

03 NOV 2017



## **Northern Agricultural Catchments Council Incorporated**

### **Constitution**

Incorporated under the Associations Incorporation Act 2015 WA:  
Association No. A1007067J

Adopted: 24 July 1998

Amended: By Special Resolution 21 March 2002

Amended: By Special Resolution 12 September 2003

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This is the annexure of eighteen (18) pages marked "A" referred to in Form 5 signed by the Secretary of NACC and dated 6 October 2017.

**Yvonne A Marsden**

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**TABLE OF CONTENTS**

1.	<b>Name of Association .....</b>	<b>3</b>
2.	<b>Definitions.....</b>	<b>3</b>
3.	<b>Objects of the Association.....</b>	<b>3</b>
4.	<b>Powers of the Association .....</b>	<b>4</b>
5.	<b>Membership of the Association.....</b>	<b>5</b>
6.	<b>Register of Members of the Association.....</b>	<b>5</b>
7.	<b>Suspension and Expulsion of Members of the Association.....</b>	<b>5</b>
8.	<b>Subscriptions.....</b>	<b>6</b>
9.	<b>Number of Directors .....</b>	<b>6</b>
10.	<b>Directors – General Provisions.....</b>	<b>6</b>
11.	<b>Remuneration of Directors.....</b>	<b>7</b>
12.	<b>Appointment of Directors – Procedures for Invoking Action by ISP .....</b>	<b>8</b>
13.	<b>Role of the Director .....</b>	<b>8</b>
14.	<b>Duties of the Board.....</b>	<b>8</b>
15.	<b>Independent Selection Panel (ISP) .....</b>	<b>9</b>
16.	<b>Election of Chair .....</b>	<b>11</b>
17.	<b>Role of the Chair.....</b>	<b>11</b>
18.	<b>Role of the Deputy-Chair.....</b>	<b>12</b>
19.	<b>Role of the Secretary.....</b>	<b>12</b>
20.	<b>Role of the Treasurer.....</b>	<b>13</b>
21.	<b>Board Meetings.....</b>	<b>13</b>
22.	<b>Annual General and Special Meetings of the Association.....</b>	<b>13</b>
23.	<b>Special Meetings .....</b>	<b>14</b>
24.	<b>Control of Funds.....</b>	<b>15</b>
25.	<b>Alteration of Rules of the Constitution .....</b>	<b>15</b>
26.	<b>Common Seal.....</b>	<b>15</b>
27.	<b>Records.....</b>	<b>15</b>
28.	<b>Record Inspection .....</b>	<b>15</b>
29.	<b>Dissolution.....</b>	<b>15</b>
30.	<b>Trust Fund.....</b>	<b>16</b>
31.	<b>Resolving Disputes .....</b>	<b>17</b>

## **1. Name of Association**

The name of the Association is the Northern Agricultural Catchments Council Incorporated.

## **2. Definitions**

In these rules, unless the contrary intention appears:

- 2.1. "Act" means the Associations Incorporation Act 2015 (WA).
- 2.2. "AGM" means the annual general meeting.
- 2.3. "Association" means the Northern Agricultural Catchments Council Incorporated as referred to in rule 1.
- 2.4. "Board" A governing committee of Directors having supervisory powers.
- 2.5. "CEO" means the chief executive officer appointed by the Board;
- 2.6. "Committee" special group delegated to consider some matter.
- 2.7. "Director" means the persons referred to in rule 9.
- 2.8. "ISP" means the Independent Selection Panel as described in rule 15.
- 2.9. "NAR" means Northern Agricultural Region.
- 2.10. "NRM" means Natural Resource Management, the ecologically sustainable management of the land, water, air and biodiversity resources of the State for the benefit of existing and future generations, and for the maintenance of the life support capability of the biosphere. It does not include mineral resources, but includes coastal and marine resources up to the State three nautical mile boundary.
- 2.11. "Ordinary Resolution" means a resolution other than a Special Resolution.
- 2.12. "Pro tempore" is a Latin phrase which best translates to "for the time being" in English.
- 2.13. "Proxy Member" is a nominated representative of an absentee Director.
- 2.14. "Proxy vote" is a delegated vote.
- 2.15. "Special Meetings" means special general meeting.
- 2.16. "Special Resolution" has the meaning given by Section 24 of the Act.
- 2.17. "Sub-region(s)" are Yarra Yarra, Moore, West Midlands, and Greenough.
- 2.18. "Supernumerary Director" means an additional Director selected by elected Directors.

