetings

- 14.6.1 Subject to clauses 14.6.2 and 14.6.3, the Chairperson must preside at all Board Meetings.
- 14.6.2 If the Chairperson is not present at the time appointed for the meeting or is unable or unwilling to preside at any Board Meeting, the Deputy-Chairperson must preside at that Board Meeting.
- 14.6.3 If there is no Deputy-Chairperson, or if the Deputy-Chairperson is not present at the time appointed for the meeting or is unable or unwilling to preside at any Board Meeting, the Board must appoint any other Board Member present to preside at that Board Meeting.
- 14.6.4 If the Chairperson (or in his absence, the Deputy Chairperson) arrives after the meeting has commenced, they may preside at that meeting only with the consent of the acting Chairperson.

14.7 Attendance other than Board Members

- 14.7.1 The Executive Officer (if any) is entitled to attend all Board Meetings unless the Board resolves otherwise, and the resolution is recorded in the minutes of the Board Meeting.
- 14.7.2 Elected Members may attend Board Meetings and the Board shall record such attendance in the minutes.
- 14.7.3 Others may attend Board Meetings with the approval of the Board, and the resolution is recorded in the minutes of the Board Meeting.
- 14.7.4 During a Board Meeting, the Board may exclude any Elected Members and other attendees from any part of the Board Meeting (with or without reason) and a resolution of such exclusion is to be recorded in the minutes.
- 14.7.5 For the avoidance of doubt, the words “other attendees” referred to in clause 14.7.4 does not include Board Observers.

14.8 Meetings using technology

- 14.8.1 A Board Meeting may be held with one or more of the Board Members or Board Observers taking part by telephone, video link or other similar technologies. Such attendees are regarded as being present at the Board Meeting only whilst all attendees are able to hear the proceedings of the entire Board Meeting and to be heard by all others attending the Board Meeting.
- 14.8.2 Without limiting clause 14.8.1, a Board Meeting may be called or held using any technology consented to by all Board Members and Board Observers. The consent may be a standing one and can only be withdrawn on seven days' notice.
- 14.8.3 A Board Meeting conducted in accordance with clauses 14.8.1 or 14.8.2 is deemed to be held at a place determined by the Board Members, provided that at least one of the Board Members or Board

Observer present at the Board Meeting was at such place for the duration of that Board Meeting.

14.9 Circulating resolutions and minutes

- 14.9.1 The Board Members may pass a resolution without a Board Meeting being held if all the Board 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.
- 14.9.2 Separate copies of a document may be used for signing if the wording of the resolution and statement is identical in each copy.
- 14.9.3 The resolution is passed when the last Board Member signs.
- 14.9.4 The Board Observers must be included in the circulation of any proposed resolution document to be signed under this clause 14.9 and a copy of the signed resolution, if passed.
- 14.9.5 A copy of the minutes of each Board Meeting including all resolutions and financial details must be circulated to all Board Members and Board Observers.

14.10 Pecuniary interests

- 14.10.1 A Board Member who has a direct or indirect pecuniary interest in a contract or proposed contract with the Association, or in any other matter which is before the Board for discussion, must, as soon as the Board Member becomes aware of the interest, disclose to the Board the nature and extent of the interest.
- 14.10.2 Where a Board Member has a direct or indirect pecuniary interest in a contract or proposed contract with the Association, or in any other matter which is before the Board for discussion, that Board Member must not vote with respect to that contract or matter but may, subject to that Board Member complying with clause 14.10.1, take part in the deliberations or discussions of the Board with respect to that contract or matter.
- 14.10.3 Clauses 14.10.1 and 14.10.2 do not apply in respect of any pecuniary interests that exist only by virtue of the fact that the Board Member is a member of a class of persons for whose benefit the Association is established.
- 14.10.4 A Board Observer must also disclose any personal pecuniary interest that arises in any matter which is before the Board for discussion. The Board is to determine whether the Board Observer shall vacate the room for discussion on such matters (and such resolution shall be recorded in the minutes).
- 14.10.5 Quorum will not be lost merely because a Board Observer vacates the room under clause 14.10.4.

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- 14.10.6 Board Observers are not considered to have a personal pecuniary interest if the interest arises merely from their employment with Council.

