

THE CITY OF HOLDFAST BAY MUSIC CENTRE INCORPORATED

CONSTITUTION – Amended August 22nd 2008

1. NAME

1.1 This Constitution is that of an incorporated body, “The City of Holdfast Bay Music Centre” referred to in this Constitution as ‘The Music Centre’ unless the context requires otherwise.

1.2 The Music Centre is an organization of branches that includes the City of Holdfast Bay Concert Band, the City of Holdfast Bay Concert Choir, the Stage Band (previously BBB currently named Lindy Hip) and other potential affiliated branches.

1.3 The City of Brighton Concert Band, subsequently the City of Holdfast Bay Concert Band, is acknowledged as the original body which laid the foundations for the development of the Music Centre.

2. INTERPRETATION

In this constitution, except where the context otherwise requires:-

“The Act” means the *Associations Incorporations Act 1985*

“branch” means a sub-group of Music Centre members, who are together involved in a particular performing group, such as the Concert Band, the Stage Band, or the Concert Choir.

“branch committee” means a committee established by a branch, in accordance with section 8.

“committee” means the Music Centre committee, unless the context indicates otherwise.

‘Council’ means the City of Holdfast Bay Council

“financial” in relation to a member means a member who has paid all fees and levies which are payable and “unfinancial” in relation to a member means one who has not paid all such fees and levies.

‘general meeting’ means either a special general meeting or an annual general meeting.

“the lease” refers to the lease agreement between the City of Holdfast Bay Council and the Music Centre.

‘member’ means a member of the Music Centre.

3. AIMS

The aims of the Music Centre are

- a) To uphold, protect and advance the interests of the Music Centre, including its branches and its members
- b) To promote broad participation in music by members of the community in an atmosphere of equality, fairness, cooperation and sound management practice
- c) To encourage and facilitate high standards of music and performing arts for the public and residents of Holdfast Bay.
- d) To encourage and facilitate the activities of local musical groups and, where appropriate, groups engaging in other performing arts;
- e) To cooperate with other persons or bodies with aims similar to those of the Music Centre.

4. POWERS

The powers of the Music Centre are:

- a) To acquire, hold, deal with and dispose of property in a manner consistent with the lease;
- b) To enter into contracts and employ staff;
- c) To secure the interests of the Councils' property and assets in accordance with the terms of the lease agreement with the City of Holdfast Bay Council.
- d) To programme the use and hiring of the Music Centre building.
- e) To exercise other powers as specified in the Act, in a manner consistent with the Aims of the Music Centre.

5. MEMBERS

5.1 Types of Membership

The membership of the Music Centre shall consist of:-

- (a) Ordinary members
- (b) Associate members
- (c) Honorary members
- (d) Life members

5.2 Ordinary Members

A person shall be eligible to be appointed as an Ordinary Member if they are a musician or performing artist, or wish to become a musician or a performing artist. In the normal course of events, a person will become a member of the Music Centre by joining a branch group.

5.3 Associate Members

Any person wishing to give practical or financial support to The Music Centre, or a branch, or any other body having aims similar to The Music Centre, may be appointed as an associate member.

5.4 Nomination of Ordinary and Associate Members

- (a) The nomination of a person as an ordinary or associate member shall be in such form as may from time to time be prescribed.
- (b) The nomination of ordinary and associate members shall ordinarily be delegated by the Music Centre to the Branch Secretaries.
- (c) Upon the appointment of an ordinary or associate member, the Music Centre Secretary shall be informed of such appointment by the Branch Secretary.
- (d) Branches may accept temporary participants for a period of no more than 28 days. After this time, the branch must determine whether or not to accept the person as a member.

5.5 Honorary Members

A person shall be eligible to be appointed as an Honorary member if, in the opinion of the Music Centre Committee:-

He or she has rendered distinguished service to The Music Centre or its branches

5.6 Life Members

- (a) A person shall be eligible to be appointed as a Life Member if:-
- (i) He or she has been a member of the Music Centre for at least seven years; and
 - (ii) He or she rendered distinguished service to the Music Centre or its branches; or
- (b) The Music Centre Committee will appoint a person to life membership if he or she has previously been made a life member of the City of Holdfast Bay Concert Band or the City of Brighton Concert Band.
- (c) In all other cases the appointment of a person as an Honorary or Life Member will be made at an Annual General Meeting of the Music Centre. Nominations for such memberships must be made by the Music Centre Committee following submissions by the Branch Committees or by a member of the Music Centre committee.
- (d) For the purposes of determining length of membership under 5.6(a)(i), membership prior to July 2003 of the City of Brighton Concert Band, the City of Holdfast Bay Concert Band, BBB, or the City of Holdfast Bay Concert Choir shall be taken into account.

