



CONSTITUTIONAL CHANGES – EXPLANATORY NOTES

Below are explanatory notes associated with the proposed changes to the Equestrian South Australian Ltd constitution dated 25 June 2012.

A list of definitions relating to this document can be found on page 14.

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Constitution Proposed Changes

Rule Number	Heading	Proposed Change
1	Name	1. Updating the name from “Equestrian Federation of Australia – South Australian Branch Incorporated (trading as Equestrian South Australia)” to “Equestrian South Australia Incorporation”.
2	Purposes of the Association	1. Removal of 2(j). 2. Amend 2(d) to include ‘represent and act’.
3	Powers of Association	1. Removal of the reference to the Corporations Act 2001.
4.1	Definitions	1. Deletion and inclusion of defined terms required as a consequence of the proposed amendments to the Constitution. 2. Update to rule reference numbers as a result of the proposed changes or the wrong number referenced in the current constitution.
5.1	Categories of Membership	1. Inclusion of ‘and’ at the end of 5.1(d).
5.2 & 5.3	Application for Membership – Affiliate Members & Discretion to Accept or Decline Application	1. Move 5.3 (b) (c) and (d) and placed in 5.2. 2. Move the last sentence of 5.3(a) to the end of 5.2(c). 3. Removal of the remainder of 5.3.
5.3 (formally 5.4); 5.4 (formally 5.5); and 5.5 (formally 5.6)	Application for Membership – Individual Members and Junior Members; Honorary Life Members; and Life Members	1. The numbers have been updated following the changes to 5.2 and 5.3.
5.6 (formally 5.7)	Delegates of Affiliate Members	1. Inclusion of rule 5.7(e) ‘For the avoidance of doubt, a person may act as the Delegate of more than one Affiliate Member’. 2. Number has been updated following the changes to 5.2 and 5.3.
5.7 (formally 5.8)	Effect of Membership	1. Inclusion of rule 5.8(d) which states: ‘Each Member shall, by virtue of being a Member: (i) automatically be a ‘Participating Member’ of Equestrian Australia; (ii) be bound by the provisions of the Constitution and by-laws of Equestrian Australia as they apply to ‘Participating Members’; and (iii) unreservedly submit to the jurisdiction, procedures, penalties and appeal mechanisms of Equestrian Australia set out in its by-laws and disciplinary rules’. 2. Number has been updated following the changes to 5.2 and 5.3.
5.8 (formally 5.9)	Renewal of Membership	1. Inclusion of rule 5.9(c). 2. Number has been updated following the changes to

		5.2 and 5.3.
5.10	Deemed Members	1. Removal of the 2012 transitional provision.
9.1	Board Resolution	<ol style="list-style-type: none"> 1. Combining rule 9.1(a) and 9.1(c) which states <ol style="list-style-type: none"> (a) Subject to this Constitution, if the Board considers that a Member has: <ol style="list-style-type: none"> (i) breached, or failed, refused or neglected to comply with, a provision of this Constitution or the By-Laws; (ii) acted in a manner unbecoming of a Member or prejudicial to the Purposes and interests of the Association; or (iii) brought itself, the Association or Equestrian Sport into disrepute. 2. New rule 9.1(b) which states <ol style="list-style-type: none"> (b) The Board may by resolution: <ol style="list-style-type: none"> (i) expel the Member from the Association; or (ii) suspend the Member from membership of the Association for a specified period; or (iii) fine the Member; or (iv) impose such other penalty, action or educative process as it sees fit. 3. Removal of the sentence ‘Such grounds do not constitute a grievance, and rule 20 does not apply.’ at the end of 9.1(b). 4. 9.1(a) (ii) (formally 9.1(c) (ii) has the term ‘another member’ removed. 5. The sentence ‘Such grounds do not constitute a grievance, and rule 21 does not apply’ has been labelled 9.1(c) rather than a sentence on its own. 6. Amendment to new 9.1(c) to change ‘rule 20’ to ‘rule 21’ to reference the change in numbering.
9.2	Notice of Alleged Breach	1. Update the reference of rule 9.1(b) to 9.1(a) which represents the changes made.
9.3	Determination of Board	<ol style="list-style-type: none"> 1. Amendment to 9.3 from ‘acting’ to ‘act’ for grammatical accuracy. 2. Amended to rule 9.3(c) to include ‘and if so, what action (if any) should be taken under rule 9.1’.
9.5	Delegation by the Board	1. Amendment to include ‘establish a General Committee to consider and make non-binding recommendations to the Board in relation to any alleged breach, prior to making its determination under rules 9.1 and 9.3(c)’.
9.6 (new)	Natural Justice	1. The inclusion of rule 9.6 states ‘All proceedings relating to matters falling under rule 9 must be conducted under the rules of natural justice in accordance with the Act and procedural fairness generally’.
10.1	Annual General Meetings to be Held	1. Amendment to rule 10.1(a) to include ‘and this constitution’.

