

# Constitution of Coffs Harbour Regional Landcare Incorporated

The Constitution of Coffs Harbour Regional Landcare Inc. is in accordance with the *Associations Incorporation Act, 2009* and contains those matters specified in Schedule 1, of the Act.

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## Part 1 Preliminary

### 1. Name

The name of the Organisation shall be Coffs Harbour Regional Landcare Incorporated (referred to in this Constitution as “the Association”)

### 2. Definitions and interpretation

(1) In this Constitution:

**Act** means the *Associations Incorporation Act 2009*.

**Committee** means the persons elected by the members to the Executive Committee of the Association.

**Coffs Harbour region** generally means the Coffs Harbour Local Government Area (CHLGA); but may also include land beyond the boundaries of the CHLGA that is in proximity to, and affiliated with the region geographically, ecologically, socially or economically.

**General meeting** means a meeting of the members of the Association and includes, but is not limited to, Annual General Meetings and special General Meetings of the Association. It excludes meetings of the Executive Committee and Sub-committees of the Executive Committee.

**Landcare activities** means activities undertaken by Association members, employees of the Association, or third parties acting on behalf of the Association, to sustain or enhance the environmental values of a Landcare site, or local area; or to otherwise promote the principles of Landcare through education and awareness raising.

**Landcare site** means any discrete location within the Coffs Harbour region, that has been approved by the Executive Committee as a site where Landcare activities are undertaken, either on a project basis, a one-off basis, or on a regular basis. A Landcare site may be on public or private land.

**Member** means an:

- (a) Ordinary Member; or
- (b) Young person; or
- (c) Affiliated group member

**Regulation** means the *Associations Incorporation Regulation 2016*.

**Secretary** means:

- (a) the person holding the office under these rules as Secretary of the Association, or
- (b) if no such person holds that office, means the public officer of the Association.

**Young person** means a person who is aged 16 years or above but who is under the age of 18 years.

- (2) In this Constitution:
  - (a) a reference to a function includes a reference to a power, authority and duty; and
  - (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.
- (3) The provisions of the *Interpretation Act 1987* apply to, and in respect of, these rules in the same manner as those provisions would so apply if this Constitution were an instrument made under the Act.

### **3. Objects**

The objects of the Association shall be:

- (1) To actively safeguard, rebuild, regenerate, and sustainably manage the natural environment of the Coffs Harbour region by:
  - (a) Encouraging and supporting individuals and local communities to initiate and participate in Landcare activities across the Coffs Harbour region, with an emphasis on fostering and supporting hands-on work by local volunteers, as well as research and project-based work, on Landcare sites.
  - (b) Promoting the principles of Landcare in the Coffs Harbour region, and increasing the local community's understanding of natural resource degradation issues and natural resource management best practice in the local community.
  - (c) Fostering co-operation between local landholders and land managers and others in: planning and seeking resources for; taking action on; and monitoring the results of, preventing, treating and controlling natural resource degradation and managing and using natural resources more sustainably;
  - (d) Identifying problems, risks and issues relating to the degradation of natural resources in the Coffs Harbour region and provide a forum for the discussion and exchange of ideas and solutions;
  - (e) Seeking funding, and any other assistance, for the benefit of any or all Landcare sites, including making representations to all levels of government and non-government agencies;
  - (f) Establishing not-for-profit plant nurseries, for use by members and the community, for the benefit of the environment;
  - (g) Providing training to members and the local community to support local Landcare activities.
- (2) To function as a not-for-profit organisation where the assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the members of the Association, except as bona fide compensation for services rendered or expenses incurred on behalf of the Association;
- (3) To employ or engage any staff, contractors or service providers as required to further the objects of the Association; and
- (4) Where it furthers the objects of the Association to amalgamate with any one or more other organisations having similar objects, provided that the other

organisation(s) have rules prohibiting the distribution of its (their) assets and income to members; and are exempt from income tax.

