



# Bass Coast Adult Learning

Learn More.

# CONSTITUTION

## **RULES FOR AN INCORPORATED BASS COAST ADULT LEARNING INC**

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### **1. NAME**

The name of the incorporated Bass Coast Adult Education Centre Inc is The “**Bass Coast Adult Learning Incorporated**” – also referred to as BCAL Inc in this document.

“Under section 46 of the Associations Incorporation Reform Act 2012, this Constitution is taken to constitute the terms of a contract between the Association and its members.”

### **2. STATEMENT OF PURPOSES**

The purposes of the association are:

- To provide opportunities for members of the community in the Bass Coast Shire and surrounding areas to complete their secondary education.
- To initiate and promote training programs of an educational and vocational nature.
- To provide learning pathways and promote programs that will further enhance the lifestyles of people residing and working in the Southern Gippsland regions.
- To promote such programs and services that assist people to discover and expand their talents leading to healthier, more productive and more satisfying lives.
- To provide accommodation opportunities to groups with an educational focus

#### **Mission Statement:**

To provide a flexible, supportive and inclusive adult learning environment to enable members of the Bass Coast and surrounding communities to study, improve work skills and build social capital.

### **3. FINANCIAL YEAR**

The financial year of the Association is each period of 12 months ending on 31 December.

### **4. DEFINITIONS**

In these rules, unless the contrary intention appears:

“Committee” means the Committee of Management of BCAL Inc

“Financial Year” means the year ending on 31<sup>st</sup> December

“General Meeting” means a general meeting of members, convened in accordance with Rule 8.

“Member” means a member of BCAL Inc

“Organisational member” means a member referred to in Section 5 (i)

“Ordinary Member of the Committee” means a member of the Committee who is not an officer of BCAL Inc under Rule 13

“The Act” means the Associations Incorporation Reform Act (2012)

“Regulations” means regulations under the Act.

### **5 MEMBERSHIP**

- (i) Membership of the BCAL is defined by the following categories:
- a. individual member
  - b. organisational member

- (ii) Any person, community agency or group or related industry body, who supports the purposes of the BCAL Inc is eligible to be a *member* (subject to the categories defined in 5(i)). Interest, experience, skills or qualifications in providing education and training or community development work, are an advantage but not essential.
- (iii) Any paid up member of the BCAL is eligible to be a member of the Committee of Management (CoM).
- (iv) Members may choose to cease membership any time by writing to the Secretary.
- (v) The Secretary shall keep and maintain a register of members in which shall be entered the full name, address and date of each entry of each member, as well as a list of all relevant skills and expertise they bring to their role, and the register shall be available for inspection.
- (vi) Prospective members of the BCAL will need to complete an application form, which will be considered by the committee at its next meeting. The Committee may reject or approve applications for membership and is not required to provide reasons for its decision.
- (vii) The Committee may set or change joining fees and annual subscription fees for members. Changes to the amount must be approved by members at a general meeting.

## **5. RIGHTS, OBLIGATIONS AND LIABILITIES OF MEMBERS**

A member of BCAL who is entitled to vote has the right:

- (i) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed in these Rules
- (ii) to submit items of business for consideration at a general meeting
- (iii) to attend and be heard at general meetings
- (iv) to vote at a general meeting
- (v) to have access to the minutes of general meetings and other relevant documents\* of BCAL as required
- (vi) to inspect the register of members, the rules of the Association, minutes of general meetings and other relevant documents (as defined in the Act) at a reasonable time.

*Note: relevant documents includes documents such as financial records, contracts and asset records of the Association. Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.*

- (viii) A member can write to the Secretary asking for copies of these documents (with the exception of the members register). The Secretary can charge a reasonable fee for providing copies.
- (ix) The Secretary can refuse a request to inspect or get copies of relevant documents, or provide only limited access, if the documents contain confidential, personal, employment, commercial or legal matters, or if granting the request would breach a law or may cause damage or harm to the Association.
- (x) Members cannot inspect or get copies of Committee meeting minutes or parts of the minutes, unless the Committee specifically allows it.
- (xi) Members can write to the Secretary to ask that the Secretary restrict access to their details on the members register if they have special circumstances. The Secretary will decide if there are special circumstances, and will write to the member outlining their decision.

*Note: if a member disagrees with the Secretary's decision about special circumstances, they can apply to VCAT for a review of the decision. Special circumstances are not defined in the Act, but could include, for example, where a member has had threats made against them by another member or where some other harm or danger is linked to a member's details being available on the register.*

A member has a right to vote if:

- (i) a member is a full, paid up member.
- (ii) the member's membership rights are not suspended for any reason

A member's rights are not transferable and cease when membership of committee ends.

