



Constitution

Landcare Victoria Incorporated

Incorporation Number AOO11936S

An association incorporated under the
Associations Incorporation Reform Act 2012 (Vic)

LANDCARE VICTORIA Inc.
Suite 3, Level 7, 24-28 Collins Street
MELBOURNE VIC 3000
Telephone: 03 9034 1940
www.landcarevictoria.org.au

Prepared by Mills Oakley
Level 6, 530 Collins Street
MELBOURNE VIC 3000
www.millsoakley.com.au
Ref: EYSM 3670562

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1 Name of the Association

The name of the Association is Landcare Victoria Incorporated A0011936S.

2 Type of Association

The Association is an incorporated association incorporated in Victoria.

3 Definitions and Interpretation

3.1 Definitions

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) **ACNC** means the Australian Charities and Not-for-profits Commission.
- (b) **ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).
- (c) **Act** means the *Associations Incorporation Reform Act 2012* (Vic).
- (d) **Annual General Meeting** means an annual general meeting held in accordance with the Act.
- (e) **Association** means Landcare Victoria Incorporated A0011936S.
- (f) **Board** means the board having management of the Association for the time being.
- (g) **Board Member** means a person holding office as a member of the Board, and **Board Members** means the Board Members for the time being of the Association or, as the context permits, such number of them as has authority to act for the Association.
- (h) **Business Day** means a day that is not a Saturday, Sunday or public holiday in Victoria.
- (i) **Catchment Management Region** means one of the ten regions identified by the Governor in Council under section 10 of the *Catchment and Land Protection Act 1994* (Vic).
- (j) **Chair** means a person appointed to the position of Chair under **clause 16.10(a)**.
- (k) **Chairperson** means the person who is acting as chairperson of a meeting.
- (l) **Charity** has the meaning given to that term at law, and charities has the same meaning.
- (m) **Commissioner** means the Commissioner of Taxation (Commonwealth of Australia).
- (n) **Committee** means a committee established by the Board under **clause 17.1**.
- (o) **Constitution** means this constitution (which are the rules of the Association) as amended from time to time.
- (p) **Deductible Gift Recipient** means an entity to which income tax deductible gifts may be made under Division 30 of ITTA 97.
- (q) **Delegate** has the meaning given to that term in **clause 6**.
- (r) **Disciplinary Appeal Meeting** means a General Meeting that is convened and held in accordance with **clause 12.5** and **clause 12.6**.
- (s) **Disciplinary Subcommittee** has the meaning given to that term in **clause 12.2**.
- (t) **Fees** has the meaning given to that term in **clause 7**.

- (u) **Financial Year** means the 12-month period ending on 31 December.
- (v) **General Meeting** means a meeting of the Members of the Association and includes an Annual General Meeting and a Special General Meeting and a Disciplinary Appeal Meeting.
- (w) **Gift Fund** means the gift fund established and maintained under **clause 4.4**.
- (x) **Group** means an incorporated body, or an unincorporated group, as the context requires, that is established for purposes similar to the Objects.
- (y) **ITAA 97** means the *Income Tax Assessment Act 1997* (Cth).
- (z) **Member** means a member of the Association and **Membership** has the corresponding meaning.
- (aa) **Member Policy** means a policy that meets the description of **clause 17.4(a)(ii)**.
- (bb) **Members' Council** means the Committee established under **clause 17.3**.
- (cc) **Objects** mean the purposes for which the Association is established, as set out in **clause 4.1**.
- (dd) **Office** means the office of Landcare Victoria Inc that is its usual place of business, as determined by the Board from time to time.
- (ee) **Office Holder** means:
 - (i) a Board Member;
 - (ii) a person:
 - (A) including an employee of the Association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the Association; or
 - (B) who has the capacity to affect significantly the Association's financial standing; or
 - (C) in accordance with whose instructions or wishes the Board is accustomed to act (but excluding a person who gives advice to the Association in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Board Members or the Association).
- (ff) **Prejudicial Conduct** has the meaning given to that term in **clause 12.1(b)**.
- (gg) **Principal Purpose** means the principal purpose for which the Association is established in **clause 4.1(a)**.
- (hh) **Register** means the register of members established and maintained under **clause 11**.
- (ii) **Registrar** means the Registrar of Incorporated Associations under the Act.
- (jj) **Relevant Document** has the meaning given to that term in the Act.
- (kk) **Secretary** means the person appointed as the secretary of the Association for the purposes of the Act, pursuant to **clause 16.12**.
- (ll) **Selection Committee** means the Committee described in **clause 17.2**.
- (mm) **Special General Meeting** means any General Meeting that is not the Annual General Meeting.

- (nn) **Special Resolution** means a resolution passed as a Special Resolution under the Act, which includes a resolution:
- (i) of which at least twenty-one (21) days' notice has been given in the manner required by **clause 14.4(c)(iii)**; and
 - (ii) that has been passed at a General Meeting with at least three (3) quarters of the Members of the Association who vote at the meeting (whether in person or by proxy) voting in favour of the resolution.

To avoid ambiguity, this definition does not prohibit a Special Resolution being passed in another manner approved by the Registrar under the Act.

3.2 Interpretation

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other genders;
- (c) the word **person** includes a natural person and an incorporated body;
- (d) the words **writing and written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) if an expression in this Constitution has a meaning in the Act, the meaning from the Act will apply to the expression, except where a contrary intention appears;
- (i) headings do not form part of or affect the construction or interpretation of this Constitution.

4 Objects and Powers

4.1 Objects

- (a) The Association exists to be a Charity whose principal purpose is the protection and enhancement of the natural environment in Victoria.
- (b) The Association's Principal Purpose will be achieved through:
 - (i) encouraging and facilitating community based, cooperative, multi-disciplinary approaches to caring for the land, by groups of like-minded people;
 - (ii) providing a strong voice on behalf of Landcare in Victoria; and
 - (iii) promoting sustainable land and water management practices which balance economics and ecology as well as productivity and resource protection; and
 - (iv) establishing and maintaining a gift fund for its Principal Purpose.

4.2 Powers

The Association has power to do all things incidental or conducive to its Objects.

4.3 Income and Property

- (a) The income and property of the Association must be applied solely towards the Objects.
- (b) No income or property of the Association may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or other profit distribution to any Member.
- (c) **Clause 4.3(b)** does not prohibit the Association from doing the following things, provided they are done in good faith:
 - (i) Paying a Member for goods or services the Member has provided or premises the Member has let or expenses the Member has properly incurred at fair and reasonable rates or rates more favourable to the Association.
 - (ii) Making a payment to a Member in carrying out the Objects.
 - (iii) Paying premiums for insurance indemnifying Office Holders, as allowed for by law.
- (d) Any allocation of funds or property to other persons or organisations will be made in accordance with the Objects of the Association and the Association will not act as a mere conduit for the passing of donations to other organisations, bodies or persons in breach of the requirements of the special conditions in item 6.1.1 of section 30-55 of the ITAA 97.

4.4 Gift Fund

- (a) The Association must maintain a Gift Fund for its Principal Purpose:
 - (i) to which gifts of money or property for that purpose are to be made;
 - (ii) to which contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 97 in relation to a fund-raising event (as defined by section 995-1 of the ITAA 97) held for that purpose are to be made; and
 - (iii) to which any money received by the Association because of such gifts or contributions is to be credited, including without limitation interest earned and income derived from such gifts, and money from the realisation of gifts of property; and
 - (iv) that does not receive any other money or property.
- (b) The Association must use the Gift Fund only for the Principal Purpose.
- (c) At the first occurrence of:
 - (i) the winding up of the Gift Fund; or
 - (ii) the revocation of the Association's endorsement as a Deductible Gift Recipient under item 6.1.1 of section 30-55 of the ITAA 97 –the Association must transfer any surplus assets of the Gift Fund to such Charity or Charities that are Deductible Gift Recipients and that are established for similar purposes to the Association's Principal Purpose that the Association decides.
- (d) The Association must maintain a separate bank account for the Gift Fund.