15. BOARD HONORARIUM AND EXPENSES

- 15.1 The Association may pay the Board Members a maximum total honorarium for Board Members determined by the General Meeting.
- 15.2 The Board may determine the allocation of the total honorarium among the Board Members. If the Board does not determine the allocation, the total amount of the honorarium must be allocated equally among the Board Members.
- 15.3 In addition to any honorarium, the Association may also pay any extraordinary travelling and other expenses Board Members properly incur:
- 15.3.1 in attending Board Meetings or meetings of any committee of the Board;
- 15.3.2 in attending any General Meeting; and
- 15.3.3 otherwise in connection with the business of the Association.

16. EXECUTIVE OFFICER

- 16.1 The Association may employ a person chosen by the Board as the executive of the Association.
- 16.2 The Executive Officer shall be employed by the Association on such terms as determined by the Board.
- 16.3 The Executive Officer's contract of employment must include provisions establishing:
- 16.3.1 the Executive Officer's remuneration;
- 16.3.2 the term of the contract;
- 16.3.3 where the Executive Officer has not previously been employed in that position by the Association, a probation period; and
- 16.3.4 specified grounds for dismissal.

17. CONVENING GENERAL MEETINGS

- 17.1 The Board may call a Special General Meeting of the Association at any time, and must call an Annual General Meeting in accordance with the Act.
- 17.2 The first Annual General Meeting must be held within 18 months after the incorporation of the Association, and thereafter within five months after the end of each Financial Year.
- 17.3 Within one month of the receipt of a requisition in writing from the Council or the Representative, the Board must convene a Special General Meeting for the purpose specified in the requisition.

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- 17.4 Every requisition for a Special General Meeting under clause 17.3 must be signed by the Representative or executive officer of the Council and must state the purpose of the meeting.
 - 17.5 If the Board does not convene a Special General Meeting as required by clause 17.3, the Council may convene it. It must be convened in the same manner as a meeting convened by the Board. The reasonable expenses of convening and conducting such a meeting must be borne by the Association.
 - 17.6 Subject to clause 20 the Representative shall be the Chairperson for General Meetings.

18. NOTICE OF GENERAL MEETINGS OF ASSOCIATION

- 18.1 Unless the Council otherwise agrees, at least 21 days' written notice of each General Meeting must be given to the Council. The notice must set out where and when the meeting will be held and particulars of the nature and order of the business to be transacted at the meeting.
- 18.2 For an Annual General Meeting, the order of business is the consideration of the accounts and reports of the Board and the auditors, the appointment of auditors, the election of Board Members (if required), and any other business requiring consideration by the Association in General Meeting.
- 18.3 The Association may give notice of General Meeting to the Council by delivering it to the Council Office, or by sending it by post or email to the following address of the Council:
 - 18.3.1 PO Box 56, Mount Gambier, SA 5290; or
 - 18.3.2 city@mountgambier.sa.gov.au.
- 18.4 Where a notice is sent by post, service of the notice is deemed to be effected if it is properly addressed and posted to the Council by ordinary prepaid mail. It is deemed to be received four business days after posting, if posted to and from a place within Australia.

19. QUORUM AND ATTENDANCE AT GENERAL MEETINGS OF ASSOCIATION

- 19.1 No business may be transacted at a General Meeting of Members unless the Council is present (in person by the presence of either one, or both of the Representative or executive officer of the Council) at all times during the meeting.
- 19.2 If a quorum is not present within 30 minutes after the time appointed for a General Meeting:
 - 19.2.1 if the meeting was convened upon the requisition of the Council, it is dissolved; and
 - 19.2.2 in any other case, it is adjourned to the same day in the next week at the same time and place, or to another day, time and place determined by the Board. If at the resumed meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

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- 19.3 Non-Voting Associates and Elected Members of the Council may attend a General Meeting of the Association. Their attendance shall not contribute to quorum and they will have no voting rights.

