

Lake Macquarie Landcare Network Constitution

Prepared to satisfy the *Associations Incorporation Act 2009*



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Part 1 – Introduction and definitions

1. Definitions

(1) In this constitution:

Director-General means the Director-General of the Department of Services, Technology and Administration.

ordinary committee member means a member of the committee who is not an office-bearer of the association.

secretary means:

(a) the person holding office under this constitution as secretary of the association, or

(b) if no such person holds that office - the public officer of the Network.

special general meeting means a general meeting of the Network other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2010*.

(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 this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

Part 2. Mission Statements and Objectives

The mission Statement of Lake Macquarie Landcare Network Incorporated is to work towards the ecological restoration and sustainable management of the land and water resources, flora and fauna, in Lake Macquarie and to pass on a healthier natural environment to future generations. The Network will achieve this by undertaking the following objectives:

- a) Facilitate meetings with other Landcare and related organisations where the views and needs of Landcarers can be conveyed, through our elected Representatives, to the other Landcare Networks, Governments, Sponsors and other interested parties to promote and support Landcare in our region.
- b) Provide representation for the Landcare Groups in Lake Macquarie (with respect to policies, reforms and strategies for environmental and natural resource management and resources for Landcare projects) and endorse our representatives in other arenas.
- c) Encourage and facilitate effective coordination of projects and the distribution of resources, information and ideas across the city's Landcare Groups

- d) Facilitate Landcare field days where the efforts and aspirations of Landcarers in Lake Macquarie can be showcased in a public forum open to all interested in Landcare and environmental action in the region.
- e) Enter into agreements with individuals or organisations that promote and further the development of Landcare Groups and Landcare activities in Lake Macquarie.
- f) Administer and manage the business activities of the Network, including the engagement of employees. Undertaking works for the ecological restoration and sustainable management of the land and water resources in Lake Macquarie.
- g) Establish and maintain a public fund to be called “Lake Macquarie Landcare Network Public Fund” for the specific purpose of supporting the environmental objectives of Lake Macquarie Landcare Network Incorporated.

Part 3. Membership and Voting

The Network shall have one avenue of membership.

- a) All ordinary members shall be members of a Landcare group registered with Lake Macquarie City Council.
 - i. Only ordinary members shall be entitled to vote.
 - ii. Only one (1) vote is permitted for each registered Landcare group.
 - iii. Ordinary Membership shall cease upon resignation, from Lake Macquarie Landcare Network Incorporated or their registered Landcare Group; the person dies or is expelled from the Network

3.1 .Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the Network.

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

3.2. Resignation of membership

- (1) A member of the Network may resign from membership of the association by first giving to the secretary written notice.

3.3. Register of members

- (1) The public officer of the Network must establish and maintain a register of members of the Network specifying the name and postal or residential address of each person who is a member of the Network together with the date on which the person became a member.
- (2) The register of members must be kept in New South Wales:

- (a) at the main premises of the network, or
 - (b) if the Network has no premises, at the Network's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the Network at any reasonable hour.
 - (4) A member of the Network 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 use information about a person obtained from the register 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 Network or other material relating to the Network, or
 - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

3.4. Members' liabilities

The liability of a member of the Network to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the Network is limited to the amount, if any, unpaid by the member in respect of any written commitment to provide funds.

3.5. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the Network, or a dispute between a member or members and the Network, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a 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.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

3.6. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the Network:
 - (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 Network.
- (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 Network or suspend the member from membership of the Network 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 12.
- (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 12, whichever is the later.

3.7. Right of appeal of disciplined member

- (1) A member may appeal to the Network in a general meeting against a resolution of the committee under clause 11, 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 Network to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the Network 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 Network.

3.8 Composition and Membership of the Management Committee

The Network shall have its affairs controlled and managed by the Members of the

Network who meet as the Management Committee.

- a) The Office Bearers shall be the Chairperson, Deputy Chairperson, Secretary, Treasurer and any others elected by the membership in accordance with Part 3 (a) (ii).
- b) All Office Bearers shall be elected by the membership and endorsed at each Annual General Meeting.
- c) Each Member of the Committee shall hold office from the date of appointment until the next Annual General Meeting.
- d) Retiring Committee Members are eligible for re-election.
- e) Membership of the Management committee must not be employees of Lake Macquarie Landcare Network Inc or seconded to work with Lake Macquarie Landcare Network Inc from other groups such as Lake Macquarie City Council.
- f) The Committee shall meet to conduct the business of the Association as often as necessary as and not less than three times in each financial year of the Association.
- g) The quorum for meetings shall be made up of no less than 4 committee members.
- h) Notice of meetings shall be given at the previous Committee meeting or by such other means as the Committee may decide.
- i) A member of the Committee shall cease to hold office upon resignation in writing, death, cessation of membership or absence from three consecutive Committee meetings without the approval of the Committee.
- j) The Committee may function validly provided its number is not reduced below the quorum. Should this Management Committee fall below the quorum the remaining members may act only to accept new Committee Members.
- k) The Committee may form and dissolve Sub-Committees as required to carry out the appointed objectives of the Network. The members of these Sub-committees may be co-opted from outside the Networks membership.
- l) A committee member may hold up to 2 offices (other than the president and vice-president offices)

