

# Lake Macquarie Landcare Volunteer Network Constitution



# CONSTITUTION

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## Part 1 – Introduction and definitions

### 1. Definitions

(1) In this constitution:

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

**Ordinary member** means a member of a Landcare Group registered with Lake Macquarie City Council by completion of a registration form.

**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 2016*.

(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. Membership and Voting

### 2.1. Eligibility for membership and voting

The Network has only ordinary members who are entitled to one vote each in person.

### 2.2. 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.

### **2.3. Cessation of membership**

A person ceases to be a member of the Network if the person

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the Network or
- (d) fails to pay the annual membership fee under Clause 2.6 (1) within three months after the fee is due.

### **2.4. Resignation of membership**

- (1) A member of the Network may resign from membership of the Network by first giving to the secretary written notice of at least one month (or any other period that the committee may determine) of the member's intention to resign. On the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the Network 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.

### **2.5. Register of members**

- (1) The public officer or other delegated Network committee member 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) 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.
- (5) 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.
- (6) If the register of members is kept in an electronic form:
  - (a) it must be convertible to hard copy and

- (b) the requirements of subclause (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.

## **2.6. Fees and subscriptions**

- (1) A member of the Network must, on admission to membership, pay to the Network a fee as determined annually by the committee.

## **2.7. 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.

## **2.8. 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 2010* applies to any such dispute referred to arbitration.

## **2.9. 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 2.10
- (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 2.10, whichever is the later.

### ***2.10. 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 2.9, 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.

## ***Part 3 The Committee***

### ***3.1. 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.

### **3.2. Composition and membership of committee**

- (1) The committee is to consist of:
  - (a) the office bearers of the Network, and
  - (b) at least three ordinary committee members,  
each of whom is to be elected at the annual general meeting of the Network under Clause 3.3
- (2) The total number of committee members is to be at least 7.
- (3) The office bearers of the Network are as follows:
  - (a) the chair,
  - (b) the deputy chair
  - (c) the treasurer and
  - (d) the secretary
- (4) A committee member may hold up to two offices (other than both offices of chair and deputy chair).
- (5) The maximum number of terms an office bearer may hold is two terms.
- (6) In the event that an office bearer has completed two terms of office, and in the event that there are no other nominations for the office, an office bearer may hold office for an additional term.
- (7) The maximum number of committee members from the any Landcare Group is two.
- (8) Employees of Lake Macquarie City Council are not eligible for membership of the committee.

### **3.3. 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.

### **3.4. 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 chair of the meeting or by the chair of the next succeeding meeting. The signature of the chair may be transmitted by electronic means for the purposes of the sub clause.
- (4) The Secretary ensures that all correspondence and official records other than financial records are current and available; that meeting papers are distributed; that correspondence is dealt with in a timely manner; and that requirements of incorporation are met.

### **3.5. 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.
- (c) that reports and information are presented to Committee members at each meeting and the AGM.

### **3.6. Public Officer**

The committee shall ensure that a person is appointed as Public Officer. The first Public Officer shall be the person who completed the application for incorporation of the Network.

- 1) 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. The Public Officer shall be deemed to have vacated their position in the following circumstances:
  - death;
  - resignation;

- removal by the committee or at a general meeting;
- bankruptcy or financial insolvency;
- mental illness; or
- residency outside New South Wales,

and upon vacating office, is responsible for returning all documents to a committee member within 14 days.

- 2) 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.
- 3) The Public Officer is required to notify the Department of Fair Trading by the prescribed form in the following circumstances:
  - appointment (within 14 days);
  - a change of residential address (within 14 days);
  - a change in the Network's objectives or rules (within one month);
  - the Network's financial affairs (the Annual Statement) (within one month after the annual general meeting);
  - a change in the Network's name (within one month).
- 4) The Public Officer may be an office bearer, committee member, member or any other person regarded as suitable for the position by the committee.
- 5) The Public Officer shall have custody of books and records of the Network, and such items shall be kept at the main premises of the Network.

### **3.7. 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 3.8, 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 and has been notified of this after 2 consecutive absences without consent, 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.

### **3.8. Removal of Committee members**

- (1) The Network Committee in a 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 chair (not exceeding a reasonable length) and requests that the representations be notified to the members of the Network Committee, the Secretary or the Chair may send a copy of the representations to each member of the Network Committee 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.

### **3.9. 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 and reconvene within two weeks.
- (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 Chair or, in the Chair's absence, the Deputy-Chair is to preside, or
  - (b) if the Chair and the Deputy-Chair are absent or unwilling to act, one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

### **3.10. Delegation by committee to sub-committee**

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of an Executive member and 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.

### **3.11. 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) In the presence of a quorum, 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**

### **4.1. 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.

#### **4.2. Annual general meetings - calling of and business at**

- (1) The annual general meeting of the Network is, subject to the Act and to clause 4.1 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.

#### **4.3. 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) above must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

#### **4.4. 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 3.8(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.

#### ***4.5. 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 day and time within two weeks (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 three) are to constitute a quorum.

#### ***4.6. Presiding member***

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

#### ***4.7. Adjournment***

- (1) The chair 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.

#### **4.8. 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 chair 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 chair 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 chair.

#### **4.9. Special resolutions**

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

#### **4.10. 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 chair 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

#### **4.11. Proxy votes not permitted**

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

#### **4.12. Postal or electronic ballots**

The Network may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 2.10).

## **Part 5 - Miscellaneous**

### **5.1. Insurance**

The Network may effect and maintain insurance.

### **5.2. 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.

### **5.3. 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.

### **5.4. Network is non profit**

Subject to the Act and Regulation the Network 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. Section 5 of the Act defines pecuniary gain for the purpose of this clause.

### **5.5. Distribution of property on winding up of the Network**

- (1) Subject to the Act and Regulations, in a winding up of the Network, any surplus property of the Network is to be transferred to another organisation, in the Hunter Region, 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 the Network is a reference to that property of the Network remaining after satisfaction of the debts and liabilities of the Network and the costs, charges and expenses of the winding up of the Network. Note Section 65 of the Act provides for the distribution of surplus property on the winding up of an association.

### **5.6. Change of name, objects and constitution**

An application 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.

### **5.7. Custody of books etc**

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in NSW at the main premises of the Network in the custody of the public officer.

### **5.8. Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a member of the Network 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.
- (3) Despite subclauses (1) and (2), the committee may refuse to permit a member of the Network to inspect or obtain a copy of records of the Network that relate to confidential, personal, employment, commercial or legal matters, as it may be prejudicial to the interests of the Network to do so.

### **5.9. 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.

### **5.10. 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.

## **5.11 Amalgamation of associations**

The Network may, by special resolution at a general meeting, and where it furthers the objectives of the Network

- . amalgamate with one or more incorporated associations
- . having similar objectives; and
- . whose association rules prohibit the distribution of assets and income to members; and
- . whose association must be exempt from income tax

## **5.12. 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.

### **5.13. 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.

**End of Constitution** □