## **Part 2      Membership**

### **4.      General**

- (1) A reference to Secretary in this Part means a reference to the Secretary, or to a person nominated by the Committee as a delegate of the Secretary for the express purpose of undertaking the functions and duties of this Part of the Constitution.
- (2) Subject to this Constitution the members of the Association shall be the members of the Association immediately prior to incorporation together with such other members as are approved thereafter by the Committee of the Association.

### **5.      Types of membership**

- (1) Under this Constitution the Association will offer two types of membership:
  - (a) Ordinary Membership, being membership for a natural person or young person; and
  - (b) Affiliated Group Membership, being membership for an incorporated organisation.

### **6.      Eligibility for membership**

- (1) A natural person, or young person or incorporated organisation is eligible to be a member of the Association if:
  - (a) they accept the objects and rules of the Association under this Constitution;
  - (b) have applied to, and been approved by, the Committee for membership in accordance with clause 7; and
  - (c) have paid any prescribed fees associated with membership.
- (2) Each Affiliated Group Member shall nominate a delegate to represent it.
- (3) The delegate of an Affiliated Group Member shall be afforded the same voting rights as an Ordinary Member at any General Meeting of the Association.
- (4) An Affiliated Group Member may vary it's nominated delegate. A variation to the nominated delegate:
  - (a) must be made in writing (including by email or other electronic means if the Committee so determines) in a form determined by the Committee; and
  - (b) must be lodged (including by electronic means, if the Committee so determines) with the Secretary of the Association.
- (5) Where the variation to the nominated delegate of an Affiliated Group Member is being made prior to a General Meeting, the notification to the Secretary must be made no later than 1 hour before the meeting is due to commence in order for the delegate to be recognised by the Association as the rightful delegate of the Affiliated Group Member at that meeting.
- (6) Provided the eligibility requirements under subclause (1) are met, nothing in this Constitution precludes a natural person who is a member of an incorporated

organisation that is an Affiliated Group member of the Association from applying for Ordinary Membership of Coffs Harbour Regional Landcare.

## **7. Application for membership**

- (1) Individuals and incorporated organisations seeking to become members of the Association shall apply to the Committee for membership in the manner prescribed in this Constitution.
- (2) The Committee may choose to either approve or reject applications for membership; or request further information from the applicant to assist in making a decision.
- (3) An application for membership of the Association:
  - (a) must be made in writing (including by email or other electronic means if the Committee so determines) in a form determined by the Committee; and
  - (b) must be lodged (including by electronic means, if the Committee so determines) with the Secretary of the Association.
  - (c) must be accompanied by a completed Consent Form from a parent or Guardian if a young person is applying
- (4) In the case of applications by incorporated organisations for Affiliated Group membership, the organisation must state in its written application its aims and objectives, number of members; and reasons for wishing to be a member of the Association.
- (5) As soon as practicable after receiving an application for membership, the Secretary must refer the application to the Committee, which is to determine whether to approve or to reject the application.
- (6) As soon as practicable after the Committee makes that determination, the Secretary must:
  - (a) notify the applicant in writing (including by email or other electronic means, if the Committee so determines) of the outcome of their application; and
  - (b) where the application was approved, and payment was not received at the time of application, request the applicant to pay (within a period of 60 days after receipt by the applicant) the sum payable under this Constitution by a member as an entrance fee and/or annual subscription.
- (7) The Secretary must, on payment by the applicant of the amounts referred to in this Part within the period prescribed, enter the applicant's name and details in the register of members, and on the name being so entered, the applicant becomes a member of the Association.

## **8. Membership fees**

- (1) The Terms and Fees for membership, including entrance fees, annual and periodic subscriptions are to be determined by the Association at a General Meeting.
- (2) The membership fees may vary based on the type of membership.
- (3) Membership fees shall fall due on the first day of each financial year of the Association. The financial year of the Association shall run from July 1 to June 30.