		<ol style="list-style-type: none"> 2. Amendment to rule 10.1(a) to remove ‘and at a venue’. 3. Inclusion of rule 10.1(b) which states ‘All General Meetings will be held entirely as a Telecommunication Meeting, or as a hybrid in-person and Telecommunication meeting to be determined by the Board’.
12.2	Business of Meeting	<ol style="list-style-type: none"> 1. Amendment to rule 12.2(b) to replace ‘any business’ with ‘motion’. 2. Amendment to rule 12.2(b) to replace ‘fourteen days’ with ‘thirty days’. 3. Amendment to rule 12.2(b) to include ‘as special business’. 4. 12.2(c) to become 12.2(d). 5. New rule 12.2(c) to be included stating ‘A motion included as special business at a meeting will be considered passed at a meeting by a majority of not less than three-quarters of such members of the association as, being entitled to do so, vote in person at that meeting’.
13.1	Quorum	<ol style="list-style-type: none"> 1. Inclusion of rule 13.1(d) which states ‘Each person taking part via Telecommunication (online) is deemed for the purposes of 13.1(b) to be personally present’.
14.1	Voting Rights	<ol style="list-style-type: none"> 1. Amendment to rule 14.1(a) to include ‘as per rule 5.7’.
14.2	Voting Procedure	<ol style="list-style-type: none"> 1. Amendment to rule 14.2(a) to include. ‘(i) Members/Delegates attending in person will vote by a show of hands; (ii) Members/Delegates attending online will vote by completing the poll launched on the screen’. 2. Removal of 14.2(d). 3. Amendment to rule 14.2(c) (formally 14.2 (e)) to remove ‘on a question’.
14.3	Recording of Determinations	<ol style="list-style-type: none"> 1. The removal of ‘, on a show of hands,’.
15.2	Composition of Board	<ol style="list-style-type: none"> 1. Inclusion of new 15.2(c) which states ‘No Director can serve as a Discipline Committee Member simultaneously’. 2. 15.2(c) now becomes 15.2(d).
17.1	Grounds for Termination of Director	<ol style="list-style-type: none"> 1. Inclusion of new rule 17.1(j) ‘<i>South Australian Associations Incorporation Act 1985 (Act)</i>’. 2. Rule 17.1(j) now becomes 17.1(k) and 17.1(k) becomes 17.1(l).
18.3	Procedures at Board Meetings	<ol style="list-style-type: none"> 1. Amendment to rule 18.3(d) to replace ‘all’ with ‘the majority of’.
18.5	Disclosure of Interests	<ol style="list-style-type: none"> 1. Removal of current rule. 2. Inclusion of 18.5(a), (b) and (c) which states: ‘a) Directors must comply with Section 31 & 32 of the Act regarding disclosures of interest and voting on contracts in which the Director has an interest.

		<p>b) Directors must also consider whether they may have a material personal interest and be prepared to step aside from voting on the matter.</p> <p>c) Directors have a duty to act in the interest of the association as a whole, which includes the interests of all members, not select members or groups’.</p>
19 (new)	Telecommunication Meetings of the Association	<p>1. The inclusion of a new rule (now 19) which states:</p> <p>19. TELECOMMUNICATION MEETINGS OF THE ASSOCIATION</p> <p>19.1 Telecommunication Meeting</p> <p>a) A General Meeting or Board Meeting may be held entirely by means of Telecommunication Meeting, provided that:</p> <p>(i) the number of Voting Members or Directors (as applicable) participating is not less than the quorum required for a General Meeting or Board Meeting (as applicable); and</p> <p>(ii) the meeting is convened and held in accordance with the Act.</p> <p>b) All provisions of this Constitution relating to a meeting apply to a Telecommunication Meeting in so far as they are not inconsistent with the provisions of this rule 19.</p> <p>19.2 Conduct of Telecommunication Meeting</p> <p>The following provisions apply to a Telecommunication Meeting of the Association:</p> <p>a) all persons participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the meeting;</p> <p>b) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of this Constitution to be present at the meeting;</p> <p>c) at the commencement of the meeting each person’s presence in the meeting must be visible to all other persons taking part in the meeting;</p> <p>d) a person must not leave a Telecommunication Meeting by disconnecting their telephone, audio-visual or other communication equipment unless that person has previously notified the Chair;</p> <p>e) a person may conclusively be presumed to have been present and to have formed part of a quorum at all times during a Telecommunication Meeting unless that person has previously notified the Chair of leaving the meeting; and</p> <p>f) a minute of proceedings of a Telecommunication Meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities is the</p>