20. CHAIRPERSON TO PRESIDE AT GENERAL MEETINGS

- 20.1 Subject to clause 20.2 the Representative must preside as Chairperson at all General Meetings.
- 20.2 If the Chairperson is not present at the time appointed for the General Meeting or is unable or unwilling to preside at the meeting, the following may preside as Chairperson at the meeting (in order of precedence):
- 20.2.1 the executive officer of the Council;
 - 20.2.2 the chairperson of the Board;
 - 20.2.3 the Deputy-Chairperson;
 - 20.2.4 a Board Member chosen by a majority of the Board Members present;
 - 20.2.5 the only Board Member present;
 - 20.2.6 the Mayor of the Council; or
 - 20.2.7 the Elected Member chosen by a majority of the Elected Members present.
- 20.3 If the Chairperson (or in his absence, the Deputy Chairperson) arrives after the meeting has commenced, they may preside at that meeting only with the consent of the acting Chairperson.
- 20.4 The Chairperson:
- 20.4.1 has charge of the general conduct of the General Meeting and of the procedures to be adopted at the meeting;
 - 20.4.2 may determine any dispute about the admission or rejection of a vote (including a vote recorded in the form of a formal resolution of Council tabled at the meeting);
 - 20.4.3 may require the adoption of any procedure which is in the Chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the meeting; and
 - 20.4.4 may terminate discussion or debate on any matter whenever the Chairperson considers it necessary or desirable for the proper conduct of the meeting,
- and a decision by the Chairperson under this clause is final.

21. ADJOURNMENTS

- 21.1 The Chairperson may adjourn a General Meeting to any place, date and time.
- 21.2 The Chairperson must adjourn a General Meeting if the Council agrees or directs the Chairperson to do so. The Chairperson may adjourn the meeting to any place, date and time.
- 21.3 If the meeting is adjourned for more than one month, notice of the resumed meeting must be given as for the original meeting.
- 21.4 Only unfinished business may be transacted at a resumed meeting.

22. MEMBER'S RESOLUTIONS

- 22.1 Unless the Act or this constitution requires a Special Resolution, a resolution is passed if the Council votes in favour of the resolution.
- 22.2 The Council may pass any resolution (including a Special Resolution) without a General Meeting being held if the Council (by the action of the Representative or executive officer of the Council) signs a document, or passes a resolution at a formally constituted meeting of the Council containing a statement that it is in favour of the resolution set out in the document.
- 22.3 The resolution is passed when the Council signs.

23. PROXIES AT GENERAL MEETINGS

- 23.1 The Council may appoint a proxy to vote in place of the Council at a General Meeting in the event that the Representative or executive officer of the Council, or both are not available to attend the meeting.
- 23.2 An appointment of a proxy is valid if:
 - 23.2.1 it is in the form of Schedule 3 or any other form determined by the Board;
 - 23.2.2 it is signed by the Council (either by the Representative or chief executive officer of the Council or, in the form of a resolution passed at a formally constituted meeting of the Council);
 - 23.2.3 it contains the Council's name and address, the proxy's name or the name of the office held by the proxy, and the General Meetings at which the appointment may be used; and
 - 23.2.4 it is provided to the Board at least 48 hours before the commencement of the meeting or resumed meeting.
- 23.3 An appointment of a proxy may be a standing one.
- 23.4 An undated appointment of a proxy is to be taken to have been dated on the day it is given to the Board.
- 23.5 A later appointment of a proxy revokes an earlier one if both appointments could not be validly exercised at the meeting.

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- 23.6 Except to the extent that the appointment of a proxy expressly limits the exercise by the proxy of the power to vote at a General Meeting, a proxy has the same rights to attend, vote and otherwise act at the meeting as the Council.
- 23.7 An appointment of a proxy may specify the way the proxy is to vote on a particular resolution. In that event:
- 23.7.1 the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- 23.7.2 if the proxy is the Chairperson, the proxy must vote on a poll, and must vote that way;
- 23.7.3 if the proxy is not the Chairperson, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way; and
- 23.8 A proxy's authority to speak and vote for the Council at a meeting is suspended while the Representative or executive officer of the Council is present at the meeting.

24. IDENTITY OF REPRESENTATIVES AND PROXIES

The Chairperson may require a person to establish to the satisfaction of a General Meeting that the person is the Representative, executive officer or proxy of the Council for that meeting. If unable to do so, the person may be excluded from the meeting or from voting either upon a show of hands or upon a poll.

