



# **Port Mandurah Residents' Association**

## **CONSTITUTION**

**As Amended at  
Annual General Meeting  
13<sup>th</sup> January 2005**

**PO Box 1339 Mandurah WA 6210**

[www.portmandurah.com.au](http://www.portmandurah.com.au)

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# Port Mandurah Residents' Association Constitution

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## 1. NAME

The name of the Association is

PORT MANDURAH RESIDENTS' ASSOCIATION

## 2. OFFICE

The office of the Port Mandurah Residents' Association (the Association) is at such place as the Committee may decide from time to time.

## 3. DEFINITIONS

In this Constitution, unless the contrary intention appears-

1. where gender specific words are mentioned in this Constitution, they are considered to mean either gender,
2. "the Act" means the Associations Incorporation Act (1987);
3. "the Commissioner" means the Commissioner exercising powers under the Act;
4. "department" means the government department with responsibility for administering the Act.
5. "convene" means to call together a formal meeting;
6. "annual general meeting" is a meeting convened annually that all Financial Full Members are entitled to attend.
7. "general meeting" means a meeting that all Financial Full Members are entitled to attend.
8. "special general meeting" has the meaning given in section 24 of the Act:

*"A resolution is a special resolution if it is passed by a majority of not less than three-fourths of the members of the association who are entitled under the rules of the association to vote and vote in person or, where proxies or postal votes are allowed by the rules of the association by proxy or postal vote, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with those rules."*

*"At a meeting at which a resolution proposed as a special resolution is submitted, a declaration by the person presiding that the resolution has been passed as a special resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded in accordance with the rules of the Association or, if the rules do not make provision as to the manner in which a poll may be demanded, by at least 3 members of the association present in person or, where proxies are allowed, by proxy."*

*"If a poll is held, a declaration by the person presiding as to the result of a poll is evidence of the matter so declared."*

9. "Committee meeting" means a meeting of the Management Committee.
10. "Management Committee" is a committee comprising those Financial Full Members elected at a General Meeting to the positions of President, Vice President, Honorary Secretary, Honorary Treasurer and Committee Members plus Co-Opted Members.
11. "the Committee" means the Management Committee of the Association.
12. "Committee member" means member of the Management Committee who must be a Financial Full Member of the Association.
13. "Co-Opted Committee Member" is a person co-opted from time to time to the Management Committee who may be either a Financial Full Member, or an Associate Member, but who does not have a vote on the Committee
14. "the President" means the person elected from time to time to carry out the duties of President described in this Constitution.
15. "the Vice-President" means the person elected from time to time to carry out the duties of Vice-President described in this Constitution.
16. "the Honorary Secretary" means the person elected from time to time to carry out the duties of Honorary Secretary described in this Constitution.
17. "the Honorary Treasurer" means the person elected from time to time to carry out the duties of Honorary Treasurer described in this Constitution.
18. "Chairman" means the appointed manager of a meeting of the Association, which in most cases, would be the President, or Vice-President
19. "ordinary resolution" means a resolution other than a special resolution;
20. "poll" means voting conducted in written form (as opposed to a show of hands);
21. "Owner" or "Owners" means a person, persons, couples, groups, entities or corporations that own property in the precinct known as Port Mandurah. Two persons per rateable property are eligible to apply for membership as Full Members.

