

Rules of Wine Grape Council of South Australia

1. The name of the Incorporated Association is **Wine Grape Council South Australia (Association)**.

2. In these rules, unless the contrary intention appears:

Act means the *Associations Incorporation Act, 1985* (as amended);

Council means the Committee of Management of the Association;

Councillor means a member of the Council;

Funding Act means the *Primary Industry Funding Schemes Act 1998*;

Funding Regulations means the regulations under the Funding Act;

meeting means a general meeting of members of the Association convened in accordance with these rules;

Member means a member of the Association;

Region means any of the regions of registered growers set out in Schedule A attached and any other prescribed region as defined by regulation under the *Phylloxera and Grape Industry Act 1995* from time to time;

Regulations means the *Associations Act Regulations, 1993*;

3. **Objects and purposes**

3.1 To provide South Australian wine grape-growers with a peak council and forum for regional grower organisations to develop policies and strategies to ensure that viticulture remains an economically sustainable industry.

3.2 To provide a single, united voice for grape-growers on commercial, agri-business, technical, viticultural and environmental matters in industry, government and other forums.

3.3 To achieve its goals through co-operative dialogue with and within all the wine industry's sectors and organisations.

3.4 To identify and prioritise projects and activities, including policy development and implementation, on behalf of Members to achieve its objects and purposes.

3.5 To affiliate with the organisation known as Wine Grape Growers Australia or such other national wine grape growers organisation as may exist from time to time.

3.6 To do any other lawful thing to achieve the objects and purposes of the Association.

4. **Powers**

The Association will have all the powers conferred from time to time by section 25 of the Act, save and except such modifications and exclusions which are specified in these rules, which will include the power to:

- (a) acquire, hold, deal with, and dispose of, any real or personal property;
- (b) administer any property on trust;
- (c) open and operate bank accounts;
- (d) invest its moneys:
 - (i) in any security in which trust moneys may, by Act of Parliament, be vested;or
 - (ii) in any other manner authorised by the rules of the Association;
- (e) borrow money upon such terms and conditions as the Association thinks fit;
- (f) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (g) appoint agents to transact any business of the Association on its behalf;
- (h) enter into any other contract it considers necessary or desirable;
- (i) do anything which would be conducive to the attainment of the Association's objects.

5. **Membership**

- 5.1 Membership is open to any active registered wine grape grower who is entered as a registered person in the Register as defined in Part 3 of the *Phylloxera and Grape Industry Act 1995*.
- 5.2 Where registered wine grape growers participate as share farmers their contributions under the Funding Regulations are deemed to be contributions from a single entity. Due to this share farmers are restricted to one vote at a general meeting.

6. **Subscription**

- 6.1 The subscription will be set by and varied from time to time by the Fund Regulations.
- 6.2 The first subscription will be payable pursuant to the provisions of the Fund Regulations.
- 6.3 Thereafter subscription fees will be payable annually on 1 July or such other time as the Council will from time to time determine.

7. Resignation

A Member may resign from membership of the Association by giving written notice thereof to the secretary or public officer of the Association.

8. Cessation of a Member

A Member will cease to be a Member of the Association at the time when they cease to be a registered person in the Register as defined in part 3 of the *Phylloxera and Grape Industry Act 1995*.

9. The Council

9.1 The affairs of the Association will be managed and controlled exclusively by the Council which in addition to any powers and authorities conferred by these rules may exercise all such powers and do all such things as are within the objects of the Association, and are not by the Act or by these rules required to be done by the Association in general meeting.

9.2 The Council will have the power to appoint such officers and employees as are required to carry out the objects of the Association, including a public officer required by the Act, and an Executive Officer, and any other staff or contractor as deemed necessary, and may discuss and delegate any of its powers to such officers and employees. The Executive Officer will not be a Councillor but will attend Council meetings at the behest of the Council.

9.3 The Council will be comprised of not more than 9 persons including

- (a) 8 persons being Members appointed by the registered growers from each of the Regions in accordance with clause 9.4; and
- (b) the Chairperson.

9.4 Each Councillor appointed under clause 9.3(a) will be nominated by the registered growers of each Region. Subject to the nominee confirming their acceptance of the nomination, the appointment will be communicated to the Association. If only the required number of persons are nominated to fill existing vacancies, the Executive Officer will report accordingly to the Annual General Meeting and the Chairperson will declare these persons duly elected Councillors. In the event where there are 2 or more nominees for any Region, the appointment will be decided by ballot of the Members in that Region and co-ordinated by the Association.