- (e) Sponsorship monies must not be deposited into the Gift Fund's bank account.
- (f) Receipts are to be issued in the name of the Association and proper accounting records and procedures are to be kept and used for the Gift Fund.

5 Admission to Membership

5.1 Minimum number of Members

The Act requires the Association to have at least five (5) Members.

5.2 Classes of Membership

- (a) There are two (2) classes of Membership:
 - (i) Full Members; and
 - (ii) Associate Members.
- (b) The Board may determine sub-classes or sub-categories of Associate Members, and any eligibility for those, in its sole discretion.

5.3 Eligibility for Full Membership

- (a) Any Group may be admitted as a Full Member if the Group:
 - (i) is established for purposes that are similar to the Association's Objects; and
 - (ii) is a not-for-profit; and
 - (iii) has a minimum of five (5) members within the Group.
- (b) Only Groups may be admitted as Full Members. An individual cannot be admitted as a Full Member.

5.4 Eligibility for Associate Membership

A person may be admitted as an Associate Member if the person has purposes or interests aligned to the Association, or who seeks services from the Association, or whose status as an Associate Member will bring benefits to the Association, in the opinion of the Board.

5.5 Admission to Membership

- (a) To apply to become a Full Member of the Association, a person must submit a written application on behalf of the Group:
 - (i) stating that the Group:
 - (A) wishes to become a Member of the Association; and
 - (B) supports the Objects; and
 - (C) agrees to comply with this Constitution; and
 - (ii) in the case of an unincorporated Group, must:
 - (A) identify the Delegate, and be signed by the Delegate; and
 - (B) includes a list of the names of any other members within the Group; and

- (iii) in the case of an incorporated Group, must identify the Delegate and be signed by the Delegate.
- (b) To apply to become an Associate Member of the Association, a person must submit a written application stating that the person:
 - (i) wishes to become a Member of the Association; and
 - (ii) supports the Objects; and
 - (iii) agrees to comply with this Constitution.
- (c) The application must be accompanied by the Fees.
- (d) As soon as practicable after an application for Membership is received, the Board must decide by resolution whether to accept or reject the application.
- (e) The Board must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (f) If the Board rejects the application, it must return any money accompanying the application.
- (g) No reason need be given for the rejection of an application.
- (h) If an application for membership is approved by the Board, the resolution to accept the Member must be recorded in the minutes of the Board meeting.

5.6 Register of Members

- (a) If a Group or person becomes a Member the Secretary must, as soon as practicable, enter the name and address of the new Member, and the date of becoming a Member, in the Register of Members.
- (b) A Group or person becomes a Member of the Association and is entitled to exercise the rights of Membership from the latter of the following:
 - (i) the date on which the person is listed in the Register of Members; and
 - (ii) the date on which the Fees have been paid.

5.7 Membership Entitlements Not Transferable

A right, privilege or obligation which a Member has by reason of being a Member of the Association:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of the Membership.

6 Delegate

6.1 Appointment

- (a) A Full Member must appoint a Delegate.
- (b) The Full Member must notify the Association of the name of the Delegate, and any changes to the person appointed as Delegate. If the Full Member does not notify the Association of

their Delegate, the Association may determine that the president or chair of the Full Member is the Delegate, until another notification is received.

- (c) A Full Member may remove and replace a Delegate where the Full Member gives written notice to the Board in any form acceptable to the Board. This applies despite **clause 5.7**.
- (d) The name and address of the Delegate will be entered in the Register of Members as the representative of the Full Member.
- (e) If the appointment of a Delegate by the Full Member is made by reference to a position held, the appointment must identify the position.
- (f) In the event of any dispute as to who is the Delegate of a Member, the Board may determine this in its sole discretion.

6.2 Role

- (a) The Delegate is the person entitled to act on behalf of the Full Member for the purposes of this Constitution.
- (b) The Delegate may exercise any and all rights of Membership on behalf of the Member.
- (c) A signature by a Delegate of a Full Member on behalf of that Full Member is taken to be the signature of that Full Member for the purposes of this Constitution.
- (d) Any power or right of a Full Member granted by this Constitution or the Act or by law can be exercised by the Delegate of that particular Full Member.
- (e) Full Members are represented at meetings of Members by their Delegates, subject to the right of a Delegate to appoint a proxy pursuant to **clause 14.5**.
- (f) The actions of a Delegate bind the Full Member which is represented by that particular Delegate.
- (g) Each Delegate must comply with the terms of this Constitution in all matters pertaining to the Association as if a Member themselves.

7 Fees

7.1 Requirement to pay Fees

- (a) Each Member must pay the Fees at such times and in such manner as is determined by the Board.
- (b) The rights of a Member (including the right to vote) who has not paid the Fees by the due date are suspended until the Fees are paid.

7.2 Meaning of Fees

- (a) The Board will determine the amount of Fees for each Financial Year.
- (b) The Fees may include an annual subscription fee and an annual insurance fee.
- (c) The Board does not need to specify what portion of any Fees charged represents the annual subscription fee or the annual insurance fee.
- (d) There is no entrance fee.

7.3 Board determination

- (a) The Board may determine that different Fees are payable by Associate Members than Full Members.
- (b) The Board may determine that different Fees are payable for different classes or categories of Associate Members, if any.
- (c) The Board may determine different Fees for different Full Members based on any criteria determined by the Board, including but not limited to the size of the Member, its annual turnover, or any factor the Board considers relevant.
- (d) The Board may determine that any new Member who joins after the start of a year must, for that year, pay a fee equal to:
 - (i) the full Fees; or
 - (ii) a lesser amount of the Fees based on the date of joining.

7.4 No right to refund

No part of the Fees will be refunded to a Member who ceases to be a Member.

8 General rights of Members

- (a) Full Members are entitled:
 - (i) to vote;
 - (ii) to receive notice of General Meetings and of proposed Special Resolutions in the manner and time prescribed by this Constitution; and
 - (iii) to submit items of business for consideration at a General Meeting; and
 - (iv) to attend and be heard at General Meetings; and
 - (v) to vote at a General Meeting; and
 - (vi) to have access to the minutes of General Meetings and other documents of the Association to the extent provided under this Constitution.
- (b) Associate Members are entitled:
 - (i) to receive notice of General Meetings and of proposed Special Resolutions in the manner and time prescribed by this Constitution; and
 - (ii) to attend and be heard at General Meetings.
- (c) **Clauses 8(a)** and **8(b)** do not apply during any period that a Member's membership is suspended.

9 Liability of Members

The liability of a Member to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of their Membership of the Association as required by this Constitution.

10 Cessation of Membership

- (a) A Member's Membership will cease:
 - (i) on the date that the Secretary receives written notice of resignation from that Member;
 - (ii) in the event of death, in the case of an Associate Member;
 - (iii) upon the Member becoming wound-up, cancelling its registration of incorporation, or dissolving;
 - (iv) upon that Member becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
 - (v) if the Member is expelled from the Association pursuant to **clause 12**.
- (b) A Member may at any time, pursuant to **clause 10(a)(i)**, resign as a Member but shall continue to be liable for any monies due by the Member to the Association.
- (c) Member is taken to have resigned if the Member has not responded within three (3) months to a written request from the Secretary to confirm in writing that the Member wants to remain a Member.

