



# SPENCERS BROOK PROGRESS ASSOCIATION Inc.

## Notice of special resolution

NOTICE is hereby given that the Committee is putting forward a special resolution to this year's AGM asking Members to vote for a new constitution.

Where it is known that the rules do not comply with all of the Schedule 1 requirements the association should take steps to update the document. This will ensure that there is no confusion which rules are applicable to the organisation. Alterations to the rules may only be passed by a special resolution of members at a general meeting.

Spencers Brook Progress Association is currently using the Constitution approved by the Commissioner for Consumer Protection in 2002.

Since then, the Associations Incorporation Act 2015 has come into force and our constitution is non-compliant with the Act.

It is for this reason that the Association is inviting members to an Annual General Meeting to include an agenda item to pass a resolution on the proposed changes to the old version of the constitution, and to adopt a new Constitution to be compliant with the current Act. This meeting must be conducted under the *current rules* of the constitution.

Several versions of the proposed changes have been circulated to members for feedback which have been incorporated into these proposed changes.

### SPECIAL RESOLUTION

***“That the Constitution, in the form presented to the Annual General Meeting by the Vice Chairperson of the Spencers Brook Progress Association Inc.; be adopted as the Constitution of Spencers Brook Progress Association Inc. in substitution for and to the exclusion of the existing Constitution of the Spencers Brook Progress Association Inc.”***

### **Explanatory Message to Members regarding the proposed SPECIAL RESOLUTION as required by section 51(4) of the Act.**

The SBPA Committee reviewed the current Constitution of the Spencers Brook Progress Association Inc. (SBPA) and identified the following issues:

- The current Constitution needs to comply with all of the requirements of the Associations Incorporation Act 2015 (WA) (Act) which details certain matters which must be addressed in an Incorporated Association's Constitution;
  - The current Constitution does not meet all the governance requirements of the Department of Mines, Industry Regulation and Safety, Consumer Protection Division (DMIRS). Failure to meet these governance requirements will adversely impact SBPA's grant funding;
  - The current Constitution is outdated and does not meet the current requirements under the Act; and
- To be validly passed as a special resolution:
  - a copy of the rule amendments must be provided to all members in accordance with the existing rules;
  - a quorum must be present at the meeting; and



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- at least 75% of the members that cast a vote must be in favour of the resolution/changes. (This may include postal or proxy votes)
- The member must be a current financial member at the commencement of the meeting.
- A member under the current constitution may appoint in writing another member who is a natural person to be the proxy to attend, and vote on behalf of the appointing member, at any general meeting. There is no limit under the current constitution how many proxies each member can have.

## Process for drafting the new SBPA Constitution

The new SBPA Constitution has been drafted using the following process:

- The starting point for the new Constitution is to adopt the Model Rules under the Act. These Model Rules use simple language and address the minimum requirements of the Act.
- In addition to the Model Rules, the new Constitution incorporates key requirements of the current SBPA Constitution with the aim of preserving current constitutional rules. Where the SBPA Committee considers a change to current rules is beneficial, those key changes are flagged to allow consideration and comment by the Members.
- The refreshed version of the constitution:
  - *retains the principles approved by Members at the inaugural AGM*
  - *removes the inapplicable transitional provisions*
  - *simplifies the text where possible, reviewing for anomalies and inaccuracies*
  - *refreshes the look, language and structure of the document*
  - *aligns with changes to the Associations Incorporation Act 2015.*
- The key changes proposed are to ensure consistency with the Act, with the SBPA and the DMIRS governance requirements.