9.5 Notice of all persons seeking election to the Council will be given to all Members with the notice calling the meeting at which the election is to take place.

9.6 The ballot for election of Councillors will be conducted by postal vote which will be forwarded to the Members of the relevant regions. The ballot papers will be posted together with reply paid envelopes addressed to the Executive Officer not less than 14 days prior to the date of the meeting at which the elections are to take place.

9.7 The Chairperson will be appointed by the Council from time to time. The Chairperson is not required to be a Member of the Association.

- 9.8 The first Council of the Association will be the Caretaker Council, which will be appointed by the promoters of the Association and will hold office until the first annual general meeting after incorporation at which meeting they will be eligible for re-election in accordance with clause 9.9.
- 9.9 At the first annual general meeting one half of the Councillors referred to in clause 9.3(a) will step down but will be eligible for re-election under clause 9.4. The names of the Councillors who will step down will be decided by the Council prior to the annual general meeting. At the second annual general meeting the remaining Councillors referred to in clause 9.3(a) will step down but will be eligible for re-election in the same manner.
- 9.10 Thereafter the Councillors referred to in clause 9.3(a) will hold office for 2 years but will be eligible for re-election.
- 9.11 The Chairperson will hold office for a period of 2 years at the expiration of which he will retire but will be eligible for re-appointment for a second term. After this second term there must be an interval of at least one year before this person can be elected as Chairperson.
- 9.12 In the event of a casual vacancy on the Council or the Caretaker Council the remaining Councillors will appoint a replacement who will hold office until the next Annual General Meeting but who will at such date be eligible for re-appointment in accordance with clauses 9.3 and 9.4.
- 9.13 A retiring Councillor is eligible to stand for re-election without nomination but no other person is eligible to stand for election unless a Member has nominated him or her at least 28 days before an Annual General Meeting by delivering the nomination in writing to the Executive Officer. The nomination will be signed by the proposer and by the nominee to signify a willingness to stand for election.

10. **Affiliation**

- 10.1 A resolution that the Council may affiliate with Wine Grape Growers Australia or with any other organisation (which association or affiliation incurs a financial liability to the Association) will require the approval of a majority of Members voting in the General Meeting.
- 10.2 The Council will appoint 3 of their number to be the Association's representatives on the Board of Wine Grape Growers Australia, or other like industry organisation, consisting of:-
- (a) 1 Councillor elected by the Members of the Riverland Region; and
 - (b) 2 other elected Councillors.

11. **Disqualification of Councillors**

The office of Councillor will become vacant if a Councillor:

- (a) is disqualified by the Act;

- (b) is permanently incapacitated by ill health;
- (c) is absent without apology or leave of absence for more than three consecutive Council meetings, or more than three Council meetings in a financial year;
- (d) resigns his or her office;
- (e) subject to clause 9.7, ceases to be a wine grape grower.

12. **Proceedings of Council**

- 12.1 The Council will meet together at least 4 times in each year and such other times and in such manner as will be determined by the Council from time to time.
- 12.2 Questions arising at any meeting will be decided by a majority of votes, and in the event of equality of votes the Chairperson will have a casting vote.
- 12.3 A quorum for a meeting of the Council will be 5 Members or such other number as the Council may from time to time determine.
- 12.4 A Councillor having a pecuniary interest in a contract with the Association must disclose that interest to the Council as required by the Act and must not vote with respect to that contract.
- 12.5 A resolution in writing signed by all the Councillors who were in Australia at the time will be as valid and effectual as if it had been passed at a meeting of the Council duly called and constituted and may be comprised by one or more like documents.

13. **Financial year**

The first financial year of the Association will be the period commencing on incorporation of the Association and ending on 30 June 2008, and thereafter all subsequent financial years will commence on 1 July and end on 30 June in each year.

14. **Borrowing powers**

- 14.1 Subject to this rule the Association may borrow money from banks or other financial institutions upon such terms and conditions as the Council sees fit, and may secure the repayment thereof by charging the property of the Association.
- 14.2 Subject to section 53 of the Act the Association may invite and accept deposits of money from any person on such terms and conditions as may be determined by the Council from time to time.