## **3. Objects of the Association**

The objects of the Northern Agricultural Catchments Council are defined as but not limited to:

- 3.1. To work with the community and organisations to provide leadership, advice and on ground support for Natural Resource Management (NRM) issues and projects in the region including the environmental conservation, management and protection of our:
  - (a) Land – Encompassing agricultural, urban, crown and Aboriginal land;
  - (b) Water – Including waterscapes from salt lakes to wetlands plus major groundwater reserves;
  - (c) Coastal and Marine – 550km of coastline in the region;
  - (d) Biodiversity – Nature reserves, national parks and bush land; and
  - (e) Community Assets – To enhance environmental values to be protected and conserved from environmental threats.
- 3.2. To develop and support projects that promote ecologically sustainable development practices, the conservation restoration and protection of our native flora and fauna – including controlling declared pests, the improvement of our water quality, and the environmental recovery of our river systems and wetlands within the region.
- 3.3. To provide landholders, community groups and other NRM organisations with understanding, education and skills to contribute to environmental conservation and sustainable natural resources.
- 3.4. To establish and maintain a public fund called “The Northern Agricultural Catchments Council Fund” for the purpose of supporting the environmental objects of the Northern Agricultural Catchments Council.
- 3.5. The property and income of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in the promotion of those objects or purposes.

#### **4. Powers of the Association**

For the purpose of achieving or furthering its objects the Association shall have the power to:

- 4.1. Purchase, sell, hold, lease or rent real or personal property;
- 4.2. Raise or secure money to enable the undertaking of a contract, sponsorship or guarantee incurred or to be entered into by the Association;
- 4.3. Enter into any arrangements with any Commonwealth, State or Local Government authority, or private or corporate groups;
- 4.4. Employ, hire, engage or contract persons as necessary to achieve the objects of the Association;
- 4.5. Invest the moneys of the Association in any manner in which trust moneys may be invested;
- 4.6. Make gifts or give prizes;

- 4.7. Associate with any other Associations or organisations; and
- 4.8. Do all such other things as are incidental or conducive to the objects of the Association.

## **5. Membership of the Association**

Membership of the Association is open to individuals who are residents, landowners, or individuals who are a member of groups, agencies or organisations within the Region who have identified an interest in NRM and in promoting the objects of the Association.

## **6. Register of Members of the Association**

- 6.1 By 31 August each year, those persons seeking membership of the Association and eligibility to vote at a NACC AGM shall complete a membership application form either from the NACC website at <http://www.nacc.com.au/membership/> or by collecting an application form from any NACC office.

Voting in the elections for NACC Directors is open to all current and new members who sign up by 31 August in an election year, which occurs biennially.

- 6.2 Membership of the Association will continue unless either: the Member resigns; or, it is reasonably apparent that the Member is no longer contactable using his or her contact details as recorded in the Register of Members; or, the member is suspended or expelled as per clause 7.1.
- 6.3 An up to date Register of Members of the Association is kept and maintained by the Secretary.
- 6.4 Registered members of the association shall have the right to submit proxy votes at Special Meetings and AGM, and:
  - (a) Proxy votes shall be registered with the secretary 14 days prior to Special Meetings and/or AGM;
  - (b) Proxy form shall be signed by the nominator member and by the nominee member;
  - (c) A nominator member shall be limited to three (3) proxy votes plus their own; and
  - (d) A nominee member cannot then vote in person at the meeting for which the proxy is valid unless said proxy is withdrawn.

## **7. Suspension and Expulsion of Members of the Association**

- 7.1. Any member of the Association who fails to observe the Rules of the Association or whose conduct in the opinion of the Board is prejudicial to the interests of the Association may be suspended or removed from membership of the Association by a resolution voted on and passed by a majority of at least two-thirds of the Board, at a meeting of the Board called for that purpose.
- 7.2. A member or expelled member shall have the right of appeal to a meeting called by the Board at the written request of the member or expelled member, provided that such

written request is given to the Secretary within fourteen days of the date of service of notice of the decision of the Board. The meeting may confirm, disallow or reduce the penalties imposed but may not increase them.

## **8. Subscriptions**

A subscription may be levied as determined by the Board.