## **9. Register of members**

- (1) The Secretary must establish and maintain a register of members of the Association (whether in written or electronic form) recording for each member the following information:
  - (a) the legal name of the member;
  - (b) the residential address, or in the case of an Affiliated Group Member, the registered business address;
  - (c) a postal and/or email address;
  - (d) the date on which the person became a member, renewed their membership and where appropriate ceased membership;
  - (e) where applicable the location of the Landcare site where a member normally performs Landcare activities; and
  - (f) in the case of an affiliated group member, the name and contact details of the nominated delegate, including the date the person was nominated as the delegate.
- (2) The register of members must be kept in New South Wales:
  - (a) at the main premises of the Association; or
  - (b) if the Association has no premises, at the Association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the Association at any reasonable hour.
- (4) A member of the Association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not mis-use information about a person obtained from the register, and must not use that information to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the Association or other material relating to the Association; or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (7) If the register of members is kept in electronic form:
  - (a) it must be convertible into hard copy; and
  - (b) the requirements in subclauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.



## **10. Cessation of membership**

- (1) A person or incorporated entity and their delegate cease to be a member of the Association if the person or incorporated entity:
  - (a) dies, or in the case of an incorporated entity is deregistered or ceases to exist;
  - (b) resigns their membership;
  - (c) is expelled from the Association; or
  - (d) fails to pay the annual membership fee within three (3) months of falling due.
- (2) The Secretary will make the appropriate entry in the register of members.
- (3) A person ceasing to be a member of the Association is not eligible to receive a full or partial refund for any membership fees due or paid to the Association.

## **11. Membership entitlements not transferable**

A right, privilege or obligation which a person; or incorporated entity has by reason of being a member of the Association:

- (a) is not capable of being transferred or transmitted to another person or incorporated entity; and
- (b) terminates on cessation of the person's or incorporated entity's membership.

## **12. Resignation of membership**

- (1) A member of the Association may resign from membership of the Association by first giving to the Secretary written notice of at least 1 month (or any other period that the Committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the Association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the Secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

## **13. Members' liability**

The members of the Association shall have no liability to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association except to the amount of any unpaid membership fees.

## **14. Resolution of internal disputes**

- (1) In the event of a dispute arising between: members (in their capacity as members); a member(s) and the Association; a member(s) and the Committee; or a member(s) and an employee of the Association, the Association's approved grievance policy and procedures will apply.
- (2) Where there is no approved grievance policy or procedures in place at the time of a dispute arising, the following procedure shall apply:

- (a) Each side of the dispute shall nominate a representative who is not directly involved in the dispute. Those representatives shall then attempt to settle the dispute by negotiation.
  - (b) Should the nominated representatives be unable to resolve the dispute within 14 days (or such other period as they may agree upon) the dispute shall be referred to a person mutually agreed upon for mediation.
  - (c) In the event that no person can be agreed upon to mediate the dispute it shall be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.
- (3) If the dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration,
- (4) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

## **15. Disciplining of members**

- (1) A complaint may be made to the Committee by any person that a member of the Association:
- (a) has refused or neglected to comply with a provision or provisions of this Constitution; or
  - (b) has wilfully acted in a manner prejudicial to the interests of the Association.
- (2) The Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the Committee decides to deal with the complaint, the Committee:
- (a) must cause notice of the complaint to be served on the member concerned; and
  - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the Committee in connection with the complaint; and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The Committee may, by resolution, expel the member from the Association or suspend the member from membership of the Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the Committee expels or suspends a member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the Committee for having taken that action and of the member's right of appeal under clause 16.
- (6) The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned; or

- (b) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution under clause 16;

whichever is the later.

## **16. Right of appeal of disciplined member**

- (1) A member may appeal to the Association in General Meeting against a resolution of the Committee under clause 15, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the Secretary must notify the Committee, which is to convene a General Meeting of the Association to be held within 28 days after the date on which the Secretary received the notice.
- (4) At a General Meeting of the Association convened under subclause (3):
  - (a) no business other than the question of the appeal is to be transacted; and
  - (b) the Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both; and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the Association present.