5.7 Resignations.

A member may resign from membership of the Music Centre by giving written notice thereof to the secretary of the Music Centre or Branch Secretary. Any member so resigning shall be liable for any outstanding subscriptions which may be recovered as a debt due to the Music Centre.

5.8 Withdrawal of Membership.

The Music Centre Committee or a branch committee may recommend the withdrawal of a person's membership

- (a) subject to giving the member an opportunity to be heard or to make a written submission, the committee may resolve to withdraw a membership upon a charge of misconduct detrimental to the interests of the Music Centre or Branch.
- (b) Particulars of the charge shall be communicated to the member at least one month before the meeting of the committee at which the matter will be determined
- (c) The determination of the committee shall be communicated to the member, and in the event of an adverse determination the member shall,

(subject to rule 5.9(d) below), cease to be a member 14 days after the committee has communicated its determination to the member.

- (d) It shall be open to a member to appeal against the membership withdrawal. The intention to appeal shall be communicated to the secretary or public officer of the Music Centre within 14 days after the determination of the committee has been communicated to the member. An Appeal Committee shall be constituted by the Music Centre Committee and shall consist of three members from branches other than the branch of the member whose membership has been withdrawn. The appeal shall be determined in accordance with principles of natural justice.
- (e) In the event of an appeal under 5.8(d) above, the appellant's membership of the Music Centre shall not be terminated unless the determination of the committee to expel the member is upheld by the members of the committee, and in such event membership will be terminated at the date of the general meeting at which the determination of the committee is upheld.

5.9 Register of Members.

A register of members must be kept by the Music Centre Secretary and will contain:

- (i) The names and addresses of all members of the Music Centre;
- (ii) The date upon which each member was admitted to membership and the class of membership to which he or she was admitted;
- (iii) If applicable, the date upon which a membership was terminated.

6. THE MUSIC CENTRE COMMITTEE

6.1 Powers and Duties

- (a) The affairs of the Music Centre shall be managed and controlled by a committee which in addition to any powers conferred by these rules may exercise all such powers and do all such things as are within the aims of the Music Centre, and are not by the Act or by these rules required to be done by the Music Centre in general meeting.
- (b) The committee has the management and control of the Music Centre funds and other property of the Music Centre.
- (c) The committee shall have authority to interpret the meaning of these rules and make decisions upon any other matter relating to the affairs of the Music Centre on which these rules are silent.
- (d) The committee shall appoint a public officer as required by the Act.

6.2 Music Centre Committee Appointment and Membership

- (a) The Music Centre committee shall consist of
 - (i) the President,
 - (ii) the Vice-president,
 - (iii) the Secretary,
 - (iv) the Treasurer,
 - (v) branch representatives, at the rate of one committee member per twenty branch members or part thereof,
 - (vi) a representative of the Council.
- (b) One member or office bearer of the committee shall be nominated to act as operations manager, and shall have responsibility for property (excluding financial accounts) owned by the Music Centre;
- (c) A committee member shall be a natural person.
- (d) A new committee shall be elected at each Annual General Meeting.
- (e) A retiring committee member shall be eligible to stand for re-election.
- (f) Nomination for office shall be open 28 days prior to the Annual General Meeting. Nominations may be submitted to the secretary prior to the Annual General Meeting or may be received at the meeting.
- (g) No vote will be conducted if only one person is nominated for a position.
- (h) Only financial and life members will be entitled to vote.
- (i) The committee may appoint a person to fill a casual vacancy, and such a committee member shall hold office until the next general meeting of the association and shall be eligible for election to the committee without nomination.
- (j) In cases where a committee decision is urgently required and it is impossible or impracticable for the full committee to meet, a decision may be made by any three of the following persons: the President, the Vice-President, the Secretary, the Treasurer, the Immediate Past President.
- (k) Any decision made under rule 6.2(j) shall be reported and confirmed at the next committee meeting.