## Summary of proposed changes in the new Constitution

Item	Current rule (2002 Constitution)	Proposed rule	Reason for change
1.	The committee shall have a President, Secretary, Treasurer and other such officers as are deemed required.	The committee shall have a Chairperson, Deputy Chairperson, Secretary, Treasurer and at least three ordinary members.	<b>Change President to Chairperson.</b> These are the office holders under the Act and the committee determines the maximum number of members. The Model rules already stipulate the role as chairperson. Choosing an uneven number reduces the need for a casting vote.
2.	The financial year is the end of June each year.	The financial year is the end of June each year.	No change The financial year continue; as being the end of June each year.  Previous committees have changed the financial year which has never been approved by the Commissioner.  Any changes must be notified to the Commissioner under section 7(4)(e) or, if relevant, section 29(5)(e) of the Act.
3.	Committee Meetings	The presence of more than half the Committee Members	Change in wording



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	A Quorum will consist of one half plus one of the committee. No less than (8)	constitutes a quorum at a Committee Meeting and no business may be transacted unless a quorum is present.	E.g. if the committee is 7 persons, then the quorum would be 4 persons.
4.	General Meetings	<b>The quorum for a General Meeting is 10 Members present in person or by proxy.</b>	There was no rule in the current constitution for a quorum at a general meeting.
5.	Qualifications for membership Any person living in the Spencers Brook area	<b>Any person living in the Spencers Brook are as defined on the map and boundaries on Attachment "A"</b>	There was no clear definition as to the area to qualify for membership.
6.	Subscription of Members NO MEMBERSHIP FEE	(1) The committee must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.  (2) The fees determined under subrule (1) may be different for different classes of membership.	Clarity of the rule. As per the Model rules.  Current membership fees have not been approved by the Commissioner.
7.	Proceedings of the Committee	<b>Use of Technology to be present at committee meetings</b>	Adopt Rule 44. In accordance with the Act. As per the Model rules.  The presence of a committee member at a committee meeting need not be by attendance in person but may be by that committee member and each other committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.  A member who participates in a committee meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.
8.	Common Seal The Association shall have a common seal on which its corporate name shall appear in legible characters	<b>The Association may execute a document without using a common seal if the document is signed by A) committee members; or B) one financial committee member or a person authorised by the committee.</b>	Adopt Rule 65. As per the Model rules. The association does not need a common seal to execute documents.



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The preliminary matters that the Commissioner requires to be provided, and are included in the proposed new constitution, are as follows:

## Preliminary Matters

**Information provided to the Commissioner under section 29(5)** – This information is part of the rules of the association and is attached to the copy of the rules provided to members.

A. The name of the Association is: Spencers Brook Progress Association Inc.

B. The objects of the Association are:

- a. To organise, associate together and foster cooperation among residents of Spencers Brook.
- b. To provide a forum for residents of Spencers Brook to express their views.
- c. To preserve and promote the history of Spencers Brook.
- d. To constitute advisory committees or bodies for the purpose of advising, conferring with, and making submissions to the local, state and federal government, and local authorities in relation to the objects of the association.
- e. To do all things that are conducive to the promotion of the association or incidental to the attainment of the aforesaid objects.
- f. The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

**C. Any ten (10) members personally present, or by proxy or electronic means, (being members entitled to vote under these rules at a general meeting) will constitute a quorum for the conduct of business at a general meeting.**

D. The presence of more than half the committee members constitutes a quorum for the conduct of the business of a committee meeting.

E. The association's financial year will be the period of 12 months commencing on July 1 and ending on June 30 of each year.

**F. Membership is available to persons residing in the Spencers Brook area as defined on the map and its boundaries at Appendix "A" A. Membership is available to persons residing in the Spencers Brook area as defined on the map and its boundaries at Appendix "A" or as defined by the committee from time to time.**



## SPENCERS BROOK PROGRESS ASSOCIATION Inc.

You are encouraged to read the details of the special resolution you are being asked to consider and to take the time to exercise your right to vote at the 2024 AGM. In accordance with the Associations Incorporated, for Special Resolution to be passed, at least 75 per cent (75%) of the votes cast by Members entitled to vote on the resolution must be in favour.

If you have any questions prior to the meeting, please contact the Secretary who will relay your question to the committee for a response.

Questions raised at the meeting may defer the process to present the new constitution to the Commissioner.

Best regards

*Marilyn Rulyancich*

Acting Secretary