## **9. Number of Directors**

**9.1.** The number of elected Directors is to be a minimum of five (5) and a maximum of seven (7).

**9.2.** To the extent that the Board determines that there is insufficient knowledge of any significant geographic regions held by any persons filling the roles of the Board, or the Board determines that the Board is lacking sufficient expertise or experience relevant to project/s undertaken by the Association, the Board may appoint up to a maximum of two (2) additional Directors who are referred to in these rules as "Supernumerary Director". In making an appointment of Supernumerary Directors, the Board must ensure that any proposed appointee has demonstrated an interest in and commitment to NRM. In making the appointment, the Board must specify the period of appointment and in the absence of any such specification a Supernumerary Director shall hold office until the second AGM following that Supernumerary Director appointment. The Board need not replace a Supernumerary Director who retires or whose appointment is terminated pursuant to this provision.

**9.3.** In accordance with the provisions of this constitution a bylaw will direct the phasing in or out of any changes to the number of Directors, or Supernumerary Directors.

## **10. Directors – General Provisions**

**10.1.** A Director must be a member of the Association.

**10.2.** Directors must be natural persons ordinarily residing in Australia.

**10.3.** At the 2017 AGM and every second year thereafter (i.e. every odd numbered year), sufficient Directors (and for the purpose of this sub-rule 10.3 and sub-rule 10.4, the Chair shall be regarded as a Director) shall retire, to satisfy the requirements that:

- no Director has a term longer than four years without being re-appointed; and
- Director retirements and appointments are staggered over time to ensure continuity of governance, and avoid a situation where most of the Directors retire at the same time.

A retiring Director shall be eligible for re-appointment. Depending on the number of Directors at any given time – which will typically be five, six or seven – the number retiring in an election year will typically be two, three or four.

**10.4.** The Directors to retire at an AGM are those Directors who have been the longest in office. Directors appointed on the same day may agree among themselves or determine by lot which of them must retire.

**10.5.** Employees of the Association or contracted partners or State Government agency staff funded via NACC programs are not eligible to be a Director, or a proxy to the Board or Committees of the Board.

**10.6.** The office of a Director becomes vacant if the Director:

- (a) becomes bankrupt or makes any arrangement or composition with his/her creditors generally;
- (b) becomes prohibited from being a Director of a company by reason of any order made under the law;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns his/her office by notice in writing to the Association;
- (e) is directly or indirectly interested in any contract or proposed contract with the Association which interest has not been disclosed by the Director in accordance with Section 22 of the Act.

**10.7.** A Director automatically ceases to hold office if:

- (a) the Director is absent from three (3) consecutive meetings of the Board; and
- (b) the Directors have not, prior to the conclusion of the third meeting, resolved to grant a leave of absence to the absent Director.

**10.8.** The Association may by Ordinary Resolution, of which special notice pursuant to rule 23 has been given, remove any Director before the expiration of his or her period of office.

**10.9.** In the event of a vacancy in the office of a Director:

- (a) the Board may appoint a person to fill the vacancy pro tempore pending a permanent appointment of a substitute Director by the ISP and election process by a simple majority vote at a meeting of the Board; and
- (b) the person so appointed under sub-rule 10.9(a) holds office until:
  - (i) the ISP has recommended appropriate nominees and an election has been held by members for a new permanent Director; or
  - (ii) until the former Director would have been due to retire, whichever is the earlier.

## **11. Remuneration of Directors**

**11.1.** The Directors are to be paid such remuneration as is from time to time determined by the Board by reference to fees paid to Directors of bodies similar to this Association.

**11.2.** Directors' remuneration is deemed to accrue from day to day.

**11.3.** The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from Board meetings or any meetings of the Committee of the Board or AGM or Special Meetings of the Association or otherwise in connection with the approved business of the Association.

## **12. Appointment of Directors – Procedures for Invoking Action by ISP**

**12.1.** At least six months prior to the time at which the Directors are scheduled to retire in accordance with the provisions of this Constitution, the Board shall determine in accordance with the provisions of sub-rules 10.3 and 10.4 who shall be the Directors to retire.

**12.2.** Following such determination, the Board must request the ISP to recommend appropriate nominees for election by members to Directorship, in accordance with guidelines provided by the Board.