## **6. CEASING MEMBERSHIP**

The membership of a person ceases on resignation, expulsion or death. If a person ceases to be a member of BCAL Inc, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

- (i) A committee member or secretary must retire and leave office in accordance with the rules
- (ii) In addition, a committee member or secretary vacates office if they:
  - a. Resign in writing
  - b. Declare bankruptcy
  - c. Become a represented person under the Guardianship Act (includes accident injury or illness and can no longer look after themselves)
  - d. Move overseas, or
  - e. Get replaced by a statutory manager to conduct the associations affairs.
  - f. Fails to attend three (3) consecutive meetings without apology.
- (iii) A member may resign by notice in writing given to BCAL. A member is taken to have resigned if the Secretary has made a written request to the member to confirm that he or she wished to remain a member and the member has not – within 3 months – responded and confirmed in writing that he or she wishes to remain a member.
- (iv) The Committee may suspend or expel any member of the BCAL Inc who:
  - a. commits any breach of any rule or by-law of BCAL Inc; or
  - b. in the opinion of the Committee acts in a manner which is contrary to the best interests of the Bass Coast Adult Education Centre Inc; or
  - c. no longer complies with the membership requirements of the Bass Coast Adult Education Centre Inc.
- (vii) Any member of BCAL Inc who feels aggrieved by any decision of the Committee under Rule 7 may, by notice in writing given to the Secretary within one calendar month from the date thereof, appeal against such decision to the general meeting, as outline below and in Rule 8:
  - (a) such notice shall state the grounds of appeal and the appeal shall be heard at the general meeting to be held not later than one month from the giving of such notice to the Secretary;
  - (b) on the hearing of any such appeal the member who feels aggrieved shall be afforded a full opportunity of being heard –Rule 8
  - (c) until the hearing of any such appeal the decision of the Committee shall have full force and effect. The decision of the General Meeting shall be final.

## **7. GRIEVANCE PROCEDURE**

- (i) The grievance procedure of this centre applies to disputes between:
- a. A member and another member
  - b. A member and the whole committee
  - c. A member and the BCAL

Disciplinary procedures must be complete before a grievance can be heard on the same matter. There should be an attempt to resolve any matter between the parties, within 14 days, prior to becoming official. If the parties are unable to resolve the dispute, both parties must, within 10 days:

- (a) notify the committee of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.
- (ii) The mediator must be
- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement, if a dispute is between 2 members, the committee may appoint a mediator; or
  - (c) if the dispute is between a member and the committee or BCAL, a mediator may be appointed by the Dispute Settlement Centre of Victoria ([www.disputes.vic.gov.au/](http://www.disputes.vic.gov.au/)).
  - (d) the mediator must not have any personal interest in the dispute or be biased in favour of or against any party in the dispute.
- The mediator must not determine the dispute.
- (iii) In conducting the dispute mediation, the mediator must:
- (a) give each party every opportunity to be heard: and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure natural justice is accorded to all parties during the mediation process
- (iv) If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **8. DISCIPLINARY ACTION**

- (i) The Committee can discipline a member of the Association if it considers the member has breached these Rules or if the member's behaviour is causing (or has caused) damage or harm to the Association.
- (ii) The Committee must write to the member to tell them why disciplinary action is proposed to be taken.
- (iii) The Committee must arrange a disciplinary procedure that meets these requirements:
- (iv) the outcome must be determined by a unbiased decision-maker
- (v) the member must have opportunity to be heard, and
- (vi) the disciplinary procedure must be completed as soon as reasonably practicable.
- (vii) The outcome of a disciplinary procedure can be that the member must leave the Association, for a period of time or indefinitely. The Association cannot fine a member.

*Note: parties to a disciplinary procedure may still be able to go to Court*

## **9. ANNUAL GENERAL MEETING**

- (i) The BCAL Inc shall in each calendar year convene an Annual General Meeting of its committee members.
- (ii) The Annual General Meeting shall be held on such day as the Committee determines but being not more than 4 months after the end of BCAL Inc's financial year (December 31).
- (iii) The Annual General Meeting shall be specified as such in the notice convening it. This notice shall be placed in the local print media 2 x weeks prior to the meeting week.
- (iv) The ordinary business of the Annual General Meeting shall be:
  - (a) to confirm the minutes of the last preceding Annual General Meeting and of any general meeting held since that meeting.
  - (b) to receive from the committee reports upon the transactions of the Bass Coast Adult Education Centre Inc during the last preceding financial year;
  - (c) to elect officers of the BCAL Inc and the ordinary committee members of the Committee; and
  - (d) to receive and consider the statements submitted by the BCAL Inc.
- (v) The Annual General Meeting may transact special business of which notice has been given in accordance with these rules.
- (vi) The Annual General Meeting shall be in addition to any other general meetings that may be held in the same year.
- (vii) A quorum for an AGM shall be in accordance with 11(viii).
- (viii) An annual return must be completed by the secretary and returned with the annual fee to dept of justice, in line with the Act.
- (ix) AGM reports, including financial reports, must be made available to any regulatory body who require this information.