## **Part 3      Landcare sites**

### **17.      Nomination of Landcare sites**

- (1) Members of the Association or local community may nominate a discrete location for approval by the Committee as a Landcare site.
- (2) The nomination is to be made in a form specified by the Committee; and is to include:
  - (a) the location of the site;
  - (b) the nature of the Landcare activities proposed for the site;
  - (c) any costs associated with the Landcare activities proposed for the site
  - (d) the details of the landowner(s) of the site; and
  - (e) must also demonstrate the support and approval of the landowner(s) for Landcare activities to be conducted on the site.
- (3) No Landcare activities are to be conducted at a site unless the site has been approved as a Landcare site by the Committee.

### **18.      Approval by the Committee of new Landcare sites**

- (1) Nominations made to the Committee for new Landcare sites are to be considered at a Committee meeting.
- (2) The Committee may choose to either approve or reject a nomination for a Landcare site; or request further information from the nominee or another party to assist in making a decision.
- (3) As soon as practicable after the Committee makes that determination, the Committee must notify the nominee of the outcome of their application.

## **Part 4 Management by Executive Committee**

### **19. General**

The Association shall have its affairs controlled and managed by the office bearers and other members known as the Executive Committee (the Committee).

### **20. Powers of the Committee**

- (1) Subject to the Act, the Regulation, this Constitution and any resolution passed by the Association in a General Meeting, the Committee:
  - (a) is to control and manage the affairs of the Association; and
  - (b) may exercise all the functions that may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a General Meeting of members of the Association; and
  - (c) has power to perform all acts and do all things that appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

### **21. Composition and membership of Committee**

- (1) The Committee is to consist of:
  - (a) the office-bearers of the Association; and
  - (b) at least 3 up to 5 ordinary Committee members, each of whom is to be elected at the Annual General Meeting of the Association under clause 22.

NOTE: Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the Committee, including age and residency requirements.
- (2) The total number of Committee members is to be 7 and up to 9 persons.
- (3) The office-bearers of the Association are as follows:
  - (a) President;
  - (b) Vice-president;
  - (c) Treasurer; and
  - (d) Secretary.
- (4) A Committee member may hold up to 2 offices (other than both the offices of president and vice-president).
- (5) There are no maximum number of consecutive terms that a member may serve on the Committee as an ordinary Committee member.
- (6) An office-bearer of the Committee may only serve a maximum of five consecutive terms in the same office-bearing role, but may remain on the Committee subsequently in an alternate office bearing role, or in a non-office-bearing role. The

member may return to their former office-bearing role after one term's absence from that role, and remain in that role consecutively for a further five terms.

- (7) Sub-clause (6) may be waived in the instance where no other member wishes to take-on the office-bearing role that has been held by a member for 5 consecutive terms.
- (8) Each member of the Committee is, subject to this Constitution, to hold office until immediately before the election of Committee members at the Annual General Meeting next following the date of the member's election, and is eligible for re-election.

## **22. Election of Executive Committee members**

- (1) Nominations of candidates for election as office-bearers of the Association or as ordinary Executive Committee members:
  - (a) must be made in writing, signed by 2 members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
  - (b) must be delivered to the Secretary of the Association at least 7 days before the date fixed for the holding of the Annual General Meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated are taken to be elected and further nominations are to be received at the Annual General Meeting for any remaining vacancies.
- (3) Nominations made at an Annual General Meeting must be made with the consent of the nominee and must be endorsed by 2 members of the Association.
- (4) If insufficient further nominations are received at the Annual General Meeting, then any vacant positions remaining on the Committee are taken to be casual vacancies.
- (5) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (6) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (7) The ballot for the election of office-bearers and ordinary Committee members of the Committee is to be conducted at the Annual General Meeting in any usual and proper manner that the Committee directs.
- (8) A person nominated as a candidate for election as an office-bearer or as an ordinary Committee member of the Association must be a financial member of the Association.