## **13. Role of the Director**

**13.1.** Directors must:

- (a) have an understanding of the depth of NRM in NAR;
- (b) represent the breadth of NRM in NAR;
- (c) provide leadership and guidance in NRM to the NAR community;
- (d) facilitate communication between the community, the Association and the Board;
- (e) participate in the Association's decision-making processes at meetings of the Association and the Board;
- (f) participate in the communication and leadership within the Sub-Regions; and
- (g) comply with the Board's Code of Conduct.

**13.2.** A Director who has any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Board shall, as soon as he/she becomes aware of his/her interest, disclose the nature and extent of his/her interest to the Board.

## **14. Duties of the Board**

**14.1.** The Board undertakes to:

- (a) coordinate the business and implementation of the objects of the Association;
- (b) make, amend or rescind rules and bylaws of the Association;
- (c) employ person/s to carry out certain duties as required;
- (d) appoint the CEO;
- (e) keep minutes of Board meetings; and



- (f) develop partnerships with the representatives of NRM sub-regional groups and any other organisation or group that can assist in the delivery of the objects of the Association.
- 14.2.** The Board may, by resolution, delegate the exercise of any of the Board's functions (other than this power of delegation).
- 14.3.** The Board may by resolution appoint Committees comprising Directors, members or other persons, to act in an advisory role to the Board and to any Committees of Directors.
- 14.4.** The Board must comprise the following office bearers ("Office Bearers"):
  - (a) Chair;
  - (b) Deputy-Chair;
  - (c) Treasurer; and
  - (d) Secretary
- 14.5.** The Board may from time to time resolve to appoint one or more groups of persons ("Advisory Panels") on an ad hoc or standing basis to advise the CEO in any area or in relation to any issues determined by the Board.
- 14.6.** The Board may:
  - (a) establish guidelines for the meetings and processes of the Advisory Panels;
  - (b) appoint persons to the Advisory Panels;
  - (c) terminate the appointment of persons to the Advisory Panels;
  - (d) resolve to disband any Advisory Panel.
- 14.7.** An Advisory Panel may make recommendations to the CEO, but no recommendation or decision of an Advisory Panel is binding.
- 15. Independent Selection Panel (ISP)**
- 15.1.** The Board must ensure that there is at all times an Independent Selection Panel (ISP), whose task will be to make selections of suitably skilled nominees for election by the members to the position of Chair and Director as required by these rules.
- 15.2.** The primary objective of the ISP is to ensure the overall Board is skill-based and capable of overseeing the strategic regional development and implementation of community-driven natural resource management in the NAR.
- 15.3.** The ISP shall comprise five (5) persons including a chairperson and four (4) others being:-
  - (a) a chairperson with broad based NRM skills and experience, and credibility and respect throughout the NAR that is not an existing Director;

- (b) a “State Government ” representative;
- (c) an “Australian Government” representative; and
- (d) Two “community based” representatives, one of whom will be nominated by the Board, and may be a sitting Board member not standing for Board re-election.

For the purpose of this rule 15.3 “community based” representative means persons who have the attributes required for a Director described in rule 10 of this Constitution.

- 15.4.** The Board must take steps to ensure that the appointment of representatives to the ISP shall form part of an agenda of a Board meeting (including an AGM) to be held within six (6) weeks of the date of the adoption of this Constitution.
- 15.5.** The agenda papers to be sent to the Directors for the Board meeting specified in sub-rule 15.4 must include an invitation to Directors to nominate persons to be appointed to the ISP. The agenda papers may themselves include names of persons whom the Board may wish to put forward as possible appointees
- 15.6.** Nominations may be received from the floor of the Board meeting specified in sub-rule 15.4 at which appointments are to be considered but any valid nomination shall require the nominator to table at the Board meeting the written consent of the nominee to be nominated for selection.
- 15.7.** Following the tabling of all nominations the Board may then proceed to decide upon a process to be undertaken at that Board meeting to effect the appointments.
- 15.8.** Any resolution to decide upon a process or to effect an appointment may be carried by a simple majority.
- 15.9.** Once appointed a member of the ISP shall continue to hold office until the fourth AGM following that person’s appointment. Any person vacating membership of the ISP at the fourth AGM shall be eligible for reappointment.
- 15.10.** Whenever a vacancy occurs on the ISP either as a result of resignation, incapacity or death, the Board must take steps to fill the vacancy as soon as practicable by undertaking the process set out in this Constitution.
- 15.11.** In making recommendations of nominees to the Board for election by the members, the ISP must endeavour to achieve a situation where the Board will:-
  - (a) have a well-developed understanding of NRM issues and a commitment to finding solutions from a regional perspective;
  - (b) act and operate as a cohesive and integrated team in the best interests of the region’s bio-diversity conservation and sustainable use of natural resources in the NAR; and
  - (c) have the capacity to:-
    - (i) engender trust in the community, business sector, NRM groups and Government in decisions relating to planning and implementing priority

projects and initiatives to achieve cost effective outcomes for NRM in the region; and