15. **Rules**

- 15.1 Subject to approval by a resolution of the Members of the Association, these rules may be altered (including an alteration to name), or be rescinded and replaced by substituted rules. Such an alteration will be registered as required by the Act.

15.2 The registered rules will bind the Association and every Member to the same extent as if they had respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.

16. **The seal**

16.1 The Association will have a common seal upon which its corporate name will appear in legible characters.

16.2 The seal will not be used without the express authorisation of the Council, and every use of the seal will be recorded in the minute book of the Association. The affixing of the seal will be witnessed by the Chairperson and the Executive Officer or in their absence by 2 Councillors.

16.3 The seal will be kept in the custody of the Executive Officer or such other person as the Council may from time to time decide.

17. **Meetings**

17.1 The Council may call a special general meeting of the Association at any time, and will call an annual general meeting in accordance with the Act.

17.2 The first annual general meeting will be held within eighteen months after the incorporation of the Association, and thereafter within five months after the end of its financial year.

17.3 Upon a requisition in writing of not less than 20 of the total number of Members of the Association, the Council must within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.

17.4 Every requisition for a special general meeting will be signed by the Members making the same and will state the purpose of the meeting.

17.5 If a special general meeting is not convened within one month as required by rule 17.3 the requisitionists may convene a special general meeting. Such a meeting will be convened in the same manner as a meeting convened by the Council, and for this purpose the Council will ensure that the requisitionists are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting will be borne by the Association.

17.6 Subject to rule 17.7 at least fourteen days' notice of any general meeting will be given to Members. The notice will 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. In the case of an annual general meeting, the order of the business at the meeting will be the consideration of the accounts and reports of the Council and the auditors, the appointment of auditors and Councillors (if required), and any other business requiring consideration by the Association in general meeting.

17.7 Notice of a meeting at which a special resolution is to be proposed will be given at least twenty one days prior to the date of the meeting.

- 17.8 A notice may be given by the Association to any Member by notifying the Member in accordance with the provisions of rule 17.9.
- 17.9 Service of the notice will be deemed to have taken place if:-
- (a) It is properly addressed and posted to the Member by ordinary prepaid mail to the address appearing in the register of members;
 - (b) it is sent by email to the address provided by the Member;
 - (c) the notice is published in newspapers with general circulation in the areas within which the Members reside; and/or
 - (d) the notice is broadcast with either a television station or radio station in the area in which the Members reside.
18. **Proceedings at general meetings**
- 18.1 20 Members present personally or by proxy will constitute a quorum at any general meeting.
- 18.2 If within 30 minutes after the time appointed for the meeting a quorum of Members is not present, a meeting convened upon the requisition of members will lapse. In any other case, the meeting will stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the Members present will form a quorum.
- 18.3 The Chairperson of the Council or if there is no Chairperson, then one of the Councillors chosen by the meeting will preside as Chairperson at every general meeting of the Association.
- 18.4 If there is no such Chairperson or Councillor present within 5 minutes after the time appointed for holding the meeting, the Members present may choose one of their number to be the Chairperson of that meeting.
- 18.5 The Chairperson may with the consent of any meeting at which a quorum is present, and will if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 18.6 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as if that meeting were an original meeting of Members.
- 18.7 At any general meeting, a resolution put to a vote will be decided on a show of hands, and a declaration by the Chairperson of the meeting that a resolution has been carried or lost, will unless a poll is demanded be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, the resolution.

18.8 If a poll is demanded by the Chairperson of the meeting or by 3 or more Members present personally or by proxy, it will be taken in such manner as the Chairperson directs. The result of such poll will be the resolution of the meeting, except that in the case of a special resolution as defined in the Act a majority of not less than three quarters of the Members who being entitled to do so vote personally or by proxy at the meeting is required.

18.9 A poll demanded on the election of a Chairperson of a meeting or on any question of an adjournment, will be taken at the meeting and without adjournment.

19. **Minutes**

19.1 Proper minutes of all proceedings of meetings of the Association and of meetings of the Council, must be entered within one month after the relevant meeting in minute books kept for the purpose.

19.2 The minutes kept under this rule will be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting.

19.3 Where minutes are entered and signed they will until the contrary is proved be evidence that the meeting was convened and duly held, that all proceedings held at the meeting were deemed to have been duly held, and that all appointments made at a meeting were deemed to be valid.