11 Register of Members

- (a) The Secretary must keep and maintain a register of Members that includes:
 - (i) for each current Member:
 - (A) the Member's name;
 - (B) the address for notice last given by the Member;
 - (C) the date of becoming a Member;
 - (D) for each Full Member, the name and address of Delegate of that Member;
 - (E) if the Member is an Associate Member, a note to that effect;
 - (F) if the Member is a Group, the person who is president or chairperson of the Group, and a list of the persons who are committee members of that Group to the extent practicable; and
 - (G) any other information determined by the Board; and
 - (ii) for each former Member, the date of ceasing to be a Member.
- (b) If a person or Group ceases to be a Member, the Secretary must, as soon as practicable, enter the date the person or Group ceased to be a Member in the Register of Members.

12 Disciplining of Members

12.1 Grounds for taking action

- (a) The Association may take disciplinary action against a Member in accordance with this **clause 12** if it determines that the Member has engaged in Prejudicial Conduct.
- (b) Prejudicial Conduct means that the Member:

- (i) has failed to comply with this Constitution; or
 - (ii) refuses to support the purposes of the Association; or
 - (iii) has engaged in conduct prejudicial to the Association, including but not limited to, a failure to comply with a code of conduct or policy of the Association.
- (c) The Association may take disciplinary action against a Member that is a Group even if the Prejudicial Conduct is comprised of an act or omission of one or more of the individuals within the Member.
- (d) Natural justice will be applied during every disciplinary process under this **clause 12**, requiring the Association to act fairly, in good faith and without bias or conflict of interest when making its decision.

12.2 Disciplinary Subcommittee

- (a) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the Board must appoint a Disciplinary Subcommittee to hear the matter and determine what action, if any, to take against the Member.
- (b) The Members of the Disciplinary Subcommittee:
- (i) may be Board Members, Members of the Association or anyone else; but
 - (ii) must not be biased against, or in favour of, the Member concerned.

12.3 Notice to member

- (a) Before disciplinary action is taken against a Member, the Secretary must give written notice to the Member:
- (i) stating that the Association proposes to take disciplinary action against the Member; and
 - (ii) stating the grounds for the proposed disciplinary action; and
 - (iii) specifying the date, place and time of the meeting at which the Disciplinary Subcommittee intends to consider the disciplinary action (the disciplinary meeting); and
- (b) advising the Member that the Member may do one or both of the following:
- (i) attend the disciplinary meeting and address the Disciplinary Subcommittee at that meeting;
 - (ii) give a written statement to the Disciplinary Subcommittee at any time before the disciplinary meeting; and
- (c) setting out the Member's appeal rights under **clause 12.5**.
- (d) The notice must be given no earlier than twenty-eight (28) days, and no later than fourteen (14) days, before the disciplinary meeting is held.

12.4 Decision of subcommittee

- (a) At the disciplinary meeting, the Disciplinary Subcommittee must:
- (i) give the Member an opportunity to be heard; and

- (ii) consider any written statement submitted by the Member.
- (b) After complying with **clause 12.4(a)**, the Disciplinary Subcommittee may:
 - (i) take no further action against the Member; or
 - (ii) reprimand the Member; or
 - (iii) suspend the Membership rights of the Member for a specified period; or
 - (iv) suspend the Membership rights of the Member pending the Member taking the action required by **clause 12.4(c)**; or
 - (v) expel the Member from the Association.
- (c) This **clause 12.4(c)** applies where the Prejudicial Conduct is comprised of an act or omission of one or more of the individuals within the Member that is a Group. The Disciplinary Subcommittee may suspend the Membership rights of the Member pending that Member taking steps to expel, suspend, or otherwise deal with the conduct of those individuals to the satisfaction of the Disciplinary Subcommittee, in accordance with the Member's own rules.
- (d) The suspension of Membership rights or the expulsion of a Member by the Disciplinary Subcommittee under this clause takes effect immediately after the vote is passed.

12.5 Appeal rights

- (a) A Member may give notice to the effect that the Member wishes to appeal against a disciplinary decision under **clause 12.4**.
- (b) The notice must be in writing and given:
 - (i) to the Disciplinary Subcommittee immediately after the vote to discipline the Member is taken; or
 - (ii) to the Secretary not later than 48 hours after the vote.
- (c) If a Member has given notice under **clause 12.5(b)**, a Disciplinary Appeal Meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (d) Notice of the Disciplinary Appeal Meeting must be given to each Member of the Association who is entitled to vote as soon as practicable and must:
 - (i) specify the date, time and place of the meeting; and
 - (ii) state:
 - (A) the name of the Member against which the disciplinary action has been taken; and
 - (B) the grounds for taking that action; and
 - (C) that at the Disciplinary Appeal Meeting the Members present must vote on whether the decision to discipline the Member should be upheld or revoked.

12.6 Conduct at Disciplinary Appeal Meeting

- (a) At a Disciplinary Appeal Meeting:

- (i) no business other than the question of the appeal may be conducted; and
 - (ii) the Board must state the grounds for the disciplinary action and the reasons for taking that action; and
 - (iii) the Member that is the subject of the disciplinary action must be given an opportunity to be heard.
- (b) After complying with **clause 12.6(a)**, the Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to discipline the Member should be upheld or revoked.
- (c) A Member may not vote by proxy at the meeting.
- (d) The decision is upheld if not less than three (3) quarters of the Members voting at the meeting vote in favour of the decision.

13 Resolution of Disputes Between Members

13.1 Scope of Clause

- (a) Disputes between:
- (i) Members (in their capacity as Members); and
 - (ii) Members (in their capacity as Members) and the Association,
- shall be dealt with in accordance with this **clause 13**.

13.2 Parties must attempt to resolve the dispute

The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.

13.3 Appointment of mediator

- (a) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by **clause 13.2**, the parties must within 10 days:
- (i) notify the Board of the dispute; and
 - (ii) agree to or request the appointment of a mediator; and
 - (iii) attempt in good faith to settle the dispute by mediation.
- (b) The mediator must be:
- (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) if the dispute is between a Member and another Member – a person appointed by the Board; or
 - (B) if the dispute is between a Member and the Board or the Association – a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (c) A mediator appointed by the Board may be a Member or former Member of the Association but in any case must not be a person who:

- (i) has a personal interest in the dispute; or
- (ii) is biased in favour of or against any party.

13.4 Mediation process

- (a) The mediator to the dispute, in conducting the mediation, must:
 - (i) give each party an opportunity to be heard; and
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties throughout the mediation process.
- (b) The mediator must not determine the dispute.

13.5 Failure to resolve the dispute by mediation

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.

13.6 Bar on dispute procedure

A Member who is the subject of disciplinary action under **clause 12** must not initiate a grievance procedure under this **clause 13** in relation to the same matter until the disciplinary procedure has been completed.

14 General Meetings

14.1 Annual General Meetings

- (a) The Board must convene an Annual General Meeting of the Association to be held within five (5) months after the end of each Financial Year.
- (b) The Board may determine the date, time and place of the Annual General Meeting.
- (c) The ordinary business of the Annual General Meeting is as follows:
 - (i) to confirm the minutes of the previous Annual General Meeting and of any Special General Meeting held since then;
 - (ii) to receive and consider:
 - (A) the annual report of the Board on the activities of the Association during the preceding Financial Year; and
 - (B) the financial statements of the Association for the preceding Financial Year submitted by the Board in accordance with Part 7 of the Act; and
 - (iii) to ratify appointments made to the Board under **clause 16.4(b)**.
- (d) The Annual General Meeting may also conduct any other business of which notice has been given in accordance with this Constitution.