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22. "Resident" is a person who resides in Port Mandurah and is also an "Owner".
23. "Financial Full Member" or "Full Member" means a person who is an Owner, or nominee of an owner, and is eligible to become a member by paying the appropriate fee per property owned from the prescribed schedule of fees.
24. "Full Membership" applies to the property and entitles the owner or owners to two votes and two full memberships.
25. "Associate Member" is any other family member usually resident at a Financial Full Member's property. An Associate Member is not required to pay a fee, is not eligible to vote and is not eligible to serve on the Management Committee other than as a non-voting Co-Opted Member, however they enjoy all other member privileges.
26. "Affiliate Member" is a person, couple, group, entity or corporation residing outside the precinct of Port Mandurah with comparable interests, or tenant of an owner, whose application to join the Association has been approved by the Committee may become an Affiliate Member by paying the appropriate fee from the prescribed schedule of fees. An Affiliate Member is not eligible to vote and is not eligible to serve on the Management Committee, however they enjoy all other member privileges.
27. "Enduring Membership Fee" means the fee payable, as determined from time to time by the Committee, which provides a Full Member with Financial Full Membership for an extended period.
28. "Life Member" means a Financial Full Member who has been nominated by a Financial Full Member to be absolved from future membership fees in recognition of meritorious service to the Association and such nomination is accepted by the Committee.
29. "Affiliate Life Member" is a Life Member who ceases to be an owner in the precinct of Port Mandurah
30. "Nominator" means a Financial Full Member;
31. "Seconder" means a Financial Full Member;
32. "appointing member" means a Financial Full Member who appoints a proxy to vote on his behalf at any meeting of the Association
33. "proxy" means a Financial Full Member or Associate Member who has been appointed by a Financial Full Member to vote on his behalf at any meeting of the Association
34. "schedule of fees" means the fees determined from time to time by the Committee.
35. "in writing" means by post, facsimile, or electronic mail communication.

#### 4. OBJECTS

The objects for which the Association is established are: -

1. To represent the membership of the Association (as defined in Clause 5) in order to endeavour to ensure that the amenities of the precinct of Port Mandurah are maintained and where possible improved, and the quality of the development and the lifestyle of its residents is preserved.
2. To support and encourage the maintenance of standards throughout the precinct of Port Mandurah including those outlined in Covenants of the land sale documents.
3. To liaise and foster good working relations with Government, Local Authorities, Statutory Authorities and other relevant bodies.
4. To foster good working relations with the media to inform the public.
5. To publish information sheets and newsletters for the benefit of members and non-members.
6. To appoint and engage Consultants and others whose appointment the Committee considers will facilitate the achievement of these objects.
7. To encourage and foster social interaction between members of the Association and others with similar interests.

#### 5. POWERS OF THE ASSOCIATION

The powers vested in the Association are: -

1. To purchase, take in lease or in exchange, hire or otherwise acquire any real or personal property which the Committee considers to be necessary or convenient.
2. To sell, exchange, lease, mortgage, hire dispose of or turn to account or otherwise deal with all or any part of the real and personal property of the Association.
3. To invest the funds of the Association, not immediately required, as the Committee may from time to time see fit.
4. To do all such things as are incidental or conducive to the attainment of the objects.
5. To impose and collect from any Member of the Association, subscriptions, funds, levies or other moneys for the purpose of carrying on or furthering the objects of the Association and applying the same for that purpose.
6. To take appropriate action against any member or other person who may be acting in any way contrary to the interests of the Association.

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7. The property and income of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members of the Association except in good faith in the promotion of those objects or purposes.
8. To associate with or join similar bodies or amalgamate in a common cause for the benefit of all concerned.