		minute is certified to be a correct minute by the Chair’.
20 (formally 19)	Delegated Powers and Duties	1. The number has been updated following the inclusion of the new rule 19.
20.1 (formally rule 19.1)	Executive Officer	<ol style="list-style-type: none"> 2. Amendment to rule 19.1(a) to remove ‘shall act as public officer of the Association and’. 3. New 19.1(d) to be included stating ‘The Executive Officer shall also act as the Public Officer of the Association’. 4. New 19.1€ to be included stating ‘Should the Company not have an Executive Officer employed, the rights and responsibilities under this Constitution will be given to the Chair of the Board (or their delegate).’
20.2 (formally rule 19.2)	Committees	<ol style="list-style-type: none"> 1. Amendment to 20.2(a) to include ‘(including Discipline Committees)’. 2. The removal of 20.2(e).
21 (formally rule 20)	Grievance Procedure	<ol style="list-style-type: none"> 1. Amendment to the title to replace ‘Grievance’ with ‘Dispute’. 2. Amendment to 20(a) to replace ‘Grievance’ with ‘Dispute’. 3. Amendment to 20(f) to include ‘or conflict of interest’. 4. New 20(k) to be included stating ‘Notwithstanding the foregoing provisions, this rule 20 does not apply to: <ol style="list-style-type: none"> (i) any decision or action of the Board under rule 9, or any dispute arising in relation there to; (ii) any dispute that could be referred to, and determined by, Sports Integrity Australia and/or Equestrian Australia (or to any dispute that has already been referred to one of those bodies).
22 (formally 21)	Sources of Funds	1. The number has been updated following the inclusion of the new rule 19.
23 (New)	Accounts	1. Rule 23 is new and states ‘The Association must keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association’.
24 (formally rule 22)	Auditor	<ol style="list-style-type: none"> 1. Amendment to 24(a) to include ‘If the auditor appointed at the previous General Meeting is the same auditor, the auditor does not need to be re-appointed at subsequent General Meetings,’ 2. Amendment to 24(b) to include ‘Should members require the Company to use a new auditor the Association may remove the auditor in a General Meeting in accordance with rule 12.2’. 3. 24(b) now 24(c). 4. 24(c) now 24(d)
25 (formally	Application of Income; Signing of Negotiable	1. The numbers have been updated following the

23); 26 (formally 24); 27 (formally 24); and 28 (formally 26)	Instruments; Common Seal; and Alteration of this Constitution	inclusion of the new rule 19.
29 (formally rule 27)	Dissolution	<ol style="list-style-type: none"> 1. New rule 29(a) which states ‘The Association may be wound up or deregistered in the manner provided for in the Act’. 2. 29(a) to become 29(b). 3. 29(b) to become 29(c). 4. Amendment to rule 29(c) to include ‘, or inclusive of,’.
30 (formally 28); 31 (formally 29); 32 (formally 30); and 33 (formally 31)	Indemnity; Service of Notice; Custody of Books and Other Documents; and By-Laws	<ol style="list-style-type: none"> 1. Change in rule numbers due to new rules 19 and 23 added as per above.
35 (new)	National Integrity Framework	<ol style="list-style-type: none"> 1. The inclusion of this rule stating, ‘The Association has adopted the National Integrity Framework, and will implement and comply with it as required’.

NB: The Constitution has also been formatted to improve readability. No change to text has been made except those declared above.

Explanatory Notes

1 Name

The change of name was registered with the Corporate Affairs Commission on 18 February 2009. Therefore, the Constitution should reflect the change.

2 Purposes of the Association

On advice rule 2(j) was deleted as it is not listed as an objective in the Constitution of Equestrian Australia, but noting that Rule 2(d), with amendment, requires ESA to represent and act for its Members.