25. VOTING AT GENERAL MEETINGS

- 25.1 The Council has one vote in relation to any resolution and is the sole person (subject to a valid appointment under clauses 7 or 23) who may vote at a General Meeting.
- 25.2 If Council call a special meeting of the Council to consider any item of business on the agenda of a General Meeting of the Association then the resolution of the formally constituted meeting of the Council shall take precedence over the vote of the Representative, executive officer of the Council or duly appointed proxy with regard to the specific item of business.

26. MINUTES

- 26.1 The Association must cause minutes of all proceedings of General Meetings and of Board Meetings to be entered within one month after the relevant meeting in books kept for that purpose.
- 26.2 The Association must cause those minutes to be:
- 26.2.1 in the case of General Meetings, confirmed by the Council at a subsequent meeting;
- 26.2.2 in the case of Board Meetings, confirmed by Board Members present at a subsequent meeting;

26.2.3 signed by the person chairing the meeting at which the proceedings took place or by the person chairing the meeting at which the minutes are confirmed; and

26.2.4 provided to the Council.

26.3 A minute that is so entered, confirmed and signed is, in the absence of proof to the contrary, to be accepted as proof of the proceedings to which the minute relates.

26.4 Where minutes have been so entered, confirmed and signed, it is to be taken, in the absence of proof to the contrary, that:

26.4.1 the meeting to which the minutes relate was held; and

26.4.2 the proceedings that are recorded in the minutes occurred; and

26.4.3 all appointments of Officers or auditors that are recorded in the minutes were validly made.

27. COMMITTEES

27.1 The Board may from time to time appoint such committees as it thinks necessary and may delegate or refer to them such of the powers and the duties of the Board as the Board determines.

27.2 The Board must nominate a Board Member as chairperson of a committee appointed under clause 27.1.

27.3 Each committee must report its proceedings to the Board and must conduct its business in accordance with any rules and or directions of the Board.

27.4 The existence of or delegation to a committee does not derogate from the powers of the Board to act in any matter.

27.5 The Board Observers shall be provided with the full agenda and minutes of all committee meetings and shall be invited, but not obligated to attend, committee meetings. The Board or committee shall not be able to exclude Board Observers from attending any committee meetings.

28. VALIDATION OF ACTS

The acts of the Board, a committee, an Officer or delegate of the Association are valid even if it is subsequently discovered that there was a defect in an appointment or any of them was disqualified.

29. PUBLIC OFFICER

Unless otherwise determined by the Board, the Executive Officer (if there is one) ex officio is the Public Officer. If there is no Executive Officer, the Board must appoint a Public Officer.

30. FINANCE

- 30.1 All money received for the benefit of the Association is the property of the Association and must be deposited to the credit of the Association at a bank nominated from time to time by the Board.
- 30.2 Debts incurred by the Association in the ordinary course of business must be paid by cheque, credit card or electronic funds transfer authorised by any two persons appointed by the Board or the Executive Officer.
- 30.3 The Association must:
 - 30.3.1 keep financial records as required by the Act; and
 - 30.3.2 if required by the Act, prepare and distribute financial reports and cause the financial records of the Association to be audited.
- 30.4 In the absence of an Executive Officer, the Board and Association shall utilise the services of the Council for its financial activities and to meet its financial and other reporting obligations.

31. GIFT FUND

- 31.1 The Association may maintain, for the principal purpose of holding Gifts given to the Association, a gift fund which complies with Subdivision 30-BA of the Tax Act.
- 31.2 The Association must use the Gift Fund only for the principal purpose of the Association.
- 31.3 At the first occurrence of one of the following events:
 - 31.3.1 the winding up of the Gift Fund; and
 - 31.3.2 the revocation of the Association's endorsement as a Deductible Gift Receipt under Subdivision 30-BA of the Tax Act,the Association must transfer any surplus assets of the Gift Fund to such one or more charitable entities, funds, authorities or institutions as the Board determines provided that the relevant recipient:
 - 31.3.3 is endorsed as a Deductible Gift Recipient;
 - 31.3.4 has objects similar to those of the Association; and
 - 31.3.5 has rules which prohibit any distribution of profit to its members.