6.3 Proceedings of the Music Centre Committee

- (a) The committee shall meet together at least ten times per year for the dispatch of business.
- (b) Questions arising at any meeting of the committee shall be decided by a majority of votes, and in the event of equality of votes the chairperson shall have a casting vote in addition to a deliberative vote.
- (c) A quorum for a meeting of the committee shall be one half of the members of the committee.
- (d) A member of the committee having a direct or indirect pecuniary interest in a contract or proposed contract, with the Music Centre must disclose the nature and extent of that interest to the committee as required by the Act, and shall not vote with respect to that contract or proposed contract. The member of the committee must disclose the nature and extent of his or her interest in the contract at the next annual general meeting of the Music Centre.

6.4 Disqualification of Committee Members

The office of a committee member shall become vacant if a committee member is

- (a) Disqualified from being a member by the Act
- (b) Their membership of the Music Centre is withdrawn under these rules
- (c) Permanently incapacitated by ill health
- (d) Absent without apology from more than four meetings in a financial year
- (e) No longer the duly appointed representative of a branch

7. THE SEAL

The Music Centre shall have a common seal upon which its corporate name shall appear in legible characters.

The seal shall not be used without the express authorisation of the committee, and every use of the seal shall be recorded in a minute book of the Music Centre. The affixing of the seal shall be witnessed by two members of the Music Centre Committee.

8. PATRON

The Mayor of the City of Holdfast Bay will be invited annually to confer the mayoral patronage on the Music Centre.

In addition the Music Centre Committee may appoint one or more patrons of the Music Centre

9. BRANCHES AND BRANCH COMMITTEES

9.1 Branches

- (a) The Music Centre Committee may establish branches.
- (b) The minimum number of members in any branch shall be seven;
- (c) The affairs of the branch shall be administered by a branch committee, to be elected at an annual meeting of the branch
- (d) Each branch committee shall be entitled to have one representative on the Music Centre Committee for every twenty (20) members of the branch, or part thereof.

9.2 Minimum Requirements of Branches

- (a) The branch committee shall have at least two office bearers performing the roles of convenor, secretary, and treasurer, as set out in this section;
- (b) Branch secretaries shall maintain minutes of all branch meetings, if applicable, and a record of branch activities;
- (c) Branch secretaries shall maintain a record of all members of the branch, and shall on an annual basis forward to the Music Centre committee a return showing:-
 - (i) The names and addresses of all members of the branch;
 - (ii) The date upon which each member was admitted to membership and the class of membership to which he or she was admitted.
- (d) Branch secretaries shall inform the Music Centre Committee on a monthly basis of any changes to membership.
- (e) Subject to the Act each branch must maintain its own separate financial accounts and must ensure that the operating costs of the branch can be met from funds raised on its own behalf, whether from membership subscriptions, sponsorships, performances, or other fundraising activities.
- (f) Branch accounts must have at least two signatories.
- (g) Each branch must pay a Music Centre affiliation fee as set under rule 10 of this Constitution. Failure to pay this fee may result in the disbanding of the branch and the lapsing of Music Centre membership of members of the branch.
- (h) Each branch shall hold an annual meeting, the quorum for which shall be five members or a greater number as determined by the branch rules.

- (i) A financial return for each branch must be submitted by the branch treasurer to the Music Centre as soon as possible after the end of the financial year, and in time for the return to be audited for the Annual General Meeting of the Music Centre.
- (j) The convenor or another branch representative shall make a written or verbal report to the Music Centre Annual General Meeting outlining the main activities undertaken by the branch in the previous year.

9.3 Branch Rules

Subject to the Act and this Constitution (in particular 9.2) the branch may develop its own rules regarding criteria for membership of the branch, level of fees to be charged to branch members, constitution of the branch committee, rules of conduct, appointment of musical directors, and other matters relevant to the operation of the branch.

9.4 Disbanding Branches

The Music Centre may disband a branch if the branch fails to pay the affiliation fee set under rule 9 or for any other significant breach of these rules or of the lease.

10. FEES AND LEVIES

10.1 Members of Music Centre Only

The Music Centre may set individual subscription fees for any person who is a member of the Music Centre but is not a participant in any of the branches.