3 Powers of Association

Rewording does not result in any substantive changes to the powers of the association. The *Associations and Incorporation Act 1985 (SA)* (“the Act”) is the framework within which incorporated associations must operate and abide by.

The *Corporations Act 2001* does not apply to SA incorporated associations and hence the deletion of that reference. It is the Board’s understanding that a reference to the *Corporations Act* will be rejected by Consumer and Business Services upon lodgement of the Constitution.

5 Membership of Association

5.1 Categories of Membership

The inclusion of ‘and’ at the end of 5.1(d) is for grammatical purposes.

5.2 Application for Membership – Affiliate Members & 5.3 Discretion to Accept or Decline Application

The incorporation of 5.3 into 5.2 provides clarification of the process of the Board’s discretion to approve or decline a membership application and in which membership category it refers to.

5.7 Delegates of Affiliate Members

The incorporation of rule 5.7(e) provides clarification that a Delegate may act for more than one Affiliate Member.

5.8 Effect of Membership

The inclusion of rule 5.8(d) incorporates the requirements of the EA Constitution Rule 5.3(f)(i).

5.9 Renewal of Membership

Inclusion of rule 5.9(c) is to ensure members understand the rule 5.8(d).

9 Expulsion, Member Suspensions or Fining

9.1 Determination of Board

By combining rule 9.1(a) and 9.1(c) and reworded to improve the flow of the rule.

The current requirements for the Board to act reasonably and in good faith, to provide notice of the grounds for the alleged breach and a right to be heard remain unchanged.

The removal of the term ‘another member’ has been done as any matter relating to members is now a matter under the National Integrity Framework.

9.3 Determination of Board

The amendment to rule 9.3(c) provides clarification on the process.

9.5 Delegation by the Board

The amendment to rule 9.5 provides the Board with the opportunity to establish a General Committee and receive non-binding recommendations. This provides the Board with the opportunity to seek independent advice before making a decision.

9.6 Natural Justice

Section 40 of the Act refers to the rules of natural justice. The inclusion of rule 9.6 is to reiterate to members that ESA must and will abide by these rules.

10 Annual General Meetings

10.1 Annual General Meeting to be Held

ESA has over 1100 members with more than 76% living outside of Metropolitan Adelaide/Greater Adelaide (see appendix 1).

To ensure that all members have equal access to attend and vote at AGMs changes have been made to propose meetings be held entirely as Telecommunications (online) or as a hybrid in-person and Telecommunication meeting.

The Act does not specify how meetings are to be conducted.

These proposed changes reflect the language used in EA's constitution.

12 Notice of Meetings

12.2 Business of Meeting

Previous AGMs have raised issues regarding providing members with sufficient time to raise any motions for inclusion of those motions at AGMs or GMs.

Changes one and two provide members with sufficient time to provide ESA with motions to be tabled at AGMS or GMs and are consistent with Equestrian State Branches NSW and VIC.

Change three provides clarity to members in Notice of Meetings that special business does not form part of normal business.

The Act refers to 'motions' as 'special resolutions'. The Act specifies that after a special resolution can be passed by members at a meeting if at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all members of the association.

The Act also has specified that a special resolution passed at a meeting referred to in the interpretation by a majority of not less than three-quarters of such members of the association as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at that meeting. As ESA's constitution does not allow for proxy voting, proxy voting has been removed from the proposed changes.

13 Proceedings at Meetings

13.1 Quorum

It is the responsibility of the Board to interpret the Constitution, and the Board already considers members attending online as personally present.

The inclusion of 13.1(d) provides clarity regarding people attending General Meetings via Telecommunication (online) as being personally present.

14 Voting at General Meetings

14.1 Voting Rights

The amendment to rule 14.1(a) provides reference to who is considered a Delegate under the Constitution.

14.2 Voting Procedure

The amendment to rule 14.2(a) provides clarity on how voting is conducted depending on if a Member/Delegate attends in-person or online.

The removal of 14.2(d) has been made as the changes for 14.2(a) outlines how voting is determined.

The amendment to rule 14.2(c) (formally 14.2 (e)) to remove 'on a question' has been made as members do not vote on questions and is therefore not required.

14.3 Recording of Determinations

The removal of ', on a show of hands,' reflects the changes made to rules 10.1 and 14.2(a).

15 Board

15.2 Composition of Board

The inclusion of the new rule 15.2(c) has been included as a recommendation of the Governance Review undertaken in 2020.