- (ii) develop an environment in which these same groups are prepared to invest and commit to implementing change.
- (d) have a skills base that covers the following general qualities:
  - (i) **Governance** - including but not limited to: policy development, risk assessment, effective leadership, strategic planning.
  - (ii) **Finance** - including but not limited to: business strategy, accounting expertise.
  - (iii) **Community** - including but not limited to: engagement, accountable to investors and members, local knowledge.
  - (iv) **Corporate** - including but not limited to: corporate investment, information technology, industrial relations, knowledge development.
  - (v) **NRM** - including but not limited to: environmental, biodiversity, coastal and marine, agricultural systems, water.
  - (vi) **Audit** - including but not limited to: personal development, public relations, financial, risk and safety.

**15.12.** Prior to embarking on a selection process for a particular position the ISP must satisfy itself that an appropriate publicity program to inform regional stakeholders about the vacant position and the selection criteria attached to the position has been undertaken. Any such program must require that the applications will be lodged initially at the registered office of the Association or a designated employment agency. The ISP may undertake a “short listing” process in relation to nominations and can select an appointee for election without having first interviewed the appointee and persons which may have been short-listed for nomination.

## **16. Election of Chair**

**16.1.** The Chair shall be nominated by and from the existing Directors at the first meeting of the Board after the AGM of each election year, i.e., biennially, and shall be elected by a simple majority vote of Directors.

**16.2.** The Chair may be removed as chairperson by a resolution of the Board. Such a person may remain a Director after their removal as Chair.

## **17. Role of the Chair**

The Chair, or the Chair’s nominated delegate or proxy, shall:

**17.1.** chair meetings of the Association and the Board;

**17.2.** represent the Association at the NRM Regional Chairs Group, invited State NRM groups and any other official functions;

- 17.3. represent the Association in negotiating any agreements with all government and non-government entities;
- 17.4. assume responsibility for strategic management of the activities of the Association and the Board;
- 17.5. assume responsibility for all communication with all NRM groups of the Northern Agricultural Region in order to maintain awareness of local level issues, and to communicate State and Commonwealth issues at a local level;.
- 17.6. assume responsibility in keeping the Board fully informed of all matters in carrying out the above functions;
- 17.7. encourage full balanced participation in meetings and seek decision by consensus where possible prior to a vote being required; and
- 17.8. act as spokesperson for the Association.

#### **18. Role of the Deputy-Chair**

- 18.1. The Deputy Chair shall be nominated at the first meeting of the Board after the AGM of an election year, and shall be elected by a simple majority vote of Directors.
- 18.2. In the event that the Chair is indisposed and cannot fulfil the role of the Chair, the Chair has the right to delegate to the Deputy Chair the responsibility to attending to these roles.

#### **19. Role of the Secretary**

- 19.1. The Secretary shall be nominated at the first meeting of the Board after the AGM of an election year, and shall be elected by a simple majority vote of Directors.
- 19.2. The Secretary shall:
  - (a) coordinate the correspondence of the Board and of the Association;
  - (b) keep full and correct minutes of the proceedings of the Board and of the Association;
  - (c) comply on behalf of the Association with –
    - (i) Section 27 of the Act in respect of the register of members of the Association; and
    - (ii) Section 28 of the Act in respect of the rules of the Association; and
    - (iii) Section 29 of the Act in respect of the record of the officeholders, and any trustees, of the Association;
  - (d) have custody of the Common Seal and all books, documents, records and registers of the Association, including those referred to in rule 20.2 below, other than those required to be kept and maintained by, or in the custody of, the Treasurer;

(e) perform such other duties as are imposed by this Constitution on the Secretary.

**19.3.** The Board can delegate specific functions of the Secretary to person/s employed, hired, engaged or contracted by the Board.