32. EXECUTION OF DOCUMENTS

- 32.1 The Association may execute a document (including a deed) in any manner authorised by the Board, and only if authorised by the Board.
- 32.2 The Board must provide for the safe custody of the seal of the Association.

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- 32.3 The seal may only be used by the authority of the Board. Every instrument to which the seal is affixed must be signed by two seal holders in whose presence the seal is affixed.
 - 32.4 A register listing the documents to which the seal has been affixed must be maintained.
 - 32.5 The seal holders means the Executive Officer (if there is one) and such other Board Members as determined by the Board from time to time.

33. **AMENDMENT OF CONSTITUTION**

This Constitution may be amended, repealed or replaced by Special Resolution.

34. **WINDING UP**

- 34.1 The Association may be wound up by Special Resolution in accordance with the Act.
- 34.2 If the Association is wound up any surplus of money or any property (after satisfaction of its debts and liabilities) must be transferred to one or more of the charitable entities, funds, authorities or institutions determined by the Council, provided that the relevant recipient
 - 34.2.1 is endorsed as a Deductible Gift Recipient;
 - 34.2.2 has objects similar to those of the Association; and
 - 34.2.3 has rules which prohibit the distribution of its income or assets among its members.

35. **INDEMNITY**

- 35.1 Subject to the Act, every person who is or has been an Officer must be indemnified out of the property of the Association against any Liabilities incurred in connection with that person's position as an Officer except a Liability:
 - 35.1.1 owed to the Association; or
 - 35.1.2 that did not arise out of conduct in good faith; or
 - 35.1.3 for legal costs in defending or resisting proceedings in which the person is found by a court to have a Liability for which the person cannot be indemnified under any of the foregoing provisions of this clause; or
 - 35.1.4 for legal costs in defending or resisting criminal proceedings in which the person is found guilty.
- 35.2 For the purposes of clause 35.1:
 - 35.2.1 **legal costs** means legal costs on a solicitor and own client basis; and
 - 35.2.2 **proceedings** means any initial legal proceeding and any appeal proceeding.

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- 35.3 The Association need not indemnify a person under clause 35.1 in respect of a Liability to the extent that the person is entitled to an indemnity in respect of that Liability under a contract of insurance.
- 35.4 Where a person seeks to rely on the indemnity contained in clause 35.1, that person must:
- 35.4.1 immediately notify the Association of any claim which gives rise to or could give rise to a Liability of the Association to that person under the indemnity;
 - 35.4.2 permit the Association to conduct any negotiations and proceedings in respect of the claim in the name of the person and to have the sole arrangement and the control of such negotiations or proceedings and to settle or compromise the claim or make any admission or payment in relation thereto;
 - 35.4.3 not make any admission without the prior written consent of the Association;
 - 35.4.4 promptly render all reasonable assurance and co-operation to the Association as requested by the Association.
- 35.5 The Association must make available for inspection by any person who is or has been an Officer the books and records of the Association at all reasonable times for the purposes of any proceedings in connection with that person's position as an Officer:
- 35.5.1 to which the person is a party; or
 - 35.5.2 that the person proposes in good faith to bring; or
 - 35.5.3 that the person has reason to believe will be brought against the person.
- 35.6 The obligations of the Association in respect of any person who is or has been an Officer under clause 35.5 cease on the expiry of seven years after that person ceases to be an Officer.

36. **INSURANCE**

- 36.1 Subject to the Act, the Association must maintain at its cost a policy of insurance (**Policy**) with a reputable Australian insurer insuring every person who is or has been an Officer against any Liabilities incurred by that person in connection with that person's position as an Officer except a Liability of the kind referred to in clauses 35.1.1 to 35.1.4.
- 36.2 The Policy must provide for an insurance payout to the person of at least \$5,000,000.00 per claim.
- 36.3 The Policy must provide public liability cover to the amount of \$20,000,000.00 per claim.
- 36.4 The Association must not by any act or omission render the Policy void or voidable or otherwise vitiate the Policy.