17 Vacancy on the Board

17.1 Grounds for Termination of Director

Inclusion of new rule 17.1(j) '*South Australian Associations Incorporation Act 1985 (Act)*' ensures that the Constitution refers to Part 4—Management of internal affairs (30—Certain persons not to be members of the committee).

Rule 17.1(j) now becomes 17.1(k) and 17.1(k) becomes 17.1(l) due to the inclusion of new rule 17.1(j).

18 Quorum and Procedures at Meetings

18.3 Procedure at Board Meetings

The Board meeting on the second Wednesday of each month. Outside of Board meetings decisions require a circular resolution to be approved. The constitution currently states all Directors need to approve the resolution in order for it to be passed.

As resolutions require all Directors' approval, some resolutions have been unable to be passed due to some of the below reasons:

- Directors unable to respond due to travelling.
- Resolutions being time sensitive and not all Directors have approved in the required timeframe.
- The Board/executive are unable to respond to/action issues/requests raised by members in a timely manner.

The recommended change provides the Board and Executive with more autonomy to resolve and action resolutions proposed outside of Board meetings. This also aligns with rule 18.2 of the constitution regarding quorums of Board meetings.

The Act is silent on this matter.

18.5 Disclosure of Interests

The proposed changes to include rule 18.5(a) and (b), provide better clarification on Directors declaring and voting on interests and make reference to the specific sections in the *Act*.

The rule 18.5(c) provides members with clarification and reassurance that Directors will act on behalf of all members.

19 Telecommunication Meetings of the Association

19.1 Telecommunication Meeting

The inclusion of the rule provides rules on convening a General Meeting or Board meeting entirely by Telecommunication and the requirement of quorum and complying with the *Act*.

19.2 Conduct of Telecommunication Meeting

The inclusion of the rule provides rules on conducting a General Meeting or Board meeting including how people join, how presence is recorded, leaving a meeting prior to the meeting concluding and the recording of quorum.

This rule is important regarding the proposed changes to rules 10, 12 and 13.

20 Delegated Powers and Duties

This rule number has been changed from 19 to 20 due to the inclusion of new rule 19.

20.1 Executive Officer

The amendment to rule 19.1(a) and the inclusion of the new rule 19.1(d) provide clarification that the Executive Officer will act as Public Officer of the Association.

ESA does not currently have an Executive Officer employed. The Constitution has specific responsibilities outlined to the Executive Officer.

To ensure that there is proper delegation of responsibilities as contained in the Constitution, 19.1(d) has been included to state that should the Company not have an Executive Officer employed, the rules and responsibilities specified in the Constitution are delegated to the Chair of the Board or their delegate.

This change provides for an appropriate delegation policy.

The *Act* is silent on this matter.

20.2 Committees

The amendment to rule 20.2(a) provides a specific reference to Discipline Committees.

The removal of 20.2(e) is deemed not relevant for the Constitution as it is covered in the By-Laws.

21 Grievance Procedure

This rule number has been changed from 20 to 21 due to the inclusion of new rule 19.

The amendment from Grievance to Dispute provides for a more appropriate heading.

The amendment to 20(f) provides clarification on ensuring that the mediator cannot be someone with a conflict of interest.



The inclusion of 20(k) provides clarification of the scope of the rule in the context of the adoption of the National Integrity Framework.

Please note that Section 40 of the Act refers to the rules of natural justice and ESA must abide by these rules.

23 Accounts

This new rule has been included to emphasise that ESA must keep and retain proper accounting records.

24 Auditor

Following a query raised by a member following the 2023 AGM, the Board sought legal advice from the Company lawyer regarding the appointment/re-appointment of the Auditor.

The proposed change to rule 23(a) provides clarity regarding the appointment/re-appointment of the auditor.

The proposed amendment to rule 23(b) provides members with an opportunity to formally remove the current auditor.

The *Act* is silent on this matter.

28 Dissolution

The suggested amendments update the rule to refer to the Act.

35 National Integrity Framework

This new rule updates the Constitution to recognise that ESA has adopted the National Integrity Framework for dealing with integrity matters.