3.9. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the Network in general meeting, the committee:

- (a) is to control and manage the affairs of the Network, and
- (b) may exercise all such functions as may be exercised by the Network, other than those functions that are required by this constitution to be exercised by a general meeting of members of the Network, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the Network.

3.10. Election of committee members

- (1) Nominations of candidates for election as office-bearers of the Network or as ordinary committee members:
 - (a) must be made in writing, signed by 2 members of the Network 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 Network 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.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting, however no proxy or postal voting be allowed.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the Network must be a member of the Network.

3.11. Secretary

- (1) The secretary of the Network must, as soon as practicable after being appointed as secretary, lodge notice with the Network of his or her address.
- (2) It is the duty of the secretary to keep minutes 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 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.

3.12. Treasurer

It is the duty of the treasurer of the Network to ensure:

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

3.13. Public Officer

The committee shall ensure that a person is appointed as Public Officer.

- a) The first Public Officer shall be the person who completed the application for incorporation of the Network.
- b) The Committee may at any time remove the Public Officer and appoint a new Public Officer provided that the person appointed is 18 years of age or older and a resident of New South Wales.
- c) The Public Officer shall be deemed to have vacated their position in the following circumstances:
 - I. death;
 - II. resignation;
 - III. removal by the committee or at a general meeting;
 - IV. bankruptcy or financial insolvency;
 - V. mental illness; or
 - VI. residency outside New South Wales.
- a) When a vacancy occurs in the position of Public Officer the committee shall within 14 days notify the Department of Fair Trading by the prescribed form and appoint a new Public Officer.
- b) The Public Officer is required to notify the Department of Fair Trading by the prescribed form in the following circumstances:
 - c) appointment (within 14 days);
 - d) a change of residential address (within 14 days);
 - e) a change in the Network's objectives or rules (within one month);
 - f) the Network's financial affairs (the Annual Statement) (within one month after the annual general meeting);
 - g) a change in the Network's name (within one month).
- h) The Public Officer may be an office bearer, committee member, member or any other person regarded as suitable for the position by the committee.
- i) The Public Officer shall keep a register of members of the committee which must contain the name and residential address of each committee member and the date on which s/he became a member of the committee;
- j) be updated within one month of any change taking place; and
- k) be made available for inspection by any person, at all reasonable hours and free of charge.

3.14. 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 Network to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of 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 Network, or
 - (c) 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 19, of the Associations Incorporation Regulation 2010 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.

3.15. Removal of committee members

- (1) The Network in general meeting may by resolution remove any member of the committee from the office of 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 Network, the secretary or the president may send a copy of the representations to each member of the Network 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.

3.16. Management Committee meetings and quorum

- (1) The committee must meet at least 3 times in each period of 12 months at such place and time as the committee may determine.
- (2) Additional meetings of the committee may be convened by the chairman 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 such other period as 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 subclause (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) Any 4 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, 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.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the committee:
 - (a) the chairman or, in the president's absence, the vice-chairman is to preside, or
 - (b) if the chairman and the vice-chairman are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.
- (9) Operation of Management Committee meetings
 - a) Questions arising at any meeting of the committee shall be decided by consensus
 - b) If consensus cannot be reached the question shall be decided by a majority vote of the Committee Members present. Each Committee Member shall be entitled to vote on the matter.

3.17. Delegation by committee to sub-committee

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the Network as the committee thinks fit) the exercise of such of the functions of the committee as 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 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.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- (5) 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.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

3.18. Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by 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 clause 20 (5), 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 or by a sub-committee appointed 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.

Part 4 - General meetings

4.19. Annual general meetings - holding of

- (1) The Network must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The Network must hold its annual general meetings:
 - (a) within 6 months after the close of the Network's financial year, or
 - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

4.20. Annual general meetings - calling of and business at

- (1) The annual general meeting of the Network is, subject to the Act and to clause 23, to be convened on such date and at such place and time as 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 special general meeting held since that meeting,
 - (b) to receive from the committee reports on the activities of the Network during the last preceding financial year,
 - (c) to elect office-bearers of the Network and ordinary committee members,
 - (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 such in the notice convening it.