14.2 Special General Meetings

- (a) Any General Meeting of the Association, other than an Annual General Meeting or a Disciplinary Appeal Meeting, is a Special General Meeting.
- (b) The Board may convene a Special General Meeting whenever it thinks fit.
- (c) No business other than that set out in the notice of meeting may be conducted at the meeting.

14.3 Special General Meeting held at request of Members

- (a) The Board must convene a Special General Meeting if a request to do so is made in accordance with **clause 14.3(b)** by at least 5% of the total number of Members.
- (b) A request for a Special General Meeting must:
 - (i) be in writing; and
 - (ii) state the business to be considered at the meeting and any resolutions to be proposed; and
 - (iii) include the names and signatures of the Members requesting the meeting; and
 - (iv) be given to the Secretary.
- (c) If the Board does not convene a Special General Meeting within one month after the date on which the request is made, the Members making the request (or any of them) may convene the Special General Meeting.
- (d) A Special General Meeting convened by Members under **clause 14.3(a)**:
 - (i) must be held within three (3) months after the date on which the original request was made; and
 - (ii) may only consider the business stated in that request.
- (e) The Association must reimburse all reasonable expenses incurred by the Members convening a Special General Meeting under **clause 14.3(c)**.

14.4 Notice of General Meetings

- (a) Notice of every General Meeting must be given in any manner authorised by this Constitution to:
 - (i) every Member;
 - (ii) every Board Member; and
 - (iii) the auditor for the time being of the Association (if any).
- (b) The Secretary (or, in the case of a Special General Meeting convened under **clause 14.3(c)**, the Members convening the meeting) must give:
 - (i) at least twenty-one (21) days' notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
 - (ii) at least fourteen (14) days' notice of a General Meeting in any other case.
- (c) The notice must:
 - (i) specify the date, time and place of the meeting; and

- (ii) indicate the general nature of each item of business to be considered at the meeting; and
- (iii) if a Special Resolution is to be proposed:
 - (A) state in full the proposed resolution; and
 - (B) state the intention to propose the resolution as a Special Resolution; and
- (iv) comply with **clause 14.5(e)**.
- (d) The accidental omission to give notice of any General Meeting to or the non-receipt of notice of a General Meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the General Meeting.

14.5 Proxies

- (a) A Full Member may appoint another person as their proxy to vote and speak on their behalf at a General Meeting other than at a Disciplinary Appeal Meeting.
- (b) The appointment of a proxy must be in writing and signed by the Member making the appointment.
- (c) The Member appointing the proxy may give specific directions as to how the proxy is to vote on their behalf, otherwise the proxy may vote on behalf of the Member in any matter as the proxy sees fit.
- (d) The Member may use the proxy form appended to this Constitution as Annexure A, or any other form that clearly identifies the person appointed as the Member's proxy and that has been signed by the Member.
- (e) Notice of a General Meeting given to a Full Member must:
 - (i) state that the Full Member may appoint another person as a proxy for the meeting (other than in the case of a Disciplinary Appeal Meeting); and
 - (ii) include a copy of any form that the Board has approved for the appointment of a proxy.
- (f) A proxy appointed by a Member has the same rights as the Member to:
 - (i) be counted in a quorum;
 - (ii) speak at the meeting;
 - (iii) vote in a vote in writing; and
 - (iv) join in to demand a vote in writing under **clause 15.4**; and
 - (v) speak and participate in the meeting.
- (g) **Clause 14.5(f)** is subject to any limitations specified by the Member in the appointment of proxy. A proxy does not have any rights at a meeting that the Member did not have.
- (h) A proxy does not have the authority to speak or vote for a Member at a meeting while the Member is at the meeting.
- (i) A form appointing a proxy is only valid:
 - (i) if it is received by the Association no later than 48 hours before the commencement of the meeting, if sent by post or by e-mail; or

- (ii) if it is delivered in person by hand to the Chairperson, it is received by the Chairperson before the commencement of the meeting.
- (j) A vote cast by the proxy is valid even if, before the proxy votes, the appointing Member dies, is mentally incapacitated or revokes the proxy's appointment, unless the Association receives written notice before the start or resumption of a General Meeting at which a proxy votes.
- (k) A Member attending by proxy is deemed to be a Member present in person at a meeting, including for the purposes of determining quorum.
- (l) The Chairperson of a General Meeting may require any person acting as a proxy to establish to the satisfaction of the Chairperson that they are the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish their identity, the person may be excluded from the meeting.

14.6 Technology

- (a) A General Meeting of the Association may be convened (partially or wholly) using any technology that allows Members to clearly and simultaneously communicate with each other.
- (b) A Member who participates in a General Meeting under **clause 14.6(a)** is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

14.7 Quorum at General Meetings

- (a) No business may be conducted at a General Meeting unless a quorum of Members is present.
- (b) The quorum for a General Meeting is the presence of twenty (20) Members entitled to vote.
- (c) If a quorum is not present within thirty (30) minutes after the notified commencement time of a General Meeting:
 - (i) in the case of a meeting convened by, or at the request of, Members under **clause 14.3** - the meeting must be dissolved;
 - (ii) in any other case:
 - (A) the meeting must be adjourned to a date not more than twenty-one (21) days after the adjournment; and
 - (B) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all Members as soon as practicable after the meeting.
- (d) If a quorum is not present within thirty (30) minutes after the time to which a General Meeting has been adjourned under **clause 14.7(c)(ii)**, the Members present at the meeting (if not fewer than three (3)) may proceed with the business of the meeting as if a quorum were present.

14.8 Adjournment of General Meeting

- (a) The Chairperson of a General Meeting at which a quorum is present:

- (i) may adjourn a meeting with the consent of the meeting; and
- (ii) must adjourn the meeting if the meeting so directs, to a time and place as determined.
- (b) Without limiting **clause 14.8(a)**, a meeting may be adjourned:
 - (i) if there is insufficient time to deal with the business at hand; or
 - (ii) to give the Members more time to consider an item of business.
- (c) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (d) Notice of the adjournment of a meeting under this clause is not required unless the meeting is adjourned for fourteen (14) days or more, in which case notice of the meeting must be given in accordance with **clause 14.4**.
- (e) A resolution passed at a meeting resumed after an adjournment is deemed passed on the day it was passed, and not on the date of the original meeting.

14.9 Cancellation or Postponement of General Meeting

- (a) Subject to the provisions of the Act and this Constitution, the Board may cancel a General Meeting of the Association:
 - (i) convened by the Board; or
 - (ii) which has been convened by Members pursuant to **clause 14.3** upon receipt by the Association of a written notice withdrawing the requisition signed by those Members.
- (b) The Board may postpone a General Meeting or change the venue at which it is to be held. No business shall be transacted at any postponed meeting other than the business stated in the notice to the Members relating to the original meeting.
- (c) Where any General Meeting is cancelled or postponed or the venue for a General Meeting is changed, the Board must notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting.
- (d) Any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

14.10 Chairperson

- (a) The Chairperson is responsible for the conduct of a General Meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the Auditor (if any)).
- (b) The rulings of the Chairperson on all matters relating to the order of business, procedure and conduct of the meeting is final, and no motion of dissent from such rulings will be accepted.