## **23. Secretary**

- (1) The Secretary of the Association must, as soon as practicable after being appointed as Secretary, lodge notice with the Association of his or her address.

- (2) It is the duty of the Secretary to keep minutes (whether in written or electronic form) of:
  - (a) all appointments of office-bearers and members of the Committee; and
  - (b) the names of members of the Committee present at a Committee meeting or a General Meeting; and
  - (c) all proceedings at Executive Committee meetings and General Meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (4) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause 3.

## **24. Treasurer**

- (1) It is the duty of the treasurer of the Association to ensure:
  - (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made; and
  - (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

## **25. Public Officer**

- (1) The Committee shall appoint a person as Public Officer of the Association.
- (2) The public officer must be a person aged 18 years or more who is a resident in New South Wales.
- (3) The first Public Officer shall be the person who completed the application for incorporation of the Association.
- (4) The Committee may at any time remove the Public Officer and appoint a new Public Officer.
- (5) The position of public officer may, but need not be, held by a Committee member.
- (6) Within 28 days after taking office as the Association's public officer (other than its first public officer), the Public Officer must notify the Commissioner for Fair Trading, Department of Finance, Services and Innovation (or the Secretary of that Department if the role of Commissioner no longer exists), in the approved form, of:
  - (a) the person's full name and date of birth; and
  - (b) an address within New South Wales:
    - (i) at which the person can generally be found; and
    - (ii) at which documents can be served on the Association by post; and

(iii) the fact that the person has taken office as public officer.

- (7) If there is any change in the address of the public officer of an Association, the public officer must notify the Commissioner for Fair Trading, Department of Finance, Services and Innovation (or the Secretary of that Department if the role of Commissioner no longer exists) in the approved form, of the new address within 28 days after the change occurs.
- (8) If the position of Public Officer becomes vacant, the Committee must fill any vacancy in the office of Public Officer within 28 days of the vacancy arising.

NOTE: Section 35 of the Act specifies the circumstances in which the office of public officer becomes vacant.

- (9) Within 14 days after vacating office, a former Public Officer of an Association must ensure that all documents in his or her possession that belong to the Association are delivered to a Committee member of the Association.

## **26. Authorised signatories**

- (1) An Association's Public Officer; and the Office Bearers of the Committee, are by virtue of their office, authorised signatories for the Association.
- (2) Under the Act, the Committee may appoint additional authorised signatories from among its members.

NOTE: See Section 36 of the Act for requirements relating to additional authorised signatories.

- (3) The Committee may authorise an agent to be a delegated signatory for specified matters.

NOTE: This applies to staff of the Association acting as an agent of the Association.

## **27. Casual vacancies**

- (1) In the event of a casual vacancy occurring in the membership of the Committee, the Committee may appoint a member of the Association to fill the vacancy and the member so appointed is to hold office, subject to this Constitution, until the Annual General Meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the Committee occurs if the member:
  - (a) dies; or
  - (b) ceases to be a member of the Association; or
  - (c) is or becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or
  - (d) resigns office by notice in writing given to the Secretary; or
  - (e) is removed from office under clause 28; or
  - (f) becomes a mentally incapacitated person; or



- (g) is absent without the consent of the Committee from 3 consecutive meetings of the Committee; or
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months; or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

## **28. Removal of Executive Committee members**

- (1) The Association in General Meeting may by resolution remove any member of the Committee from the office of Committee member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the Committee to whom a proposed resolution referred to in subclause(1) relates makes representations in writing to the Secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the Association, the Secretary or the president may send a copy of the representations to each member of the Association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## **29. Executive Committee meetings and quorum**