## **10. ANY GENERAL MEETING**

- (i) Meetings of all committee members may be called:
  - (a) by resolution of the Committee;
  - (b) at the request of the Chairperson of BCAL Inc;
  - (c) upon the written request of not less than five (5) committee members of the BCAL Inc. Such a General Meeting shall be held no less than fourteen (14) days and no more than thirty (30) days after the request is made.
  - (d) In case of (c) the committee members may convene the General Meeting if a meeting has not been held within the required time, or
  - (e) If a special resolution has been proposed, notice to members regarding this is given 21 days prior to holding a general meeting
- (ii) Notice of Meeting: All committee members will be given notice of the upcoming General Meeting within one week of it being called. This shall be by written notice or phone call. Local press notification of meetings is only used for the AGM.
- (iii) Omission of Notice: The accidental failure to give adequate notice of a meeting to, or the non-receipt of notice of a meeting by any member shall not invalidate any proceedings or resolutions at any meeting of the BCAL Inc of any committee thereof.
- (iv) Chairperson of Meetings: the Chairperson of the BCAL Inc shall preside at all General Meetings. In his/her absence, or if he/she is unwilling to chair the meeting, a Chairperson may be appointed for that meeting.

- (v) Adjournment: Committee members present at a meeting may agree to adjourn that meeting, but only unfinished business from that meeting may be dealt with when it is re-convened.
- (vi) Voting: Each member present is entitled to one vote. Resolutions shall be carried by a simple majority of those present and voting. In the case of a tied vote, the resolution shall be deemed to be lost.
- (vii) Division: at any General Meeting a declaration by the chairperson that a resolution has been carried or not shall be sufficient evidence of committee members' voting intentions unless three (3) or more committee members present call for a poll count. When a poll is taken the number of votes for and against the resolution shall be recorded.
- (viii) Quorum at General Meetings: at all General Meetings a majority of committee members shall constitute a quorum. If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting shall be dissolved if convened by request of committee members. If not so convened, it shall stand adjourned to the same day in the next week at the same time and place, and at such adjourned meeting those present shall form a quorum for all purposes provided that at least three (3) persons must be in attendance.
- (ix) Minutes: Minutes of proceedings of every General Meeting shall be kept in a Minute book, which shall be available at the official address of the BCAL Inc or inspection by committee members.

#### **11. VOTING BY PROXY AT GENERAL MEETINGS**

A member may appoint another member to be his or her proxy to vote and speak on his or her behalf at an annual general meeting.

- (i) The appointment of a proxy must be in writing and signed by the member making the appointment
- (ii) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit
- (iii) If the Committee has not approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member
- (iv) Notice of a general meeting given to a member under these rules must :
  - (a) state that the member may appoint another member as a proxy for the meeting; and
  - (b) include a copy of any form that the committee has approved for the appointment of a proxy
- (v) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting
- (vi) A form appointing a proxy sent by post, electronically or hand delivered is of no effect unless it is received by the Chairperson prior to commencement of the meeting.

#### **12. COMMITTEE OF MANAGEMENT**

- (i) The affairs of the BCAL Inc shall be managed by a Committee of Management constituted as provided herein.
- (ii) The Committee:
  - (a) shall control and manage the business and affairs of the BCAL Inc.
  - (b) may, subject to these rules, the regulations and the Act, exercise all such powers and functions as may be exercised by the BCAL Inc other than those powers and functions that are

required by these rules to be exercised by general meetings of the member of the BCAL Inc; and

(c) subject to these rules, the regulations and the Act, has power to perform all such acts and things as appear to the committee to be essential for the proper management of the business an affairs of the BCAL Inc.

- (iii) the committee members at the Annual General Meeting shall elect the following office bearers:
  - (a) President
  - (b) Vice President
  - (c) Secretary
  - (d) Treasurer, and up to 5 ordinary committee members including at least one staff representative
- (iv) Office Holders have certain legal duties. An office holder must:
  - (a) carry out their duties with care and diligence
  - (b) carry out their duties in good faith in the best interests of the association, and for a proper purpose (eg not for their own profit)
  - (c) not use information acquired through their position for personal advantage, the advantage of others, or to the detriment of the associationIf an office holder makes a business decision relating to the operation of the association, they must, among other things:
  - (a) make that decision in the best interests of the association
  - (b) not have a personal interest in the decision
- (v) If a vacancy on the Committee exists or occurs through resignation, the Committee may temporarily appoint a member of the BCAL Inc to fill the vacancy until the next AGM.