15 Determination of Questions

15.1 How many votes a Member has

Each Full Member entitled to vote has one (1) vote.

15.2 Voting at General Meeting

- (a) On any question arising at a General Meeting, Full Members may vote personally or by proxy.
- (b) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (c) If the question is whether or not to confirm the minutes of a previous meeting, only Members who were present at that meeting may vote.
- (d) This **clause 15.2** does not apply to a vote at a Disciplinary Appeal Meeting conducted under **clause 12.5**.

15.3 Determination of Questions

- (a) Voting at a General Meeting (including a meeting held using technology) may be conducted and decided by any method chosen by the Chairperson that is fair and reasonable in the circumstances, including without limitation:
 - (i) a show of hands; or
 - (ii) a vote in writing (which may include electronic forms of writing).
- (b) Questions arising at a General Meeting will be decided by a majority of votes cast unless this Constitution or the Act requires a special majority, such as in the case of a Special Resolution.
- (c) The Chairperson must declare the result of a vote, and the declaration must be recorded in the minutes of the meeting. The Chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- (d) Minutes which have been signed by the Chairperson of the meeting or the next succeeding meeting, are conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (e) On a show of hands, the Chairperson's decision is conclusive evidence of the result of the vote.

15.4 When and how a vote in writing must be held

- (a) A vote in writing may be demanded on any resolution instead of or after a vote conducted by other means by any Member or the Chairperson.
- (b) A vote in writing must be taken when and how the Chairperson directs unless **clause 15.4(c)** applies.
- (c) A vote in writing must be held immediately if it is demanded under **clause 15.4(a)**:

- (i) for the election of a Chairperson; or
- (ii) to decide whether to adjourn the meeting.
- (d) A demand for a vote in writing may be withdrawn.

15.5 Proxy Votes

- (a) A proxy does not need to vote, unless the proxy appointment specifies the way the proxy must vote.
- (b) If the way a proxy must vote is specified on the proxy form, a proxy must vote that way.
- (c) If a proxy is also a Full Member or holds more than one (1) proxy, the proxy may cast the votes held in different ways in the case of a vote in writing.

15.6 Disqualification

No person other than a Delegate of a Full Member, or a proxy of a Delegate of a Full Member, is entitled to vote at a General Meeting or on any resolution of Members passed without a meeting.

15.7 Right of Non-Members to Attend General Meeting

- (a) The Chairperson of a General Meeting may invite any person who is not a Member to attend and address a General Meeting.
- (b) Any auditor and any Board Member of the Association shall be entitled to attend and address a General Meeting.

15.8 Objection to Qualification to Vote

Any challenge to the qualification of a person to vote at a General Meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chairperson of the meeting, whose decision will be final and conclusive. A vote allowed by the Chairperson of the General Meeting is valid for all purposes.

15.9 Minutes of General Meeting and Members' resolutions

- (a) The Board must ensure that minutes are taken and kept of each General Meeting.
- (b) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (c) In addition, the minutes of each Annual General Meeting must include:
 - (i) the names of the Members attending the meeting; and
 - (ii) proxy forms given to the Chairperson of the meeting; and
 - (iii) the financial statements submitted to the Members in accordance with the Act; and
 - (iv) the certificate signed by two (2) Board Members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
 - (v) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

16 Number and Appointment of Board Members

16.1 Number of Board Members

The Board shall consist of not more than nine (9) persons. The Board may determine the number of Board Members from time to time.

16.2 Eligibility

- (a) A person is eligible to be appointed as a Board Member if:
 - (i) the person supports the Objects, in the opinion of the Board; and
 - (ii) the person has been nominated by either the Selection Committee, or a Full Member; and
 - (iii) the person is not prohibited from being a Board Member by the ACNC Act.
- (b) A nomination must be writing. A nomination may be made in any written form acceptable to the Board, in its discretion.

16.3 Composition

- (a) The Board must comprise at least a majority of persons nominated by Members.
- (b) The Board has full discretion as to the proportion of Board Members that are nominated by the Selection Committee, subject to **clause 16.3(a)**.
- (c) Of the Board Members nominated by Members, the Board must not comprise more than one (1) person from each Catchment Management Region.

16.4 Appointment

- (a) The Board may by resolution appoint a Board Member.
- (b) A Board resolution to appoint a person as a Board Member must be submitted to the Members at the next occurring Annual General Meeting for ratification.
- (c) In making an appointment, the Board must have regard to the qualifications, skills and experience of the person, and of the need to ensure appropriate diversity on the Board (including geographical diversity).

16.5 Term of office

- (a) A Board Member appointed by resolution of the Board commences at the time that the resolution is passed.
- (b) The term of office of a Board Member is three (3) years, except in the following circumstances:
 - (i) If a Board resolution to appoint a person as a Board Member is not ratified at the next occurring Annual General Meeting, then the person appointed will cease to hold office at the conclusion of that meeting.

- (ii) If the Board determines to make the appointment for a shorter period at the time the resolution to appoint the Board Member is made, then the term of office will be for the period determined by the Board at the time of appointment.
- (c) The Board may fill any casual vacancies by resolution in accordance with this Constitution.

16.6 Tenure

- (a) A person may be re-appointed as a Board Member at the expiry of their term of office (or any time after), subject to **clause 16.6(b)**.
- (b) A Board Member may not hold office for more than nine (9) continuous years unless the Members pass a Special Resolution to approve the appointment.

16.7 Members' Right to Remove Board Members

- (a) A General Meeting of the Association may:
 - (i) by Special Resolution remove a Board Member from office before the expiration of the Board Member's term of office; and
 - (ii) appoint a person to fill the vacant position in accordance with the Act.
- (b) The Board Member who is the subject of a proposed Special Resolution to remove the Board Member from office:
 - (i) is entitled to make verbal submissions at the General Meeting at which the resolution is considered; and
 - (ii) may make representations in writing to the Secretary or Chair of the Association (not exceeding a reasonable length) and may request that the representations be provided to the Members of the Association. The Secretary or the Chair may give a copy of the representations to each Member of the Association or, if they are not so given, the Board Member may require that they be read out at the meeting at which the Special Resolution is to be proposed.

16.8 General Right to Act Despite Vacancy

The Board may act despite any vacancy in its body but if its number falls below six (6), the Board may act for the purpose of:

- (a) convening a General Meeting; and
 - (b) in emergencies,
- but for no other purpose.

16.9 Vacation of Office

- (a) A person ceases to be a Board Member if the Board Member:
 - (i) resigns by written notice addressed to the Board;
 - (ii) dies;
 - (iii) becomes insolvent under administration, becomes bankrupt or makes any arrangement or composition with creditors generally;

- (iv) becomes a represented person within the meaning of the *Guardianship and Administration Act 2019* (Vic);
 - (v) in the case of the Secretary, ceases to reside in Australia;
 - (vi) is removed by Special Resolution in accordance with this Constitution;
 - (vii) becomes prohibited from being a Board Member by reason of any order made under the Act;
 - (viii) becomes ineligible to be a Board Member under the ACNC Act; or
 - (ix) fails to attend three (3) consecutive Board Meetings (other than special or urgent Board Meetings) without leave of absence.
- (b) The time at which a person ceases to be a Board member is:
- (i) in the case of a resignation, at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Association); and
 - (ii) in any other case, at the time of the relevant event.