- (1) The Committee must meet at least 3 times in each period of 12 months at a place and time that the Committee may determine.
- (2) Additional meetings of the Committee may be convened by the President or by any member of the Committee.
- (3) Oral or written notice of a meeting of the Committee must be given by the Secretary to each member of the Committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the Committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under clause 29(3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Committee members present at the meeting unanimously agree to treat as urgent business.
- (5) The quorum shall be four.
- (6) No business is to be transacted by the Committee unless a quorum is present and if, within half an hour after the time appointed for the meeting to commence, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week; or some other time acceptable to a majority of the Committee.
- (7) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the Committee:

- (a) the President or, in the President's absence, the Vice-President is to preside; or
  - (b) if the President and the Vice-President are absent or unwilling to act, one of the remaining members of the Committee chosen by the members present at the meeting is to preside.
- (9) The Committee may invite any person to attend all or part of a Committee meeting as an observer, or to provide advice or information to the Committee.

### **30. Appointment of Association members as Committee members to constitute quorum**

- (1) If at any time the number of Committee members is less than the number required to constitute a quorum for a Committee meeting, the existing Committee members may appoint a sufficient number of members of the Association as Committee members to enable the quorum to be constituted.
- (2) A member of the Committee so appointed is to hold office, subject to this Constitution, until the Annual General Meeting next following the date of the appointment, or such earlier date that the Committee specifies.
- (3) This clause does not apply to the filling of a casual vacancy to which clause 27 applies.

NOTE: Amongst other things, this clause applies in the circumstance where a Committee member is on an approved absence from the Committee.

### **31. Use of technology at Committee meetings**

- (1) A Committee meeting may be held at 2 or more venues using any technology approved by the Committee that gives each of the Committee's members a reasonable opportunity to participate.
- (2) A Committee member who participates in a Committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

### **32. Voting and decisions**

- (1) Questions arising at a meeting of the Committee are to be determined by a majority of the votes of members of the Committee present at the meeting.
- (2) Each member present at a meeting of the Committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to a quorum being present the Committee may act despite any vacancy on the Committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Committee or Sub-committee.

### **33. Delegation by Committee to Sub-committee**

- (1) The Committee may, by instrument in writing, delegate to one or more Sub-committees the exercise of any of the functions of the Committee that are specified in the instrument, other than:
  - (a) this power of delegation; and
  - (b) a function which is a duty imposed on the Committee by the Act or by any other law.
- (2) A Sub-committee shall consist of the member or members of the Association, including Committee member(s) that the Committee thinks fit; and may also consist of one or more non-members of the Association, where those persons may provide expertise, or skills and opinions of value to the Sub-committee.
- (3) A function, the exercise of which has been delegated to a Sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the Sub-committee in accordance with the terms of the delegation.
- (4) A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.
- (5) Despite any delegation under this clause, the Committee may continue to exercise any function delegated.
- (6) Any act or thing done or suffered by a Sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Committee.
- (7) The Committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (8) A Sub-committee may meet and adjourn as it thinks proper.

## **Part 5      General meetings**

### **34.      Preliminary**

- (1) The Committee shall convene at least four General Meetings per year, and may, whenever it thinks fit, convene additional General Meetings of the Association.
- (2) For the purposes of this Part, a General Meeting is any meeting of the Association other than a Committee or Sub-committee meeting; and includes the Annual General Meeting and Special General Meetings, as well as regular General Meetings convened by the Committee.
- (3) A reference to Secretary in this Part means a reference to the Secretary, or to a person nominated by the Committee as a delegate of the Secretary for the express purpose of undertaking the functions and duties of this Part of the Constitution.

### **35.      Annual General meetings—holding of**

- (1) The Association must hold its Annual General meeting:
  - (a) within 6 months after the close of the Association's financial year; or
  - (b) within any later time that may be allowed or prescribed under section 37(2)(b) of the Act.