### **13. ELECTION OF OFFICERS, VACANCIES**

- (i) All nominations of candidates for election as officers of the BCAL Inc or as ordinary members of the Committee shall be received prior to the AGM.
- (ii) If the number of nominations received is equal to the number of vacancies to be filled, the persons shall be deemed to be elected.
- (iii) The vote for the election of officers and ordinary committee members of the Committee shall be conducted at the Annual General Meeting in such usual and proper manner as the Committee may direct.

The filling of casual vacancies occurring within the committee is as follows:
- (iv) The committee may appoint an eligible member of BCAL to fill a position on the committee that:
  - (a) has become vacant under these Rules; or
  - (b) was not filled by election at the last AGMWhere the position is that of Secretary, the committee must appoint a member to fill the position within 14 days of the vacancy arising.
  - (c) The committee may continue to act despite any vacancy in its membership.
- (v) Subject to Section 7 a committee member holds office for a period of one year, when their position is declared vacant at the next annual general meeting.
- (vi) A committee member may be re-elected.

### **14. PROCEEDINGS OF COMMITTEE**

- (i) The Committee shall meet at least four (4) times each year, the meeting time and place being determined by the Committee.

- (ii) A quorum shall be a majority of current duly elected Committee members.
- (iii) At every meeting of the Committee the chairperson shall preside, except that in the absence of the chairperson the committee members shall choose a chairperson for the meeting.
- (iv) Questions arising at any meeting shall be decided by a majority of votes. In the case of a tied vote, the resolution shall be deemed to be lost.
- (v) The chairperson or any three (3) Committee members may at any time summon a meeting of the Committee.

**15. SECRETARY**

The Secretary shall be responsible for:

- (a) Overseeing that full and correct minutes are recorded of all resolutions and proceedings of every General Meeting and Committee Meeting. These are to be kept in books provided for that purpose, together with a record of the names of those present.
- (b) Overseeing that a register is kept of committee members names, contact details, skills & expertise;
- (c) Lodging the annual statement with Consumer Affairs Victoria, within 5 months of the end of the financial year, and one month after the AGM
- (d) Attending to all relevant correspondence; and
- (e) Applying to Consumer Affairs to change associations name or rules
- (f) Notifying Consumer Affairs of:
  - Change of registered address
  - Change of secretary or any changes to their details
  - Special resolution to wind up the association or distribute its assets
- (g) Dealing with requests to restrict access to information in the association's register of members
- (h) Performing such other duties as the Committee may prescribe.

*If the Secretary leaves, a new secretary must be appointed at the next general committee meeting. A temporary secretary should take over duties until that time.*

**16. TREASURER**

- (i) The treasurer of the Bass Coast Adult Education Centre Inc shall:
  - (a) oversee and authorise all payments presented to the committee; and
  - (b) ensure correct accounts and books are kept, showing the financial affairs of the BCAL Inc, with full details of all receipts and expenditure connected with the activities of the BCAL Inc.
  - (c) work with administration staff to ensure accurate monthly reports and quarterly and annual budgets are presented to committee
- (ii) The accounts and books referred to in sub-clause (i) shall be available for inspection by committee members.

**17. MATERIAL PERSONAL INTEREST**

- (i) A committee member must disclose any 'material personal interest' to the committee as soon as they are aware of this interest. A material personal interest is something that can have a significant impact on a matter the association is discussing. All members must be advised of the nature and extent of this interest at the general meeting where the issue is discussed.

- (ii) BCAL Inc. has a 'Conflict of Interest' policy and form which are brought to each meeting, to be used if the need arises during any meeting.
- (iii) The details of the interest must be recorded in the committee meeting minutes.
- (iv) The committee member, upon declaring a conflict of interest and recording this on the appropriate form, cannot:
  - i. Be present while the matter is discussed at the committee meeting, and
  - ii. Vote on this matter
- (v) The above does not apply only because the person is employed by the association.

**18. FINANCIAL STATEMENTS**

Financial Statements will be delivered to Consumer Affairs annually, with the annual statement. Although this centre fits into the Tier Two criteria, not requiring full financial reporting, we will continue to hold a full financial audit annually, and present to the department full financial statements from that audit.