## **20. Role of the Treasurer**

**20.1.** The Treasurer shall be nominated at the first meeting of the Board after the AGM of an election year, and shall be elected by a simple majority vote of Directors.

**20.2.** The Treasurer shall:

(a) be responsible for the receipt of all moneys paid to or received by, or by them on behalf of, the Association and shall issue receipts for those moneys in the name of the Association;

(b) pay all moneys referred to in sub-rule 20.2(a) above into such account or accounts of the Association as the Board may from time to time direct;

(c) make payments from the funds of the Association with the authority of a General or Special meeting of the Board or the Finance Services Standing Sub-Committee and in so doing ensure that all fund transfers are authorised in accordance with rule 22;

(d) comply on behalf of the Association with Sections 25 and 26 of the Act in respect of the accounting records of the Association;

(e) whenever directed to do so by the Chair, submit to the Board a report, balance sheet or financial statement in accordance with that direction;

(f) have custody of all securities, books, and documents of the Association, including those referred to in rule 27;

(g) perform such other duties as are imposed by these rules on the Treasurer.

**20.3.** The Board can delegate specific functions of the Treasurer to person/s employed, hired, engaged or contracted by the Board.

## **21. Board Meetings**

**21.1.** Board meetings will be held at least three times a year (including the AGM).

**21.2.** A quorum of a meeting of the Board is a majority of the Directors as appointed from time to time.

**21.3.** The Chair is to have voting rights at Board meetings, including a casting vote.

## **22. Annual General and Special Meetings of the Association**

**22.1.** All registered members present at any AGM or Special Meeting of the Association shall have the right to a determining vote in any decision taken.

**22.2.** An AGM of the Association will be held within six months of the end of the financial year.

**22.3.** Notice of the AGM will be published in writing six weeks before the date set for the AGM or 14 days for Special Meetings.

**22.4.** The AGM is open to any interested member of the community in the Region.

**22.5.** The business of the AGM shall include:

- (a) Chair's report;
- (b) Treasurer's report and audited financial statement for the previous year;
- (c) Elections of Directors; and
- (d) Appointment of an auditor.

**22.6.** A quorum at the AGM and Special Meetings will be at least two (2) per cent of the current membership.

### **23. Special Meetings**

**23.1.** The Board

- (a) may at any time convene a Special Meeting;
- (b) must, within 30 days of receiving a request in writing to do so from not less than two (2) per cent of its current membership, convene a Special Meeting for the purpose specified in that request.

**23.2.** The members making a request referred to in sub-rule 23.1(a) must-

- (a) state in that request the purpose for which the Special Meeting concerned is required; and
- (b) sign that request.

**23.3.** If a Special Meeting is not convened within the relevant period of 30 days referred to in sub-rule 23.1(a), the members who made the request may themselves convene a Special Meeting as if they were the Board; or

**23.4.** When a Special Meeting is convened the Association must pay the reasonable expenses of convening and holding the Special Meeting.

**23.5.** The Secretary must give to all members not less than 14 days' notice of a Special Meeting and that notice must specify-

- (a) when and where the Special Meeting concerned is to be held; and
- (b) particulars of the business to be transacted at the Special Meeting concerned and of the order in which that business is to be transacted.

**23.6.** The Secretary must give a notice by-

- (a) serving it on a member personally; or

- (b) sending it by post to a member at the address of the member appearing in the register of members.

**23.7.** When a notice is sent by post under sub-rule 23.6(a), sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail.

## **24. Control of Funds**

**24.1.** Fund transfers must be authorised by two (2) people nominated by the Board.

**24.2.** An appointed CEO may be delegated authority to be one of the signatories.

**24.3.** The financial year will commence on 1 July each year.

## **25. Alteration of Rules of the Constitution**

**25.1.** The name and objects of the Association and the rules of the Constitution may only be changed / repealed / added by Special Resolution either at the AGM, or at a Special Meeting of members of the Association called for that purpose and advertised to members fourteen (14) days prior. These Special Resolutions can only be passed by a 75% majority vote of registered members present at the AGM or Special Meeting.

## **26. Common Seal**

**26.1.** The common seal on which the corporate name of the Association appears in legible characters is only to be used with the authority of the Board, or its delegated authority.

**26.2.** Every use of the common seal must be recorded in a registration log.

**26.3.** Use of the common seal must be witnessed by any two of the following: Chair, Secretary, Treasurer, and one other Director.

