

18 September 2024

To Members
Mallee Sustainable Farming Inc

Dear Members

Change of structure from an incorporated organisation to a company limited by guarantee

After careful consideration and following approval at the last Board meeting, the Board would like to recommend to members that Mallee Sustainable Farming change from an incorporated body to a company limited by guarantee (CLG).

The reasons why this is being proposed as a motion at the Special General Meeting to be held on 10 October 2024 are:

- A Company limited by guarantee can “carry on business” in all jurisdictions - an Incorporated body cannot carry on business outside its state of incorporation. At present the organisation is registered in Victoria.
- Mallee Sustainable Farming relies heavily on different funding bodies for income. Many of these may prefer to fund a company limited by guarantee rather than an incorporated organisation. By changing structure this could enhance our chances of being successful with applications submitted.

The process to change the structure is very straight forward and Section 115 of the Associations Incorporation Reform Act 2012 (Vic) and Section 601BM of the Corporations Act 2001 state that a transfer of incorporation between the jurisdictions does not create a new legal entity. If MSF transferred from Inc to CLG then effectively it would be the same organisation, with existing employment and funding contracts for example, continuing. The ABN would remain the same, but with an update to change Inc to “Ltd”.

As an Australian Charities and Not-for-profit Commission (ACNC) registered charity, duties of Inc committee and CLG directors are essentially the same. To meet ACNC requirements the constitutions of both Inc and CLG need certain “charity” clauses especially around “purpose”, “financial reporting”, “revocation of DGR endorsement” and “wind up” – the

latter requiring distribution of surplus assets to another charity, not just to another not for profit.

Therefore, once the change to the structure is completed, registering for charitable status through ACNC will be easier to undertake.

Attached is:

1. An invitation to attend the Special General Meeting to be held at the Loxton Research Centre at 5.00 pm on 10 October 2024 that sets out the special resolutions that will be proposed at the meeting. This will form part of the Annual General Meeting to be held at the same time. This year we have a renowned speaker that we will be providing more information in the coming week.
2. The new constitution of Mallee Sustainable Farming Ltd. One of the resolutions will be to adopt this constitution which is based on the previous incorporated constitution.

Further information on the two structures is available at [Australian Securities and Investment Commission \(ASIC\)](#) or if you have any concerns, please contact either myself on 0419 007 398 Jenny Garonne, Managing Director on 0430 34 7522.

Kind regards



Steve Burt
Chair
Mallee Sustainable Farming Inc.