

Friends of the Melton Botanic Garden Inc.

ABN: 53715421623

PROPOSED CHANGES TO THE CONSTITUTION OF THE FRIENDS OF THE MELTON BOTANIC GARDENS INCORPORATED

There are two (2) changes to the Constitution of the Friends of the Melton Botanic Gardens Incorporated that we would like to recommend be made:

A full record of the current Rules can be viewed on The Friends of the Melton Botanic Garden website (www.fmbg.org.au)

New Rules

1.1 Application of Income (New Rule):

Preamble:

The Association has applied for deductible gift recipient status from the Australian Tax Office. In order to be granted deductible gift recipient status the Australian Tax Office requires that any associated deductible gift recipient has certain clauses within the governing rules of the Association.

One such clause relates to the application of the income derived by the Association. The amendment seeks to include an appropriate clause for the application of income of the Association suitable to the Australian Tax Office.

Proposed New Rule to read:

35(A). Application of Income

The assets and income of the organisation shall be applied solely in furtherance of the Purpose of the Association and no portion shall be distributed directly or indirectly to the members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.

Replacement of Current Rules

2.1 Replacement of *Winding Up* (Rule 38):

Preamble:

The Association has applied for deductible gift recipient status from the Australian Tax Office. In order to be granted deductible gift recipient status the Australian Tax Office requires that any associated deductible gift recipient has certain clauses within the governing rules of the Association.

The current clause relating to the distribution of assets in the event of the winding up of the Association or the revocation of the Association's deductible gift recipient status is not acceptable to the Australian Tax Office. The amendment seeks to replace the current winding up clause with clause acceptable to the Australian Tax Office in the event of the winding up of the Association or the revocation of the Association's deductible gift recipient status.

Rule 38 currently states:

38. Winding Up

- (1) In the event that the Association's endorsement as a deductible gift recipient is revoked or is wound up (whichever occurs first), any surplus of the following assets:
- (a) gifts of money or property for the principal purpose of the organisation;
 - (b) contributions made in relation to an eligible deductible gift recipient fundraising event held for the principal purpose of the organisation; and
 - (c) money received by the organisation because of such gifts and contributions,

Will not be distributed to members but will be distributed to:

- (a) A fund or funds with objectives similar to those of the club or association with deductible gift recipient status; or
 - (b) A fund or funds which has a philanthropic or benevolent purpose, including the promotion of art, culture, science, religion education or charity, and including the benefiting of a fund certified to be a patriotic fund under section 24 of the Patriotic Funds Act 1958 with deductible gift recipient status; or
 - (c) A fund or funds with deductible gift recipient status
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, net assets other than those in Rule 38(1) will not be distributed to members but will be distributed to:
- (a) A fund or funds with objectives similar to those of the club or association; or
 - (b) A fund or funds which has a philanthropic or benevolent purpose, including the promotion of art, culture, science, religion education or charity, and

- including the benefiting of a fund certified to be a patriotic fund under section 24 of the **Patriotic Funds Act 1958** or the fund or part of the fund of the Australian Red Cross Society; or
- (c) A community or charitable organisation(s).

Proposed change to Rule 38 is as follows:

38(A). *Winding Up*

In the event of the organisation being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes, that is charitable at law, and which is not carried on for the profit or gain of its individual members.

38(B). *Revocation of Deductible Gift Recipient Status*

If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, and which is charitable at law, to which income tax deductible gifts can be made:

- (a) gifts of money or property for the principal purpose of the organisation;*
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation; or*
- (c) money received by the organisation because of such gifts and contributions.*

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