### 6. MEMBERSHIP

1. Membership is open to Owners of property in the precinct known as Port Mandurah in the City of Mandurah, Western Australia, or their nominees. Two memberships are applicable to each property.
2. A person who wishes to become a Member shall sign an application in the form approved from time to time by the Committee and such form must include a signed undertaking to abide by the Constitution as determined from time to time by the Committee.
3. The Honorary Secretary, or a Committee Member delegated by the Management Committee, on behalf of the Association shall keep and maintain a Register of Members in accordance with Section 27 of the Act. The Honorary Secretary shall cause the name of a person who dies or ceases to be a Member to be deleted from the Register of Members.
4. A Member who delivers notice in writing of resignation from the Association to the Honorary Secretary ceases to be a Member on delivery of the resignation. Notwithstanding such resignation, the former Member remains liable to pay to the Association the amount of any subscriptions or other moneys due and payable but remaining unpaid at the date of resignation.
5. No Member shall assign or transfer any of the rights, privileges or benefits of Membership except by Proxy.
6. The Committee shall from time to time determine the amount to be paid by each Member as an Annual Subscription for a calendar year or Advance Annual Subscription by way of a fee structure schedule defining the types of membership and the fees payable. Each Member shall pay to the Honorary Treasurer, when their subscription falls due, on or before the date to be approved by the Committee, the amount of the Subscriptions determined by the Committee and approved at the Annual General Meeting. Where a Member does not pay the single year subscription within three (3) calendar months of the due date for payment then such Membership automatically lapses, unless in extenuating circumstances, the Committee decides otherwise.
7. With the prior approval of the Committee, persons with compatible interests who normally are not entitled to become Members, may make application to become Affiliate Members upon payment of the relevant subscription, but shall not be entitled to hold any office in the Association nor vote upon any matter at the Annual General Meeting or at any other properly constituted meeting.
8. A partner or family member of a Financial Full Member usually resident at the property is automatically considered an Associate Member.

### 7. MANAGEMENT COMMITTEE

1. The Management of the Association shall be vested in a Management Committee consisting of: -
  - (i) President
  - (ii) Vice President
  - (iii) Honorary Secretary
  - (iv) Honorary Treasurer
  - (v) additional Members to number not less than four (4) nor more than six (6).
  - (vi) Co-opted Committee Members to number not more than 4.All of the Officers shall be Financial Full Members of the Association elected to Membership of that Committee at an Annual General Meeting or appointed under Paragraph 9 of this clause.
2. At the commencement of the first Annual General Meeting to be held after the incorporation of the Association under the Act,
  - (i) if the Committee consists of an even number of Financial Full Members, half of that number as determined by the Committee, which half; or
  - (ii) if the Committee consists of an odd number of Financial Full Members, the integral number of Financial Full Members nearest to, and exceeding, half of that odd number, the Financial Full Members comprised in which integral number, shall be chosen by ballot,shall cease to be Committee Members, but shall be eligible for re-election to Membership of the Committee.
3. At the commencement of each successive Annual General Meeting after the Annual General Meeting referred to in Paragraph 2 of this clause, those Committee Members who have served for longer periods than the other Committee Members shall cease to be Committee Members, but shall be eligible for re-election to Membership of the Committee.

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4. Subject to Paragraph 5 of this clause, a person is eligible for election to Membership of the Committee if that person has been nominated for election by a Financial Full Member by delivering notice in writing of that nomination, signed by:-
  - (i) the nominator;
  - (ii) the seconder; and
  - (iii) the nominee (to signify his willingness to stand for election) to the Honorary Secretary not less than twenty one (21) days before the day on which the Annual General Meeting concerned is to be held.
5. Paragraphs 4 and 7 of this clause do not apply to or in relation to a person who is eligible for re-election under Paragraphs 2 or 3 of this clause.
6. A person who is eligible for election or re-election under this rule may at the Annual General Meeting concerned:
  - (i) nominate or second themselves for election or re-election and;
  - (ii) vote for himself.
7. The Honorary Secretary shall ensure that notice of all persons seeking election to Membership of the Committee is given to Financial Full Members when notice is given of the calling of the Annual General Meeting at which that election is to be held.
8. If the number of persons nominated for election to Membership of the Committee does not exceed the number of vacancies to be filled: -
  - (i) the Honorary Secretary shall report accordingly to; and
  - (ii) the Chairman shall declare those persons to be duly elected as Members of the Committee at the Annual General Meeting concerned.
9. When a casual vacancy within the meaning of the Act occurs in the Membership of the Committee: -
  - (i) the Committee may appoint a Financial Full Member to fill that vacancy; and
  - (ii) a Financial Full Member appointed under this Sub Rule shall: -
    - (a) hold office until the commencement of; and
    - (b) be eligible for election to Membership of the Committee at the next following Annual General Meeting.
10. The President shall carry out all duties as described in this Constitution and when not available those duties are to be delegated to the Vice-President. Subject to availability, the President shall preside at all General Meetings and Committee Meetings.