10.2 Branch Members

In all other cases, branch affiliation fees for the Music Centre shall be paid on behalf each member by the branch in which that member is a participant.

10.3 Level of Fee

- (a) The affiliation fee charged by the Music Centre Committee to each branch will be proportionate to the number of participants in the branch, taking into account life members;
- (b) Where a person participates in more than one branch, the Music Centre Committee may decide to set a reduced affiliation fee in respect of that person to the relevant branches;
- (c) The affiliation fee will cover the normal operational costs of the Music Centre and its premises, including maintenance costs, insurance, and any other costs reasonably incurred in pursuit of the aims of the Music Centre.

- (d) Where a branch includes life members or Music Centre office bearers a reduced affiliation fee may be charged.
- (e) In exceptional circumstances, the Music Centre may impose a reduced or additional fee on one or more branches.

10.4 Date Upon which Fees are Due

Branch fees shall be paid by 31 October each year or on such other dates as determined from time to time by the Music Centre Committee.

11 GENERAL MEETINGS

11.1 Annual General Meetings

- (a) The committee shall call an annual meeting in accordance with the Act and these rules.
- (b) The annual general meeting shall be held within three months after the end of the financial year.
- (c) The order of business at the meeting shall be:
 - (i) The confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting.
 - (ii) The consideration of the accounts and reports of the Music Centre committee, branch committees and the auditor's report.
 - (iii) The election of committee members
 - (iv) The appointment of auditors
 - (v) Any other business requiring consideration by the association in general meeting.

11.2 Special General Meetings

- (a) The committee may call a special general meeting of the Music Centre at any time.
- (b) Upon a requisition in writing of not less than 10% of the total number of members of the Music Centre, the committee shall within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- (c) Every requisition for a special general meeting shall be signed by the relevant members and shall state the purpose of the meeting.
- (d) If a special general meeting is not convened within one month, as required by rule 11.2(b) above, the requisitionists, or at least 50% of their number, may convene a special general meeting. Such a meeting shall be convened in the same manner as nearly practical as a meeting convened by the

committee, and for this purpose the committee shall 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 shall be borne by the Music Centre.

11.3 Notice of General Meetings

- (a) Subject to 11.3 (b), at least 14 days notice of any general meeting shall be given to members. The notice shall 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.
- (b) Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.
- (c) A notice may be given by the association to any member by serving the member with the notice personally, or by sending it by post to the address appearing in the register of members.
- (d) Where a notice is sent by post:
 - i) the service is effected by properly addressing, prepaying and posting a letter or packet containing the notice; and
 - ii) unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

11.4 Proceedings at General Meetings

- (a) Twenty members present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.
- (b) 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 shall lapse. In any other case, the meeting shall 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 shall form a quorum.
- (c) Subject to 10.4d, the president or his or her nominee shall preside as chairperson at a general meeting of the association.
- (d) If the chairperson is not present within 5 minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the members may choose a committee member or one of their own number to be the chairperson of that meeting.

11.5 Voting at General Meetings

- (a) Subject to these rules, every member of the Music Centre has only one vote at a general meeting, with the exception of chairperson, who may exercise a casting vote in addition to his or her deliberative vote (see 6.3).
- (b) Subject to these rules, a question for decision at a general meeting, other than a special resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at that meeting.
- (c) A question for decision at a general meeting must be determined by a show of hands.
- (d) The City of Holdfast Bay Council shall be entitled to appoint a person to represent it at a particular general meeting or at all general meetings of the Music Centre. Such person shall be deemed to be a member of the Music Centre for all purposes until the authority to represent the Council is revoked.

11.6 Special and Ordinary Resolutions

- (a) A special resolution is a resolution
 - (i) for which 21 days notice specifying the intention to propose the resolution at a general meeting has been given to all members of the association, and
 - (ii) which has been passed by a majority of not less than three-quarters of members actually present or who have appointed a proxy for the general meeting at which the resolution is proposed.
- (b) An ordinary resolution is a resolution passed by a simple majority at a general meeting.

11.7 Proxies

A member shall be entitled to appoint in writing a natural person who is also a member of the association to be their proxy, and attend and vote at any general meeting of the Music Centre.