16.10 Office bearers

- (a) The Board will appoint a Board Member as the Association's Chair, for such period and on such terms and conditions as the Association sees fit.
- (b) Office bearers of the Association other than the Chair may be appointed by the Board from among the Board for such period and on such terms and conditions as the Board sees fit.
- (c) The description, number and duties of the office bearers other than the Chair (if any) shall be determined by the Board from time to time.
- (d) An office bearer may be elected for more than one successive term.
- (e) The Board may by resolution remove or suspend a person from any of the above offices, provided that not less than fourteen (14) days' notice in writing of an intention to move for such removal or suspension is given to the Secretary and the office bearer concerned by the person intending to move that motion.

16.11 Chair

- (a) The Chair is entitled to be the Chairperson for any General Meetings and for any Board Meetings, subject to **clause 16.11(b)**.
- (b) If the Chair is absent, or is unwilling to preside, the Chairperson of the meeting must be:
 - (i) a Board Member elected by the other Board Members present;
 - (ii) in the case of a General Meeting where there is no Board Member present, willing and able to preside - a Member elected by the other Members present.

16.12 Secretary

- (a) The Board must by resolution appoint a person as Secretary. The Secretary may be, but does not need to be, a Board Member.
- (b) The position of Secretary cannot be vacant for more than fourteen (14) days.

- (c) To be eligible to be appointed as Secretary, a person must consent to be appointed as Secretary, and reside in Australia.
- (d) The Secretary must give to the Registrar notice of their appointment within fourteen (14) days after the appointment.
- (e) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.
- (f) The Board may by resolution remove or suspend a person from the office of Secretary, provided that not less than fourteen (14) days' notice in writing of an intention to move for such removal or suspension is given to the Secretary by the person intending to move that motion.
- (g) The Secretary must:
 - (i) maintain the Register of Members in accordance with this Constitution; and
 - (ii) keep custody of the common seal (if any) of the Association and make arrangements for the custody of all books, documents and securities of the Association in accordance with this Constitution; and
 - (iii) provide Members with access to the books and records of the Association in accordance with and subject to this Constitution and the Act; and
 - (iv) perform any other duty or function imposed on the Secretary by this Constitution.

17 Committees, Policies and Insurance

17.1 Establishment of Committees

- (a) The Board may establish one or more Committees comprised of such persons that the Board thinks fit.
- (b) Subject to the directions of the Board, the meetings and proceedings of Committees established by the Board are, to the greatest extent practical, governed by the provisions of this Constitution that regulate the proceedings of the Board.
- (c) A Committee must conform to any directions and restrictions that may be imposed on it by the Board in exercise of the powers delegated to it. A power so exercised will be taken to be exercised by the Board.
- (d) A minute of all the proceedings and decisions of every Committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and this Constitution to be made entered and signed. A copy of such Committee minutes must be tabled at the next Board meeting.

17.2 Selection Committee

- (a) The Selection Committee is a Committee established to consider the skills, experience, qualifications and diversity required for effective governance of the Association, and on that basis, to identify and nominate suitable candidates for appointment to the Board.

- (b) The Selection Committee will be appointed by the Board. The Board should consult with the Members' Council prior to making an appointment to the Selection Committee, in view of the important role of the Members' Council in reflecting the views of Members.
 - (i) The consultation may be informal and may be conducted in any manner the Board sees fit in its discretion.
 - (ii) The Members' Council does not have capacity to refuse or require any particular appointment to the Selection Committee.
- (c) The Selection Committee must comprise at least three (3) persons, but no more than one (1) of these may be a Board Member.
- (d) The composition, method of appointment, manner of operating and any other matter relating to the Selection Committee will be determined by the Board, subject to the provisions of this **clause 17.2**.

17.3 Members' Council

- (a) The Members' Council is a Committee established for the following purposes:
 - (i) To reflect and represent the interests and priorities of Members, as an advisory committee to the Board.
 - (ii) To advise the Board at its own volition or in response to matters referred by the Board.
 - (iii) To advise the Chief Executive Officer of the Association at its own volition or in response to matters referred by the Chief Executive Officer.
- (b) The Members' Council will be appointed by the Board.
- (c) The composition, method of appointment, manner of operating and any other matter relating to the Members' Council will be determined by the Board through the adoption by the Board of a Members' Council charter that is developed in consultation with the Members' Council and consistent with this Constitution.
- (d) The Board, to the extent reasonable and practicable, will consult with the Members' Council in relation to any policies that will affect the operations of Members.

17.4 Policy making power

- (a) The Board has power to make policies, regulations or by-laws for:
 - (i) the general conduct and management of the Association; and
 - (ii) the activities and operations of Members in their capacity as Members as it sees fit.
- (b) When exercising its power under **clause 17.4(a)(ii)**, the Board should have regard to all matters it considers relevant, including but not limited to whether different approaches should be taken for incorporated and unincorporated Members, or variations in size and capacity of different Members.
- (c) The Board may revoke and alter such policies, regulations or by-laws as the Board sees fit.
- (d) If the Board has a reasonable belief that a Member (in its capacity as a Member) has, or is likely to, engage in an act or conduct that is not consistent with:
 - (i) a Member Policy of the Association; or

- (ii) this Constitution; or
- (iii) the requirements of any insurance policy or policies taken out by the Association which apply to the activities of the Member;

then the Board may give a written direction to the Member to do a specified act, or not do a specified act, if the Board considers it necessary to ensure compliance with the said Member Policy or insurance policy or this Constitution.

- (e) To avoid doubt, the failure by a Member in its capacity as a Member to comply with a direction given by the Board in the preceding paragraph constitutes grounds for disciplinary action under **clause 12**.

17.5 Binding on Members

- (a) Members must comply with Member Policies as if they were part of this Constitution.
- (b) Each Full Member must provide the Association with a list of its members upon request, and annual financial statements upon request.

17.6 Insurance

- (a) Each Member must pay the annual insurance fee, which is included in the Fees.
- (b) Each Member must ensure that it:
 - (i) complies with the requirements of any insurance policy taken out by the Association on behalf of Members, and operates in accordance with such policy or policies; and
 - (ii) continuously discloses all information reasonably required by the Association or its insurer to facilitate the provision of insurance to it.
- (c) To avoid doubt, failure to comply with this provision is a basis for expulsion or other disciplinary action under **clause 12**.

18 Powers of Board Members

- (a) The control, management and conduct of the Association is vested in the Board.
- (b) The Board may exercise all the powers of the Association except those powers that this Constitution or the Act require to be exercised in any other manner.
- (c) The Board may appoint and remove staff.

19 Delegation

- (a) The Board may delegate to a Board Member, a Committee or staff, any of its powers and functions other than:
 - (i) this power of delegation; or
 - (ii) a duty imposed on the Board by the Act or any other law.
- (b) The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- (c) The Board may, in writing, revoke a delegation wholly or in part.

- (d) Powers conferred under this clause may be exercised concurrently with the powers of the Board.

20 Negotiable Instruments

- (a) All cheques other negotiable instruments, requests or arrangements for electronic fund transfers and receipts for money paid to the Association must be signed, drawn or otherwise executed by two (2) people authorised by resolution of the Board.
- (b) The Board may authorise one or more Board Member(s), or another staff member of the Association, to sign such instruments.