In the event of the President's absence from a General Meeting or Committee Meeting:

  - (i) The Vice President should chair the meeting;
  - (ii) If the President and Vice-President are not available, then any other Committee Member elected by the other committee Members present, shall preside at the General Meeting or Committee Meeting as the case requires.
11. The Honorary Secretary shall:-
  - (i) co-ordinate the correspondence of the Association;
  - (ii) keep full and correct minutes of the proceedings of the Committee and of the Association;
  - (iii) comply on behalf of the Association with:
    - (a) Section 27 of the Act in respect of the Register of Members of the Association;
    - (b) Section 28 of the Act in respect of the rules of the Association; and
    - (c) Section 29 of the Act in respect of the records of the Office Holders of the Association.
  - (iv) have custody of all books, documents, records and registers of the Association, including those referred to in sub-paragraph (iii)(c), other than those required by the Act to be kept and maintained by, or in the custody of the Honorary Treasurer, and
  - (v) perform other duties as are imposed by these rules on the Honorary Secretary.
  - (vi) any member of the Management Committee who is delegated to temporarily replace or assist the Honorary Secretary shall be subject to these same rules.
12. The Honorary Treasurer shall:
  - (i) be responsible for the receipt of all moneys paid to or received by him on behalf of the Association and shall issue receipts for those moneys in the name of the Association;
  - (ii) pay all moneys referred to in sub-paragraph (i) into such account or accounts of the Association as the Committee may from time to time direct;
  - (iii) make payments from the funds of the Association with the authority of the Committee and in so doing ensure that all cheques are signed by any two (2) of three (3) authorised Committee Members;
  - (iv) comply on behalf of the Association with Sections 25 and 26 of the Act in respect of the accounting records of the Association;
  - (v) whenever directed to do so by the President, submit to the Committee at least monthly a report, balance sheet or financial statement in accordance with that direction;

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- (vi) have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in sub-paragraph (iv) and (v) and;
  - (vii) perform such other duties as are imposed by these rules on the Honorary Treasurer.
  - (viii) any member of the Management Committee who is delegated to temporarily replace or assist the Honorary Treasurer shall be subject to these same rules.
13. A casual vacancy as a Committee Member occurs if a Committee Member;
- (i) dies;
  - (ii) resigns by notice in writing delivered to the President or, if the Committee Member is the President or Vice-President, to the President or Vice President as the case may be;
  - (iii) is convicted of an offence under the Act;
  - (iv) is permanently incapacitated by mental or physical ill health;
  - (v) is absent, without leave from the President being granted, for more than
    - (a) three (3) consecutive meetings; or
    - (b) three (3) Committee Meetings in the same financial year, of which he has received notice.
  - (vi) ceases to be a member of the Association.
14. The Committee may co-opt any Financial Full Member or Associate Member as required.

### 8. PROCEEDINGS OF COMMITTEE

1. The Committee shall meet together for the dispatch of business at least nine (9) times per annum. The President may at any time convene a Meeting of the Committee.
2. Each Committee Member has a deliberate vote.
3. A question arising at a Committee Meeting shall be decided by a majority of votes, but, if there is an equality of votes, the Chairman at the Committee Meeting shall have a casting vote in addition to his deliberate vote.
4. At a Committee Meeting a majority of extant Committee Members constitutes a quorum.
5. Subject to these rules, the procedure and order of business to be followed at a Committee Meeting shall be determined by the Committee Members present at the Committee Meeting.
6. A Committee Member having any direct or indirect pecuniary interest referred to in Section 21 or 22 of the Act shall comply with that section.