4.21. Special general meetings - calling of

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the Network.
- (2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the Network.
- (3) A requisition of members for a special general meeting:
 - (a) must state the purpose or purposes of the meeting, and
 - (b) must be signed by the members making the requisition, and
 - (c) must be lodged with the secretary, and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that 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.
- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

4.22. Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Network, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member by email, newsletter or webpage 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 Network, 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.
- (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 24 (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.

4.23. 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) Five 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, 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.

4.24. Presiding member

- (1) The chairman or, in the chairman's absence, the vice-chairman is to preside as chairperson at each general meeting of the Network.
- (2) If the chairman and the vice-chairman are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

4.25. 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 Network 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.

4.26. Making of decisions

- (1) A question arising at a general meeting of the Network is to be determined by either:
 - (a) a show of hands, 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.
- (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 Network, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

- (3) 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.

4.27. Special resolutions

A special resolution may only be passed by the Network in accordance with section 39 of the Act.

4.28. Voting

- (1) On any question arising at a general meeting of the Network 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 Network unless all money due and payable by the member to the Network has been paid.
- (4) A member is not entitled to vote at any general meeting of the Network if the member is under 18 years of age

4.29. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Part 5 - Miscellaneous

5.30. Insurance

The Network may effect and maintain insurance.

5.31. Funds - source

- (1) The funds of the Network are to be derived from fees, members, donations, grants and business undertakings and, subject to any resolution passed by the Network in general meeting, such other sources as the committee determines.
- (2) All money received by the Network must be deposited as soon as practicable and without deduction to the credit of the Network's bank or other authorised deposit-taking institution account.
- (3) The Network must, as soon as practicable after receiving any money, issue an appropriate receipt.

5.32. Funds - management

- (1) Subject to any resolution passed by the Network in general meeting, the funds of the Network are to be used in pursuance of the objects of the Network in such manner as the committee determines.

- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the Network, being members or employees authorised to do so by the committee.

5.33. Change of name, objects and constitution

An application to the Director-General for registration of a change in the Network'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.

5.34. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

5.35. 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 Network,
 - (b) this constitution,
 - (c) minutes of all committee meetings and general meetings of the Network.
- (2) A member of the Network 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.

5.36. 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.

- d. In the event that the Network should be wound up, or have its incorporation cancelled, any surplus property shall be transferred to any Network in the region, which has similar objectives and which is exempt from income tax, and in accordance with the provisions of the *Associations Incorporation Act, 1984*
- e. The assets and income of the Network shall be applied solely in the furtherance of its above mentioned objectives and no portion shall be distributed directly or indirectly to the members of the Network, except as bona fide compensation for services rendered or expenses incurred on behalf of the Network.
- f. The assets and income of the Network shall be applied solely in the furtherance of its above mentioned objectives and no portion shall be distributed directly or indirectly to the members of the Network, except as bona fide compensation for services rendered or expenses incurred on behalf of the Network.

5.37. Financial year

The financial year of the network is:

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

5.38. Public Fund

- a) Establishment of the Public Fund

To establish and maintain a public fund to be called the Lake Macquarie Landcare Network Public Fund for the specific purpose of supporting the environmental objects/purposes of Lake Macquarie Landcare Network Inc. 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 Funds 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.

- b) Requirements of Public Fund

The Network must inform the department responsible for the environment as soon as possible if:

- i. It changes its name or the name of its public fund ; or
- ii. There is any change to the membership of the management committee of the public fund; or
- iii. There has been any departure from the model rules for public funds located in the Guideline to the Register of Environmental Organisations

c) Ministerial Rules

The organisation agrees to comply with any rules that the Treasurer and the Minister with the responsibility for the environment may make to ensure gifts made to the fund are only used for its principal purpose.

d) Not-for-Profit

The income and property of the Network shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors or trustees of the Network.

e) Conduit Policy

Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the organisation and not be influenced by the preference of the donor.

f) Winding-up

In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

g) 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.

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 monies and the management of public fund assets.

5.39. Rules for public funds

- a) The objective of the fund is to support the organisation's environmental purposes.
- b) 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.
- c) 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.
- d) 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.
- e) Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- f) The fund will be operated on a not-for-profit basis.
- g) A committee of management of no fewer than three persons will administer the fund. The committee will be appointed by the organisation. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines of the Register of Environmental Organisations.