21 Duties

- (a) Board Members and other Office Holders must comply with any duties imposed on them by law, which may include duties under the Act as well as duties under the ACNC Act. These may include the following duties:
- (i) Board Members must exercise their powers and discharge their duties with reasonable care and diligence.
 - (ii) Board Members must exercise their powers and discharge their duties in good faith in the best interests of the Association, and for a proper purpose.
 - (iii) Board Members and former Board Members must not make improper use of their position, or information acquired by virtue of holding their position, so as to gain an advantage for themselves or any other person or to cause detriment to the Association.
- (b) For the avoidance of doubt, **clause 21(a)** is not intended to impose a duty to any extent greater than is required by law, or to exclude defences available at law.

22 Disclosure of material personal interests

- (a) A Board Member who has a material personal interest in a matter being considered by the Board must disclose the nature and extent of that interest to:
- (i) the Board, as soon as the Board Member becomes aware of their interest in the matter; and
 - (ii) the Members, at the next General Meeting – unless the material personal interest:
 - (iii) exists only because the Board Member is an employee of the Association, or belongs to a class of persons for whose benefit the Association is established; or
 - (iv) is one that the Board Member has in common with all, or a substantial proportion of, the Members.
- (b) The disclosure of a conflict of interest by a Board Member must be recorded in the minutes of the meeting.
- (c) The disclosure must give details of the nature and extent of the interest, and the relation of the interest to the activities of the incorporated association.

23 Disclosure of other conflicts of interest

- (a) This **clause 23** applies to perceived or actual material conflicts of interest that are not required to be disclosed under **clause 22**.
- (b) A Board Member that has a perceived or actual material conflict of interest in a matter that is being considered by the Board, that has not been required to be disclosed under **clause 22**, must be disclosed:
 - (i) to the other Board Members; and
 - (ii) if all of the Board Members have a similar conflict, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- (c) The disclosure of a conflict of interest by a Board Member must be recorded in the minutes of the meeting.

24 Voting where there is a material personal interest

- (a) Each Board Member who has a material personal interest in a matter that is being considered by the Board must not, except as provided in the following paragraph:
 - (i) be present at a Board Meeting while the matter is being discussed; or
 - (ii) vote on the matter at a Board Meeting.
- (b) A Board Member may still be present and vote if the material personal interest:
 - (i) exists only because the Board Member belongs to a class of persons for whose benefit the Association is established; or
 - (ii) that the Board Member has in common with all, or a substantial proportion of, the Members.
- (c) If there are not enough Board Members to form a quorum to consider a matter because of **clause 24(a)**, one (1) or more Board Members (including those who have a material personal interest in the matter) may call a General Meeting, and the General Meeting may pass a resolution to deal with the matter.

25 Contracting with the Association and holding other offices

Subject to the Act and the ACNC Act and this Constitution, a Board Member may:

- (a) Hold any office or position, or become interested in, any entity assisted by the Association or in which the Association has an interest of any kind, with the consent of the Board.
- (b) Enter into a contract or arrangement with the Association or related body corporate as vendor, purchaser or in any other capacity.
- (c) Participate in any association, institution, fund, trust or scheme for past or present employees or Board Members of the Association or persons dependent on or connected with them.
- (d) Act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Association, except as auditor.

- (e) Sign or participate in the execution of a document by or on behalf of the Association in which the Board Member is interested.
- (f) Do any of the above despite the fiduciary relationship of the Board Member's office:
 - (i) without liability to account to the Association for any direct or indirect benefit accruing to the Board Member; and
 - (ii) without affecting the validity of any contract or arrangement.

26 Meetings of Board Members

- (a) The Board may regulate its meetings and proceedings as it thinks fit, provided that it meets at least two (2) times each calendar year.
- (b) A Board Member may at any time, and the Secretary upon the request of any two (2) Board Members shall, convene a meeting of the Board by giving at least forty-eight (48) hours' notice (or a shorter notice period agreed upon by all the Board Members) of the meeting to all Board Members, provided that the Board Member or Secretary must have used their best endeavours to ensure that the notice was properly provided.
- (c) Notice of a meeting of the Board must be in writing in any form, including email or digital messaging, provided that proof of service can be provided upon request.
- (d) Subject to **clause 26(e)**, a Board meeting may be convened or held using any technology consented to by a majority of Board Members. The consent may be a standing one. A Board Member may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (e) The particular technology used to convene or hold a Board meeting, pursuant to **clause 26(d)**, must be of a type that is available and accessible to all Board Members who wish to attend the Board meeting.
- (f) All resolutions of the Board Members passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Board Member, or any act carried out pursuant to such resolution, shall, provided each Board Member to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Board Members. Attendance by a Board Member at a meeting of Board Members waives any objection which that Board Member may have to a failure to give notice of the meeting.

27 Quorum

- (a) The quorum required for Board meetings is a majority of all Board Members.
- (b) A quorum must be present at all times during the meeting in order for business to be transacted.

28 Voting

- (a) A resolution of the Board must be passed by a majority of votes of the Board Members present at the meeting who vote on the resolution. A resolution passed by a majority of

the votes cast by the Board Members will for all purposes be taken to be a determination of the Board.

- (b) Each Board Member has one (1) vote.
- (c) In the case of an equality of votes at a meeting of the Board, the Chairperson is not entitled to a casting vote in addition to a deliberative vote.

29 Resolutions by Board Members

- (a) The Board may pass a resolution without a Board meeting being held if a majority of the Board Members sign a document containing a statement that they are in favour of the resolution set out in that document. For this purpose, signatures can be contained in more than one (1) document.
- (b) An email transmission which is received by the Association and which purports to have been sent by a Board Member shall for the purposes of this **clause 29** be taken to be in writing and signed by that Board Member at the time of the receipt of the email transmission by the Association.
- (c) A vote made by a Board Member using an online voting platform operated or commissioned by the Association shall for the purposes of this **clause 29** be taken to be in writing and signed by that Board Member at the time the vote was received by the online voting platform.
- (d) Any decisions made under **clauses 29(a) to 29(c)** shall be tabled at the next Board meeting.

30 Validation of Acts of Board Members

All acts done:

- (a) at any meeting of the Board; or
- (b) by any person acting as a Board Member,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Board Member or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Board Member and had been entitled to vote.

31 Board Minutes

- (a) The Board must cause minutes to be kept in such a manner as is required by the Act for the purposes of recording:
 - (i) the names of the Board Members present at each meeting of the Board and of Board Members present at each meeting of any Committee;
 - (ii) all orders, resolutions and proceedings of meetings of the Board and of Committees; and

- (iii) such matters as are required by the Act to be recorded in the record books of the Association including, without limitation, all declarations made or notices given by any Board Member of their interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Board minutes will be signed by the Chairperson of the meeting, or the Chairperson of the next succeeding meeting. Once signed, the minutes shall be received in evidence without any further proof: that the matters and things recorded by such minutes actually took place or happened as recorded

32 Execution of Documents

- (a) Without limiting the manner in which the Association may execute any contract, including as permitted under section 38 of the Act, the Association may execute any agreement, deed or other document by:
 - (i) two (2) Board Members signing it; or
 - (ii) one (1) Board Member and the Secretary signing it.
- (b) Nothing in this Constitution requires the Association to execute any agreement, deed or other document under common seal for it to be effectively executed by the Association.

33 Accounts and Inspection

The Board shall:

- (a) cause proper financial records to be kept and must, if required by the Act or the ACNC Act, prepare and distribute copies of the:
 - (i) financial reports of the Association; and
 - (ii) a Board report; and
- (b) where required by the Act or the ACNC Act, cause the financial records to be audited or reviewed by a properly qualified auditor or other entity authorised by the Act or the ACNC Act, as the case requires; and
- (c) from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Association or any of them will be open to the inspection of the Members.