### 9. GENERAL MEETINGS

1. The Committee –
  - (i) may at any time convene a Special General Meeting;
  - (ii) shall convene Annual General Meetings within the time limits provided for the holding of Annual General Meetings by Section 23 of the Act; and
  - (iii) shall, within 30 days of receiving a request in writing to do so from not less than ten (10) Financial Full Members, convene a Special General Meeting for the purpose specified in that request;
2. the Financial Full Member/s making a request referred to in Paragraph (1)(iii) of this clause shall: -
  - (i) state in that request the purpose for which the Special General Meeting concerned is required; and
  - (ii) sign that request.
3. If a Special General Meeting is not convened within the relevant period of 30 days referred to in paragraph (1)(iii) of this clause, the Financial Full Members who made the request concerned may themselves convene a Special General Meeting as if they were the Committee;
4. When a Special General Meeting is convened under Paragraph (1)(iii) of this clause
  - (i) the Committee shall ensure that the Financial Full Member or Members convening the Special General Meeting are supplied free of charge with particulars of all Financial Full Members; and
  - (ii) the Association shall pay the reasonable expenses of convening and holding the Special General Meeting.
5. Subject to Paragraph (8) of this clause, the Honorary Secretary shall give to all Financial Full Members not less than twenty one (21) days notice of a General Meeting and of any motions to be moved at the General Meeting.
6. A notice given under Paragraph (5) of this clause shall specify: -
  - (i) when and where the General Meeting concerned is to be held; and
  - (ii) particulars of the business to be transacted at the General Meeting concerned and of the order in which that business is to be transacted.
7. In the case of an Annual General Meeting, the order in which business is to be transacted is: -
  - (i) first, the consideration of the accounts and reports of the Committee;
  - (ii) second, the election of Committee Members to replace outgoing Committee Members; and
  - (iii) third, any other business requiring consideration by the Association in a General Meeting.

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8. The Honorary Secretary shall give to all Financial Full Members not less than twenty-one (21) days notice of a General Meeting at which a special resolution is to be proposed and of any other motions to be moved at that General Meeting.
9. The Honorary Secretary may give notice under Paragraph (5) or (8) of this clause by:
  - (i) serving it on a Financial Full Member personally; or
  - (ii) sending it by post, fax or email to a Financial Full Member at the address of the Financial Full Member appearing in the Register of Members kept and maintained under Section 27 of the Act.
10. When a notice is sent by post, fax or email under Paragraph (9)(ii) of this clause, sending of the notice shall be deemed to be properly effected if the notice is sufficiently addressed and posted, faxed or emailed to the Financial Full Member concerned.

### **10. QUORUM IN PROCEEDINGS AT GENERAL MEETINGS**

1. At a General Meeting twenty (20) Financial Full Members present in person or by proxy constitute a quorum.
2. If within thirty (30) minutes after the time specified for the holding of a General Meeting in a notice given under the Act: -
  - (i) as a result of a request or notice referred to under the Act a quorum is not present the General Meeting lapses; or
  - (ii) otherwise than as a result of a request, notice or action referred to in sub-paragraph (i) the General Meeting stands adjourned to the same time on the same day of the following week and to the same venue.
3. If within thirty (30) minutes of the time appointed by Paragraph (2)(ii) of this clause for the resumption of an adjourned General Meeting a quorum is not present, the Financial Full Members who are present in person or by proxy may nevertheless proceed with the business of that General Meeting as if a quorum were present.
4. The Chairman may, with the consent of a General Meeting at which a quorum is present, and shall, if so directed by such a General Meeting, adjourn that General Meeting from time to time and from place to place.
5. There shall not be transacted at a resumed General Meeting any business other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.
6. When a General Meeting is adjourned for a period of thirty (30) days or more, the Honorary Secretary shall give Notice in accordance with the Act of the adjourned General Meeting as if that General Meeting were a new General Meeting.
7. At a General Meeting: -
  - (i) an ordinary resolution put to the vote shall be decided by a majority of votes cast on a show of hands.
  - (ii) a special resolution put to the vote shall be decided in accordance with Section 24 of the Act; and
  - (iii) the Chairman shall have a casting vote as well as a deliberate vote.
8. A declaration by the Chairman at a General Meeting that a resolution has been passed as an ordinary resolution shall be evidence of that fact unless, during the General Meeting at which the resolution is submitted, a poll is demanded in accordance with Paragraph (9) of this clause.
9. At a General Meeting, a poll may be demanded by the Chairman or by three (3) or more Financial Full Members present in person or by proxy, and if so demanded, shall be taken in such manner as the Chairman directs.
10. If a poll is demanded and taken under Paragraph (9) of this clause in respect of an ordinary resolution, a declaration by the Chairman of the result of the poll is evidence of the matter so declared.
11. A poll demanded under Paragraph (9) of this clause on the election of a person to preside over a General Meeting or on the question of an adjournment shall be taken forthwith on that demand being made.