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- 36.5 The Association must promptly upon request by each person who is or has been an Officer, produce to him or her, a copy of the insurance policy or any certificates of insurance or other reasonable documentary evidence of the currency of the Policy maintained in accordance with this clause.
- 36.6 The obligations of the Association in respect of any person who is or has been an Officer of the Association under this clause ceases on the expiry of seven years after that person ceases to be an Officer.

Schedule 1 - Initial Board Members

Rory McEwen

Maria McGann

Sonya Meziniec



Schedule 2 - Proxy

THE RIDDOCH ARTS & CULTURAL TRUST INCORPORATED

PROXY

The
Name of Member

of
Address

being a Member of the Association

appoint
Name of proxy or office held

or if no person is named, the chairperson of the meeting, as my proxy to vote on my behalf:

- ☐ at the General Meeting of the Association to be held at [date] and [time] and at any adjournment of that meeting;
- ☐ all General Meetings until revoked.

Direction to proxy

If you want to direct your proxy how to vote, mark one box only for each resolution. If you do not want to direct your proxy how to vote, do not mark any box for the resolution. If you wish not to vote on a particular resolution, mark the 'Abstain' box.

I direct my proxy to vote as follows:

Resolutions	For	Against	Abstain
<i>Descriptions</i>			

Date

The common seal of City of Mount Gambier was affixed in the presence of:

.....
Signature of Mayor

.....
Signature of Chief Executive Officer

.....
Name of Mayor (print)

.....
Name of Chief Executive Officer (print)

Schedule 3 – Appointment of Council Representative

THE RIDDOCH ARTS & CULTURAL TRUST INCORPORATED

REPRESENTATIVE

The City of Mount Gambier
.....
Name of Member

of 10 Watson Terrace Mount Gambier South Australia
.....
Address

being a Member of the Association

appoint *Chief Executive Officer*
.....
Name of representative or office held

or if no person is named, the executive officer of the Council, as representative to do all things necessary to give effect to the role of Council and Representative as set out in the Constitution of The Riddoch Arts & Cultural Trust Incorporated.:






MEMBER'S AGREEMENT

The Council, being the sole member of the Association at registration, has agreed by resolution passed at a formally constituted meeting of the Council held on the 18th day of August in the year 2020 to this constitution.

Date: 23/2/2024

The common seal of City of Mount Gambier was affixed in the presence of:


.....
Signature of Mayor
LYNETTE MARTIN
.....
Name of Mayor (print)



.....
Signature of Chief Executive Officer
Barbara Lenowski
.....
Name of Chief Executive Officer (print)

Kate Ruvinetti
Norman Waterhouse Lawyers
Level 11, 431 King William Street
Adelaide SA 5000

Dear Kate

Re: Application to become an incorporated association – Riddoch Arts and Cultural Trust

We, the initial board members appointed by resolution dated 20 October 2020 of the City of Mount Gambier as sole member of the Riddoch Arts and Cultural Trust, hereby:

- Authorise Norman Waterhouse Lawyers to complete and lodge an application for the Riddoch Arts and Cultural Trust to become a incorporated association.
- Approve the name of the association - 'Riddoch Arts and Cultural Trust'.
- Assign Dr Melentie Pandilovski as public officer (refer attached).
- Approve the final constitution as prepared by the City of Mount Gambier and Norman Waterhouse Lawyers as attached.

Co-signed as initial board members of the Riddoch Arts and Cultural Trust:

Maria McGann

Rory McEwen

Sonya Meziniec



Dated: 11/02 /2021

Assignment of Public Officer – Riddoch Arts and Cultural Trust

Name: Melentie Pandilovski

Title: Dr

Occupation: Director of Riddoch Art Gallery

Contact Number: Home: 08 8724 8406

Work 08 8721 2586

Mobile 0419 552 820

Email Address: mpandilovski@mountgambier.sa.gov.au; melentie@gmail.com

Residential Address: 41 Percy Street, Mount Gambier 5290, South Australia

Postal Address: 41 Percy Street, Mount Gambier 5290, South Australia

Date of Consent: 11 / 02 / 2021

Signed:



Public Officer

Co-signed by initial board members of the Riddoch Arts and Cultural Trust:

Maria McGann

Rory McEwen

Sonya Meziniec



Dated: 17 / 12 / 2021