**19. FUNDS**

- (i) The Association must not distribute funds, income or assets to members except as reasonable compensation for services provided or expenses incurred on behalf of the organisation.
- (ii) The Association may derive or generate funds from joining and annual subscription fees, donations, grants, fundraising, interests, and any other sources approved by the Committee that are consistent with furthering the Association's Purposes.
- (iii) Cheques, EFT transfers or cash payments made from the Association's funds must be authorised by two members of the Committee and/or one Committee member and nominated executive staff member.
- (iv) In circumstances where one signatory only is required, such as the use of a debit card, such circumstances must be recorded in the minutes of a full committee meeting and must fall within the bounds Policy as passed by the Committee of Management.
- (v) All members / staff who are to be signatories must be registered with the BCAL Inc nominated bank on the bank's official form.
- (vi) Financial records must be kept and stored for 7 years, and in accordance with any other applicable laws.

**20. SEAL**

- (i) The common Seal of the Bass Coast Adult Education Centre Inc shall be kept in the custody of the BCAL Inc's administrative staff in secure storage.
- (ii) The Common Seal shall not be affixed to any instrument except that required by regulatory bodies for funding and official purposes only, and only with the authority of BCAL Inc signatories.

**21. ALTERATION OF RULES AND STATEMENT OF PURPOSE**

No rule of the BCAL Inc's or statement of purposes shall be repealed or amended and no new rule shall be made except by a special resolution. Notice of the resolution shall be given in accordance with these rules and the resolution must be passed by a three quarter ( $\frac{3}{4}$ ) majority of committee members present and voting.

**22. *INSOLVENT TRADING***

The committee is responsible for overseeing the financial affairs and health of the association. If an association is trading while insolvent it means it is continuing to operate, enter into contracts and incur debts it cannot repay.

A committee member must ensure the association does not trade if it is insolvent.

**23. *WINDING UP***

In the event of the winding up or the canceling of the incorporation of the BCAL Inc Association, the surplus assets of the BCAL Inc shall be transferred to some other registered charity or other organisation having similar objectives to those of this centre.

Also should the centre have received gifts or donations under any DGR status, and if the Association winds up, or its DGR status is revoked, all remaining gifts, deductible contributions and any money received in respect of such gifts and contributions must be transferred to another registered charity that is eligible to receive tax-deductible gifts.

All registering and funding bodies will be informed of this action as soon as practicable, and all relevant records will be placed with the relevant authority.

**24. *CUSTODY OF RECORDS***

Except as otherwise provided in these rules, the Secretary (or President or Manager, as determined by the Committee) shall keep in his/her control all books, documents and securities of the BCAL Inc. All such books, documents and securities shall be available for inspection by and copies made available to, committee members of the BCAL Inc upon reasonable notice to the Secretary. This includes general minutes and financial reports and statements.

- (i) Members may upon request inspect (free of charge):
  - (a) the register of members
  - (b) the minutes of general and committee meetings
  - (c) the financial records, books, securities and any other relevant document of BCAL
  - (d) the committee may refuse to permit a member to inspect records of this centre that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of BCAL
- (ii) Copies of these rules must be made available to all members and new applicants (free of charge). A member may make a copy of any of the records referred to in this rule – subject to (i)(d) of this rule, for which a reasonable fee may be charged.
- (iii) For the purpose of this rule, relevant documents mean the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of BCAL and includes the following:
  - (a) its membership records
  - (b) its financial statements
  - (c) its financial records
  - (d) records and documents relating to transactions, dealings, business or property of this centre.

In the case of BCAL Inc. closure, all relevant records (student, certification) become the property the current registering body and must be transferred to that body.

**25. FUNDING**

The income of the BCAL Inc shall be derived from government funding agencies, course entrance fees, user group and facilities hire fees, donations, philanthropic grants and other such sources as the Committee determines.

**26. ADMENDMENT OF THIS CONSTITUTION**

- (i) This Constitution and these rules may only be amended at a General Meeting called for that purpose and upon the majority members vote of three quarters majority of those present and voting provided that notice of the meeting and the specific reason for calling the meeting have been given in accordance with the clauses of this Constitution.
- (ii) The newly amended constitution, once presented and passed by the committee members as above, must then be recorded in the minutes as ratified
- (iii) Copies of this Constitution and any amendment that have thereto duly been signed and dated by the Chairperson shall be filed. They are to be made available to any member of BCAL Inc upon request

Ratified by full committee at meeting dated: .....

Signed.....

Date.....

*Note: By including the date of the Constitution (from last amendment) on the document BCAL Inc committee members can ensure that they are reading the latest copy of the document.*