### **11. MINUTES OF MEETINGS OF THE ASSOCIATION**

1. The Honorary Secretary shall cause proper minutes of all proceedings of all General Meetings and Committee Meetings to be taken and then to be entered within thirty (30) days after the holding of each-meeting, as the case requires, in a minute book kept for that purpose.
2. The Chairman shall ensure that the minutes taken of a General Meeting or Committee Meeting under Sub Rule (1) are checked and signed as a true and correct record by the Chairman of the meeting to which those minutes relate at the next succeeding meeting, as the case requires.
3. When minutes have been entered and signed as a true and correct record under this rule, they shall, until the contrary is proved, be evidence that: -

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- (i) the General Meeting or Committee Meeting to which they relate (in the Sub Rule called "The Meeting") was duly convened and held;
- (ii) all proceedings recorded as having taken place at the Meeting did in fact take place; and
- (iii) all appointments or elections purporting to have been made at the Meeting have been validly made.

### **12 VOTING RIGHTS OF FINANCIAL FULL MEMBERS OF THE ASSOCIATION**

Subject to these rules, each Financial Full Member present in person or by proxy at a General Meeting is entitled to a deliberate vote.

### **13 PROXIES OF MEMBERS OF THE ASSOCIATION**

A Financial Full Member (in this rule called "the appointing member") may appoint in writing another Financial Full or Associate Member who is a natural person to be the Proxy of the appointing member and to attend, and vote on behalf of the appointing Member at the General Meeting.

### **14 CONSTITUTION OF THE ASSOCIATION**

1. The Association may alter or rescind, or amend this Constitution in accordance with the procedure set out in Sections 17, 18 and 19 of the Act.
2. This Constitution binds every Financial Full Member and the Association to the same extent as if every Financial Full Member of the Association had signed and sealed this Constitution and agreed to be bound by all its provisions.

### **15 COMMON SEAL OF THE ASSOCIATION**

1. The Association shall have a common seal on which its corporate name shall appear in legible characters.
2. The common seal of the Association shall not be used without the express authority of the Committee and every use of that common seal shall be recorded in the minute book referred to in the Act.
3. The affixing of the common seal of the Association shall be witnessed by any two (2) of the President, Vice-President, the Honorary Secretary or the Honorary Treasurer.
4. The common seal of the Association shall be kept in the custody of the Honorary Secretary or such other person as the Committee from time to time decides.

### **16 INSPECTION OF RECORDS, DOCUMENTS, SECURITIES AND OTHER ASSETS OF THE ASSOCIATION**

A Financial Full Member may inspect at any reasonable time, without charge, the books, documents, records, securities and other assets of the Association.

### **17 DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF THE ASSOCIATION**

1. If, on winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property shall be distributed; -
  - (i) to another Incorporated Association having objects similar to those of the Association, or
  - (ii) for charitable purposes, which incorporated association or purposes, as the case requires, shall be determined by resolution of the Financial Full Members when authorizing and directing the Committee under section 33(3) of the Act to prepare a distribution plan for the distribution of the surplus property of the Association.