**26.4.** The common seal is to be kept in the custody of the Secretary or delegate.

## **27. Records**

All records, books, documents and securities of the Association are to be kept by the Secretary.

## **28. Record Inspection**

Members of the Association on request to the Secretary may inspect records and documents of the Association.

## **29. Dissolution**

**29.1.** The dissolution of the Association may be decided by an order of a competent Court of Law, or by a Special Resolution passed by 75% of voting members attending a Special Meeting convened for that purpose. Quorum for such a meeting is 75% of the membership of the Board.

**29.2.** If, on the winding up of the Association, any property of the Association remains after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of that winding up, that property shall be distributed:

- (a) to another association incorporated under the Act having objects similar to those of the Association; or
- (b) for charitable purposes, as the case requires, shall be determined by resolution of the members when authorising and directing the Association under section 33 (3) of the Act to prepare a distribution plan for the surplus property.

### **30. Trust Fund**

- 30.1.** The Association shall establish and maintain a public fund to be called “The Northern Agricultural Catchments Council Fund” for the specific purpose of supporting the environmental objects/purposes of the Northern Agricultural Catchments Council under Rule 3 and sub rules 3.1, 3.2 and 3.3. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997.
- 30.2.** The Fund will be operated on a not-for-profit basis.
- 30.3.** Members of the public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the organisation.
- 30.4.** Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the fund.
- 30.5.** Gifts of money received will be credited into the Fund as soon as practicable. Receipts are to be issued appropriately in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- 30.6.** A committee of management of no fewer than three persons will administer the fund. The committee of management for the fund will be appointed by the Board. A majority of the members of the committee of management for the fund are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations published by the Australian Department responsible for the environment.
- 30.7.** The association shall inform the Australian Department responsible for the Environment as soon as possible if:
  - (a) It changes its name or the name of its public fund; or
  - (b) There is any change to the membership of the management committee of the public fund; or
  - (c) There has been any departure from the model rules for public funds as outlined in the guidelines of the Register of Environmental Organisations.
- 30.8.** The Association agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.



- 30.9.** Any allocation of funds or property to other persons or organisations shall be made in accordance with the established objects of the association and shall not be influenced by the preference of the donor.
- 30.10.** Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year (i.e. the income year 1 July to 30 June). An audited financial statement for the organisation and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund moneys and the management of public fund assets.
- 30.11.** In the case of winding up of the Fund, any surplus assets will be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.
- 30.12.** A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the organisation.

## **31. Resolving Disputes**

### **31.1. Disputes Arising under the Rules**

- (a) This rule applies to:
- (i) Disputes between Members; and
  - (ii) Disputes between the Association and one or more Members that arise under the rules or relate to the rules of the Association.
- (b) In this rule “Member” includes any former Member whose membership ceased not more than six months before the dispute occurred.
- (c) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- (d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary of the parties, and details of, the dispute.
- (e) The Secretary must convene a Board Meeting within 28 days after the Secretary receives notice of the dispute under rule 31.1(d) for the Board to determine the dispute.
- (f) At the Board Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (g) The Secretary must inform the parties to the dispute of the Board’s decision and the reasons for the decision within 7 days after the Board Meeting referred to in rule 31.1 (e).
- (h) If any party to the dispute is dissatisfied with the decision of the Board they may elect to initiate further dispute resolution procedures as set out in the Rules.

### **31.2. Mediation**

- (a) This rule applies:
  - (i) where a person is dissatisfied with a decision made by the Board under rule 31.1; or
  - (ii) where a dispute arises between a Member or more than one Member and the Association and any party to the dispute elects not to have the matter determined by the Board.
- (b) Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure under Object 7 in respect of the proposed suspension or expulsion has been completed.
- (c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 31.1 (c), or a party to the dispute is dissatisfied with a decision made by the Committee under the rule 30.1 (g) a party to a dispute may:
  - (i) Provide written notice to the Secretary of the parties to, and the details of, the dispute;
  - (ii) Agree to, or request the appointment of, a mediator.
- (d) The party, or parties requesting the mediation must pay the costs of the mediation.
- (e) 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 or more than one Member and the Association, the Board or a Board Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- (f) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- (i) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard;

- (ii) allow all parties to consider any written statement submitted by any party;  
and
- (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (j) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

**31.3. Inability to Resolve Disputes**

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

End.

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