DEFINITIONS

ACT – means *Associations Incorporation Act 1985*

AGMs – means Annual General Meetings

EA – means Equestrian Australia

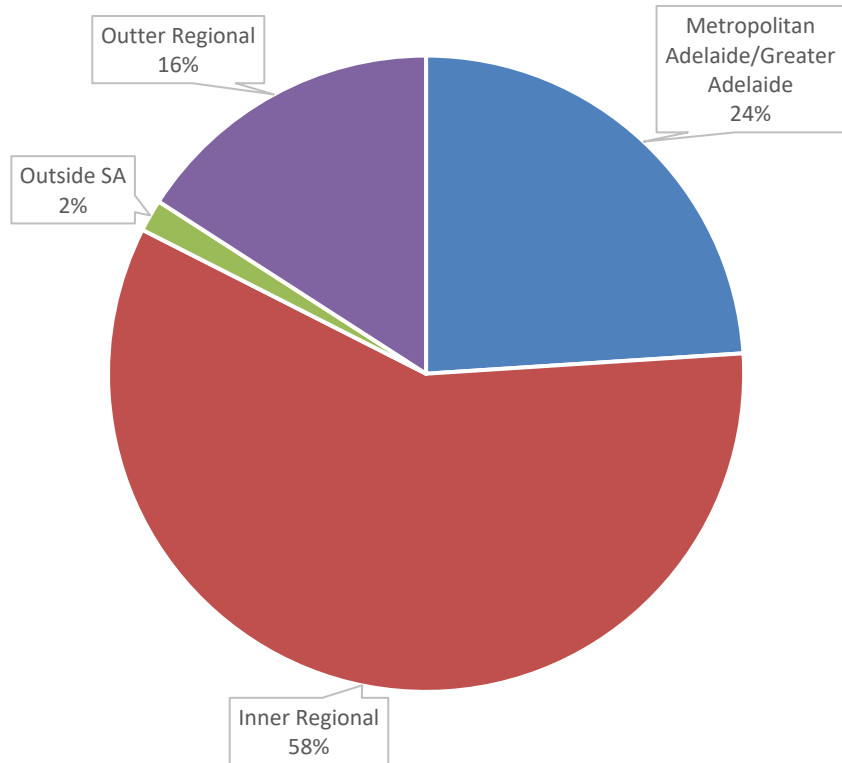
ESA – means Equestrian South Australia

GMs – means General Meetings

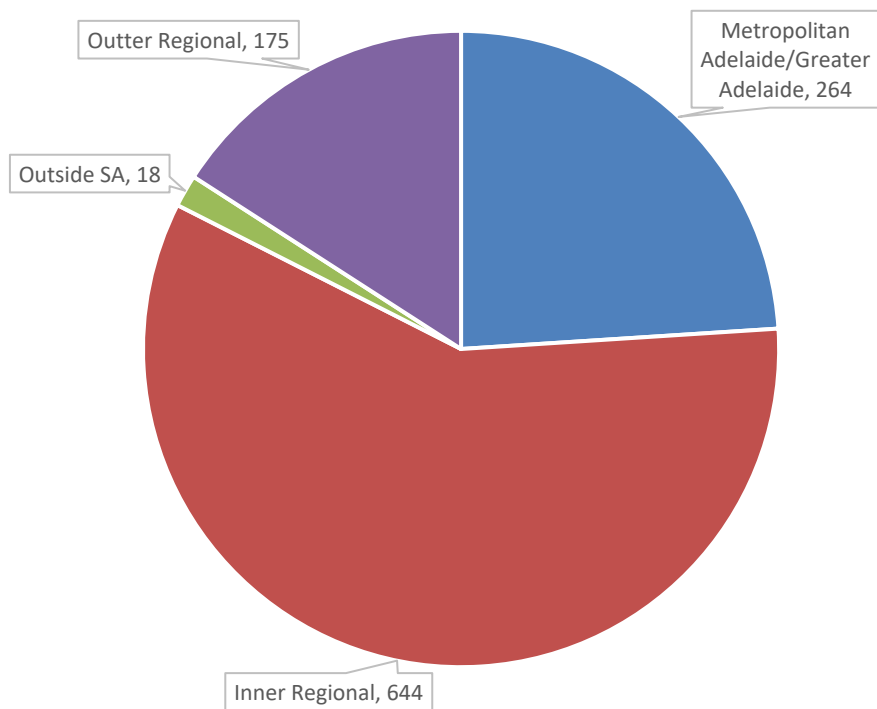
APPENDICIES

Appendix 1

Membership Classification by Region - Percentage



Membership Classification by Region - Number





Source: <https://www.migration.sa.gov.au/sites/default/files/2022-10/SA%20DAMA%20Designated%20Areas.pdf>

The above source was used to categorise members postcodes as per Nominate.