### **36.      Annual General meetings—calling of and business at**

- (1) The Annual General meeting of the Association is, subject to the Act and to clause 34, to be convened on the date and at the place and time that the Committee thinks fit.
- (2) In addition to any other business which may be transacted at an Annual General meeting, the business of an Annual General meeting is to include the following:
  - (a) To confirm the minutes of the last preceding Annual General meeting and of any other recent General meeting whose minutes have not otherwise been confirmed.
  - (b) To receive from the Committee reports on the activities of the Association during the last financial year.
  - (c) To elect office-bearers and ordinary Committee members of the Association.
  - (d) To receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An Annual General Meeting must be specified as that type of meeting in the notice convening it.

### **37.      General meetings—calling of**

- (1) The Committee may, whenever it thinks fit, convene a general meeting of the Association.

### **38. Special General meetings—calling of**

- (1) The Committee must, on the requisition of at least 5% of the total number of members, convene a Special General Meeting of the Association.
- (2) A requisition of members for a Special General meeting:
  - (a) must be in writing; and
  - (b) must state the purpose or purposes of the meeting; and
  - (c) must be signed by the members making the requisition; and
  - (d) must be lodged with the Secretary; and
  - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (3) If Committee fails to convene a Special General meeting to be held within 1 month after the date on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the members who made the requisition may convene a special General Meeting to be held not later than 3 months after that date.
- (4) A Special General meeting convened by a member or members as referred to in subclause 38(3) must be convened as nearly as is practicable in the same manner as General Meetings are convened by the Committee.
- (5) For the purposes of subclause 38(2):
  - (a) a requisition may be in electronic form; and
  - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

### **39. Notice**

- (1) Except if the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the Secretary must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

NOTE: A special resolution must be passed in accordance with section 39 of the Act.

- (3) No business other than that specified in the notice convening a General meeting is to be transacted at the meeting except, in the case of an Annual General meeting, business which may be transacted under clause 36(2).

- (4) A member desiring to bring any business before a General meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a General meeting given after receipt of the notice from the member.

#### **40. Quorum for General Meetings**

- (1) No item of business is to be transacted at a General Meeting unless a quorum of members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (2) Seven members present (being members entitled under this Constitution to vote at a General Meeting) constitute a quorum for the transaction of the business of a General Meeting.
- (3) If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of members (ie: a Special General meeting)—is to be dissolved; and
  - (b) in any other case—is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

#### **41. Presiding member**

- (1) The President or, in the President's absence, the Vice-president, is to preside as Chairperson at each General meeting of the Association.
- (2) If the President and the Vice-president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

#### **42. Adjournment**

- (1) The Chairperson of a General meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a General Meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

- (3) Except as provided in subclauses (1) and (2), notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

#### **43. Making of decisions**

- (1) A question arising at a General Meeting of the Association is to be determined by:
  - (a) a show of hands or, if the meeting is one to which clause 49 applies, any appropriate corresponding method that the Committee may determine, or
  - (b) if on the motion of the Chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) Subclause (2) applies to a method determined by the Committee under subclause(1)(a) in the same way as it applies to a show of hands.
- (4) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

#### **44. Special resolutions—passing of**

- (1) A special resolution may only be passed by the Association in accordance with section 39 of the Act.

#### **45. Special resolutions—requirement for**

- (1) A special resolution must be passed by a General Meeting of the Association to effect the following changes:
  - (a) A change of the Association’s particulars; being its name, objects or Constitution.
  - (b) To voluntarily wind-up the Association, and to distribute the Association’s surplus property and assets.
  - (c) Any other matter specified as requiring a special resolution under the Act or Regulation.

#### **46. Voting**

- (1) On any question arising at a General meeting of the Association a member has one vote only.
- (2) In the case of an equality of votes on a question at a General Meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

- (3) A member is not entitled to vote at any General Meeting of the Association unless all money due and payable by the member to the Association has been paid.

**47. Proxy votes not permitted**

- (1) Proxy voting must not be undertaken at or in respect of a General Meeting.