20. **Voting rights**

Subject to clause 5.2 and to these rules each Member present in person or by proxy is entitled to one vote.

21. **Proxies**

A Member is entitled to appoint in writing a natural person who is also a Member of the Association to be his proxy, and attend and vote at any general meeting of the Association.

22. **Accounts**

The Association must keep such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association.

23. **Winding up**

The Association may be wound up in the manner provided for in the Act.

24. **Liability of Members**

Members will not be liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges, and expenses of a winding up of the Association

25. **Application of surplus assets**

If after the winding up of the Association there remains 'surplus assets' as defined in the Act, such surplus assets will not be paid to or distributed amongst the Members of the Association but will be given or transferred to some other body/association which prohibits the distribution of its income and property to its Members to the extent as least at great as is imposed on the Association, in accordance with a resolution of the Members or, in default of this, a resolution of the Council or by a judge of the Supreme Court of South Australia.

26. **Non-profit**

The income and property of the Association however derived, will be applied solely towards the promotion of the Association's objects, and no part will be paid or transferred directly or indirectly by way of dividends, bonus or in any other manner to any Member of the Association; provided that nothing in these Rules will prevent the payment in good faith of reasonable and proper remuneration to any officer or servant or to any other Member of the Association in return for services actually rendered to the association nor to prevent the repayment for out of pocket expenses, interests on money lent or reasonable and proper rent for premises let by any officer or servant or Member of the Association

Schedule A Regions

1. **Adelaide Hills Region** includes Adelaide Hills, Adelaide Plains, The Peninsulas and Mount Lofty Ranges (others);
2. **Barossa Valley Region** includes Barossa Valley, Eden Valley and Barossa (others);
3. **Clare Valley Region** includes Clare Valley and Far North;
4. **Coonawarra Region** includes Coonawarra;
5. **Langhorne Creek Region** includes Langhorne Creek;
6. **Limestone Coast Zone Region** includes Limestone Coast, Mount Benson, Padthaway, Robe, Wrattontully, Bordertown and Limestone Coast (others);
7. **McLaren Vale Region** includes McLaren Vale, Kangaroo Island, Southern Fleurieu, Currency Creek and Fleurieu (others);
8. **Riverland Region includes** Riverland and Lower Murray (others);

as defined by regulation under the *Phylloxera and Grape Industry Act 1995* from time to time.

ASSOCIATIONS INCORPORATION ACT, 1985
Subsection 19(1) and Regulation 18

APPLICATION FOR INCORPORATION OF AN ASSOCIATION

To the Corporate Affairs Commission:

1. **CHRISTOPHER JOHN BYRNE** of Section 733 Mackey Road, Loxton SA 5333, being a person duly authorised by the Association to apply for incorporation of the Association under the name **The Wine Grape Council of South Australia**.
2. I have annexed hereto a copy of the rules of the Association, a statutory declaration as to the matters set out in paragraph 19(2)(b), ~~*and a copy of the trust referred to in the rules of the Association or upon which any rule of the Association relies for its operation.~~
3. The Association is formed for the following purposes:-
 - (a) To provide South Australian wine grape-growers with a peak council and forum for regional grower organisations to develop policies and strategies to ensure that viticulture remains an economically sustainable industry;
 - (b) To provide a single, united voice for grape-growers on commercial, agri-business, technical, viticultural and environmental matters in industry, government and other forums;

and is considered to be an Association within the meaning of the Act by virtue of section 18(1)(j) of the *Associations Incorporation Act 1985*.

4. I, **Christopher John Byrne** of Section 733 Mackey Road, Loxton SA 5333, being a natural person of above the age of eighteen years have consented to act as the first public officer of the Association.
5. The Association is situated (or established) at Bookpurnong Road, Loxton SA 5333. The postal address is PO Box 444, Loxton SA 5333.
6. The financial year of the Association ends on 30 June 2008.
7. The prescribed fee is tendered herewith.

.....
Date

.....
(Signature of Applicant)
Christopher John Byrne

* Delete as necessary

"A"

This is the Annexure marked "A" referred to in the statutory declaration of
CHRISTOPHER JOHN BYRNE made on the day of
2008

Before me:
Commissioner for taking affidavits in the
Supreme Court of South Australia

THE WINE GRAPE COUNCIL OF SOUTH AUSTRALIA
RULES