34 Sources of funds

The Association will derive funds from fees, donations, government grants, and any other sources as the Board determines.

35 Records

35.1 Custody

Except as otherwise provided by this Constitution, all records, books and other documents relating to the Association must be kept at the Office and / or in cloud-based storage operated by the Association.

35.2 Access

- (a) Members may on request inspect free of charge:
 - (i) the Register, subject to the Act;
 - (ii) the minutes of General Meetings; and
 - (iii) subject to **clause 35.2(b)**, the financial records, books, securities and any other Relevant Documents of the Association, including minutes of Board meetings.
- (b) The Board may refuse to permit a Member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association. No Member may access any of the financial records, books, securities or any other Relevant Document of the Association unless the Board passes a resolution to permit the Member access, or unless access is provided by law.

36 Service of Notices

- (a) A notice may be given by the Association to any Member by:
 - (i) serving it on the Member personally;
 - (ii) sending it by post to the Member or leaving it at the Member's address shown in the Register of Members or otherwise the address supplied by the Member to the Association for the giving of notices; or
 - (iii) sending it to the electronic address supplied by the Member to the Association for the giving of notices.
- (b) All correspondence and notices from the Association may be served on the Delegate, and any notice served on a Delegate will be deemed to be service on the Full Member which is represented by that particular Delegate. Notice may be given by the Association to any Delegate by:
 - (i) serving it on the Delegate personally;
 - (ii) sending it by post to the Delegate or leaving it at the Delegate's address shown in the Register of Members or otherwise the address supplied by the Delegate to the Association for the giving of notices; or
 - (iii) sending it to the electronic address supplied by the Delegate to the Association for the giving of notices.

- (c) Any Member who has not left at or sent to the Office the Member's place of address for inclusion in the Register as the place at which notices may be given to the Member shall not be entitled to receive any notice.
- (d) Subject to this Constitution, a notice may be given under this Constitution to any Board Member by:
 - (i) serving it on the Board Member personally;
 - (ii) sending it by post to the Board Member or leaving it at the Board Member's usual residential or business address; or
 - (iii) sending it to the electronic address supplied by the Board Member to the Association for the giving of notices.
- (e) Subject to this Constitution, a notice may be given by a Member or Board Member to the Association by:
 - (i) serving it on the Association at the Office;
 - (ii) sending it by post to the Office; or
 - (iii) email to the Association's principal email address.
- (f) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and shall be deemed to have been effected on the third (3rd) Business Day after the date of posting. Service of a notice to a Member outside Australia shall be deemed to have been made in the ordinary course of the post.
- (g) Where a notice is sent by electronic means, service of the notice shall be taken to be effected by properly addressing and sending the notice and in such case shall be taken to have been effected on the Business Day after it is sent.
- (h) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Board Member to that effect shall be conclusive evidence of service.

37 Amending Constitution

This Constitution may only be amended by a Special Resolution.

38 Common Seal

- (a) The Association may have a common seal. It is not necessary for the Association to have a common seal.
- (b) If the Association has a common seal:
 - (i) The name of the Association must appear in legible characters on the common seal.
 - (ii) A document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of two Board Members.
- (c) The common seal must be kept in the custody of the Secretary or their delegate.

39 Winding Up

- (a) If any surplus remains following the winding up of the Association, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another Charity or Charities which has:
 - (i) objects which are similar to the Objects;
 - (ii) a constitution which requires its income and property to be applied in promoting its objects; and
 - (iii) a constitution which prohibits it from paying or distributing its income and property amongst its Members to an extent at least as great as imposed on the Association by **clause 4.3(b)**.
- (b) The identity of the Charity or Charities referred to in **clause 39(a)** is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the Supreme Court of Victoria for determination.

40 Indemnity

- (a) The Association indemnifies each of its Office Holders against any liability incurred in good faith by the Office Holder in the course of performing their duties as an Office Holder.
- (b) The Association may indemnify, to the extent permitted by law:
 - (i) a person who is or has been a Member, Board Member, public officer of the Association, or Chief Executive Officer of the Association;
 - (ii) a person who is or has been an employee or a volunteer; and
 - (iii) any other person that the Board sees fit to indemnifyagainst any loss, damage, liability, expense, or cost (including costs incurred in legal proceedings) incurred in good faith and arising in relation to their engagement with the Association.
- (c) In this **clause 40**, the term “Office Holder” includes any former Office Holders.

41 Payment of Indemnity Policy Premium

- (a) To the extent permitted by law the Association may at the discretion of the Board enter into and/or pay a premium in respect of a policy of insurance insuring an Office Holder (or former Office Holder) of the Association against any liability incurred by such person in that capacity (whether in respect of acts or omissions before or after the date of the issue of the policy or both) except for:
 - (i) a liability arising out of conduct involving a wilful breach of duty in relation to the Association; or
 - (ii) a liability arising out of conduct that contravenes section 83 of the Act.
- (b) The Board has discretion to approve the terms and conditions of any such policy of insurance.

- (c) Where an Office Holder (or former Office Holder) has the benefit of an indemnity pursuant to an insurance policy in respect of their actions or omissions then the Association shall not be required to indemnify the Office Holder under **clause 40** except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

42 Indemnity to Continue

The indemnity granted by the Association contained in **clauses 40** and **41** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring before the date of the deletion or modification.

43 Transition

43.1 Date of effect

This Constitution will come into effect at the time it is uploaded onto the register maintained by the Registrar.

43.2 Board transition

- (a) Any person holding office as a Board Member at the time of adoption of this Constitution (including any Board Members elected at the Annual General Meeting in 2023) will continue in office until the earlier of the following:
- (i) the expiry of the term of office for which they were appointed under the previous constitution of the Association; or
 - (ii) their term of office ends under **clause 16.9** of this Constitution.
- (b) **Clause 43.2(a)** takes precedence and applies despite any other provision of this Constitution.
- (c) The Board may exercise its powers to appoint a person as a Board Member under **clause 16.4** from the time that this Constitution comes into effect, provided that the terms of this Constitution are complied with when doing so.

43.3 Members' Council

Any person that is a member of the Members' Council in existence at the time of adoption of this Constitution will continue as a member of the Members' Council until the earlier of:

- (a) their resignation or death; or
- (b) their period of office coming to an end as a result of a resolution or determination by the Board, including without limitation the adoption of a new Members' Council charter.

43.4 Delegates

Any person that is listed as a Delegate on the Register at the time this Constitution comes into the effect will be recognised as a Delegate until such time as another person is appointed under **clause 6**.



Annexure A

Form of Appointment of Proxy

MEMBER DETAILS*

NAME OF MEMBER

NAME OF DELEGATE

DELEGATE ADDRESS

TOWN/SUBURB

STATE

POSTCODE

DELEGATE EMAIL

DELEGATE PHONE

APPOINTS*

NAME OF PROXY

or failing the person so named, or if no person is named, the **Chairperson of the Meeting** to vote in accordance with the following directions or, if no directions have been given, as the proxy or the Chairperson sees fit at the General Meeting of Landcare Victoria Inc to be held on

MEETING DATE

commencing at

MEETING TIME

and at any adjournment thereof.

DIRECTIONS FOR PROXY

SIGNED BY DELEGATE*

SIGNATURE

DATE

** Denotes required section*

Proxy forms returned by email (info@landcarevictoria.org.au) or post (PO Box 509, FLINDERS LANE VIC 8009) must be received by Landcare Victoria Inc no later than 48 hours prior to the commencement of the meeting.