**48. Postal or electronic ballots**

- (1) The Association may hold a postal or electronic ballot (as the Committee determines) to determine any issue or proposal (other than an appeal under clause 16).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

**49. Use of technology at General meetings**

- (1) A General meeting may be held at 2 or more venues using any technology approved by the Committee that gives each of the Association's members a reasonable opportunity to participate.
- (2) A member of an Association who participates in a General meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.



## **Part 6      Miscellaneous**

### **50.      Insurance**

- (1) The Association shall effect and maintain public liability insurance together with any other insurance which may be required by law or regarded as necessary by the Association.
- (2) Members undertaking Landcare activities who are not covered by their own insurance, or the insurance of a land owner on whose land they are working (including local, state, and federal government) must work under the written direction of the Association in order to be covered by the Association's insurance.

### **51.      Funds—source**

- (1) The funds of the Association are to be derived from entrance fees and annual and periodic subscriptions of members; donations; grants from funding bodies; payment for services; and, subject to any resolution passed by the Association in General Meeting, any other sources that the Committee determines.
- (2) All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank or other authorised deposit-taking institution account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **52.      Funds—management**

- (1) Subject to any resolution passed by the Association in General Meeting, the funds of the Association are to be used solely in pursuance of the objects of the Association in the manner that the Committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

### **53.      Association is non-profit**

- (1) Subject to the Act and the Regulation, the Association must apply its funds and assets solely in pursuance of the objects of the Association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

NOTE: Section 5 of the Act defines pecuniary gain for the purpose of this clause.

### **54.      Distribution of property on winding-up of Association**

- (1) Subject to the Act and the Regulations, in winding-up the Association, any surplus property of the Association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.
- (2) In this clause, a reference to the surplus property of an Association is a reference to that property of the Association remaining after satisfaction of the debts and

liabilities of the Association and the costs, charges and expenses of the winding up of the Association.

NOTE: Section 65 of the Act provides for distribution of surplus property on the winding up of an Association.

## **55. Amalgamation**

- (1) Where it furthers the objectives of the Association to amalgamate with any one or more other incorporated Associations having similar objectives, the other Association(s) must have rules prohibiting the distribution of its (their) assets and income to members, and must be exempt from income tax.

## **56. Change of name, objects and Constitution**

- (1) An application for registration of a change in the Association's name, objects or Constitution in accordance with section 10 of the Act is to be made by the Public Officer or a Committee member.

NOTE: Section 10 of the Act specifies that these items can only be changed pursuant to a special resolution passed by the Association at a General Meeting.

## **57. Custody of books etc**

- (1) Except as otherwise provided by this Constitution, all records, books and other documents relating to the Association must be kept in New South Wales:
  - (a) at the main premises of the Association, in the custody of the public officer; or a member or employee of the Association (as the Committee determines from time to time); or
  - (b) if the Association has no premises, at the Association's official address, in the custody of the public officer.

## **58. Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a member of the Association at any reasonable hour:
  - (a) records, books and other financial documents of the Association;
  - (b) this Constitution;
  - (c) minutes of all Committee meetings and General Meetings of the Association.
- (2) A member of the Association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite subclauses (1) and (2), the Committee may refuse to permit a member of the Association to inspect or obtain a copy of 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.

## **59. Service of notices**

- (1) For the purpose of this Constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally; or
  - (b) by sending it by pre-paid post to the address of the person; or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
  - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee; and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.
- (3) Service of documents on the Association is effected by serving them on the Public Officer or by serving them personally on two members of the Committee.

## **60. Financial year**

- (1) The financial year of the Association is:
  - (a) the period of time commencing on the date of incorporation of the Association and ending on the following 30 June; and
  - (b) each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1 July and ending on the following 30 June.

This Constitution was passed by special resolution at a meeting of the Association held at the offices of Coffs Harbour Regional Landcare Inc. on Wednesday 4 July 2018. This constitution replaces all earlier versions.

Signed:



Barry Powells, President, Coffs Harbour Regional Landcare Inc