12 MINUTES

- (a) Proper minutes of all proceedings of general meetings of the Music Centre and of meetings of the committee, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- (b) The minutes kept pursuant to this rule must be confirmed by the members of the Music Centre or the members of the committee (as relevant) at a subsequent meeting

- (c) The minutes kept pursuant to this rule shall be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting at which the minutes are confirmed.
- (d) Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, and that all appointments made at a meeting shall be deemed to be valid.

13 DISPUTE RESOLUTION

13.1 Application

The dispute resolution procedure set out in this rule applies to disputes under these Rules between –

- (a) a member and another member
- (b) a member and a branch
- (c) two or more branches
- (d) a member and the Music Centre, which is not a dispute about the withdrawal of membership (to be dealt with under rule 5.8)
- (e) a branch and the Music Centre

13.2 Process

- (a) The parties to the dispute must meet and discuss the matter in dispute, and, if possible resolve the dispute within 14 days after the dispute comes to the attention of all the parties.
- (b) If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- (c) If a resolution cannot be resolved with the assistance of an independent third person, the dispute shall be referred to the Music Centre Committee.
- (d) In this rule “member” includes any person who was a member not more than six months before the dispute occurred.

14 FINANCIAL REPORTING

14.1 Financial Year

The financial year of the association shall be the period commencing on 1 July and ending of 30 June of each year.

14.2 Accounts to be Kept

The Music Centre shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Music Centre in accordance with the Act and the requirements of the lease of the Music Centre with the City of Holdfast Bay Council.

14.3 Accounts and Reports to be Laid before Members

The accounts, including the accounts of all branches, together with the auditor's report on the accounts, the committee's statement and the committee's report shall be laid before members at the annual general meeting.

14.4 Appointment of Auditor

- (a) At each annual general meeting, the members shall appoint a person to be auditor of the Music Centre.
- (b) The auditor shall hold office until the next annual general meeting and is eligible for re-appointment.
- (c) If an appointment is not made at an annual general meeting, the committee shall appoint an auditor for the current financial year.

15 PROHIBITION AGAINST SECURING PROFITS FOR MEMBERS.

The income and capital of the Music Centre shall be applied exclusively to the promotion of its aims and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the Music Centre.

16 PUBLIC FUND

- 16.1 The City of Holdfast Bay Music Centre Incorporated will establish and maintain a Public Fund.
- 16.2 Donations will be deposited into The City of Holdfast Bay Music Centre Incorporated Public Fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of The City of Holdfast Bay Music Centre Incorporated and will only be used to further the principal purpose of The City of Holdfast Bay Music Centre. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
- 16.3 The fund will be administered by a management committee or a subcommittee of the management committee, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of The City of Holdfast Music Centre Incorporated.
- 16.4 No monies/assets in this fund will be distributed to members or office bearers of The City of Holdfast Bay Music Centre Incorporated, except as reimbursement of out of pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.

16.5 The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient Status.

16.6 Receipts for gifts to the public fund must state:

16.6.1 The name of the public fund and that the receipt is for a gift made to the City of Holdfast Bay Music Centre Incorporated public fund.

16.6.2 The Australian Business Number of The City of Holdfast Bay Music Centre Incorporated.

16.6.3 The fact that the receipt is for a gift: and

16.6.4 Any other matter required to be included on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.

16.7 Winding up Clause:

If upon the winding-up or dissolution of the public fund listed on the Register of Cultural Organisations, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among its members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the *Income Tax Assessment Act 1997* and listed on the Register of Cultural Organisations maintained under the Act.

17 WINDING UP

The Music Centre may be wound up in the manner provided for in the Act and in the Lease with the City of Holdfast Bay Council.

18 APPLICATION OF SURPLUS ASSETS

If after the winding up of the association there remains "surplus assets" as defined in the Act, such surplus assets shall be returned to the City of Holdfast Bay Council.

19 RULES

These rules may be altered (including an alteration to the Music Centre's name) by special resolution of the members as defined in rule 11.6. This includes rescission or replacement by substitute rules.

The alteration shall be registered with the Office of Consumer and Business Affairs, Corporate Affairs and Compliance Branch, as required by the Act.

The registered rules shall bind the Music Centre and every member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.