



CLIMATE ACTION NETWORK AUSTRALIA

CONSTITUTION

A public company limited by guarantee under the *Corporations Act 2001* (Cth)

TABLE OF CONTENTS

1	ENVIRONMENTAL PURPOSES OF THE COMPANY	4
1.1	Principal Purpose	4
1.2	Supporting Purposes	4
1.3	Company powers as a body corporate	4
2	CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY.....	5
2.1	Income applied for the Environmental Purposes.....	5
2.2	Charitable purposes only	5
2.3	Winding up	5
2.4	Surplus gifts.....	6
2.5	Public fund.....	6
3	CANA PUBLIC FUND.....	6
3.1	Establishing and maintaining the CANA Public Fund	6
3.2	Requirements of the CANA Public Fund	6
3.3	Ministerial Rules	7
3.4	Conduit Policy.....	7
3.5	Winding-up	7
3.6	Statistical Information	7
3.7	General.....	7
4	MEMBERSHIP	8
4.1	Limited liability of Members / guarantee.....	8
4.2	Classes of Members and eligibility	8
4.3	Limit on number of Members	9
4.4	Member rights and obligations.....	9
4.5	Rights not transferrable	9
4.6	Membership period / subscription fees.....	9
4.7	Representatives.....	10
4.8	Register of Members, including closure of register	10
4.9	Change of Member details.....	10
5	BECOMING AND CEASING TO BE A MEMBER.....	10
5.1	Nomination for Membership.....	10
5.2	Admission of Members	10
5.3	Resignation of Members.....	11
5.4	Ceasing to be a Member	11
5.5	Disciplining Members.....	11
6	GENERAL MEETINGS	11
6.1	Convening meetings — annual / special	11
6.2	Ordinary and special business	12
6.3	Notice of meeting.....	12
6.4	Postponement	12
6.5	Quorum	13
6.6	General meeting chair	13
6.7	Adjournment	13
6.8	Voting – show of hands / poll	14
6.9	Proxies	14
6.10	Use of technology	15
6.11	Circular resolution.....	15

7	BOARD	15
	7.1 Structure of Board / Number of Directors	15
	7.2 Elected Directors	15
	7.3 President	16
	7.4 Eligibility to be a Director	16
	7.5 Limits on period of office as a Director	16
	7.6 Term of office of Directors.....	16
	7.7 Casual vacancies	17
	7.8 Resignation of Directors	17
	7.9 Ceasing to be a Director	17
	7.10 Director remuneration and reimbursements.....	17
	7.11 Transitional arrangements	18
8	BOARD POWERS	18
	8.1 Management vests in Board	18
	8.2 Power to delegate.....	18
	8.3 Power to appoint Secretary.....	19
	8.4 Power to appoint Treasurer	19
	8.5 Power to make Regulations	19
9	BOARD MEETINGS	19
	9.1 Number of meetings	19
	9.2 Convening meetings.....	19
	9.3 Notice of meeting.....	19
	9.4 Quorum	20
	9.5 Board meeting chair.....	20
	9.6 Voting	20
	9.7 Use of technology	20
	9.8 Circulating resolutions	20
	9.9 Conflicts and personal interests.....	21
	9.10 Minutes.....	21
	9.11 Validity of acts / procedural defects	21
10	BOARD COMMITTEES	21
	10.1 Committees	21
11	ADMINISTRATION	22
	11.1 Change of name	22
	11.2 Amendment of Constitution.....	22
	11.3 Accounts.....	22
	11.4 Audits	22
	11.5 Records and inspection	22
	11.6 Service of notices	22
	11.7 Indemnity of officers.....	23
	11.8 Insurance.....	23
	11.9 Company seal.....	23
	11.10 Definitions.....	23
	11.11 Interpretation rules.....	25
	11.12 Application of Act.....	26
	11.13 Application of ACNC Act.....	26

CLIMATE ACTION NETWORK AUSTRALIA

CONSTITUTION

1 ENVIRONMENTAL PURPOSES OF THE COMPANY

1.1 Principal Purpose

The Principal Purpose of the Company is the protection and enhancement of the natural environment and the provision of information and education about the natural environment, particularly in relation to climate change.

1.2 Supporting Purposes

In support of the Principal Purpose, the Supporting Purposes of the Company are to:

- 1.2.1 provide a forum for Members to work together on campaigns and projects to reduce Australia's greenhouse gas emissions to ecologically sustainable levels;
- 1.2.2 formulate and promote policies to reduce Australia's greenhouse gas emissions and to ensure that Australia is part of the international agreements to make the pollution reductions necessary to avoid and mitigate climate change;
- 1.2.3 to encourage co-operation and develop strategic alliances to help advance the reduction of greenhouse gas emissions:
 - (a) between Members;
 - (b) between Members and other organisations in Australia who are not Members of the Company; and
 - (c) between Members and persons and/or organisations who are members of other environmental organisations worldwide, which include those organisations who are associated with the international climate action network;
- 1.2.4 encourage the active involvement and interest of the Australian community in campaigns to reduce Australia's impact on the atmosphere;
- 1.2.5 represent Australia and contribute to the objects and purposes of the international climate action network;
- 1.2.6 do all lawful things consistent with, necessary or desirable to support and further the Principal Purpose; and
- 1.2.7 establish and maintain the CANA Public Fund.

1.3 Company powers as a body corporate

- 1.3.1 Solely to carry out the Environmental Purposes, the Company may, in any manner permitted by the Act:
 - (a) exercise any power;
 - (b) take any action; and

(c) engage in any conduct or procedure;

which under the Act a public company limited by guarantee may exercise, take or engage in if authorised by its constitution.

1.3.2 Without limiting clause 1.3.1, the Company may pursue the Environmental Purposes by:

- (a) raising money to further the Environmental Purposes and secure sufficient funds to pursue the Environmental Purposes; and
- (b) receiving any funds and applying those funds in a manner that best attains the Environmental Purposes.

2 CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY

2.1 Income applied for the Environmental Purposes

2.1.1 The income and property of the Company:

- (a) must be applied solely towards the Environmental Purposes; and
- (b) must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise.

2.1.2 Clause 2.1.1 does not prevent the Company from paying a Member or Officer a reasonable and proper amount with the Board's prior approval in good faith for:

- (a) goods or services supplied to the Company;
- (b) interest on money lent to the Company; or
- (c) rent for premises let to the Company.

2.2 Charitable purposes only

Despite anything to the contrary in this Constitution, the Company is established:

2.2.1 solely to be a not-for-profit, charitable institution; and

2.2.2 to pursue not-for-profit, charitable purposes.

2.3 Winding up

Subject to clauses 2.4 and 2.5, the Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

2.3.1 must not be paid or given to Members or former Members (unless the Member is an institution to which clause 2.3.2 applies); and

2.3.2 must be paid to one or more funds, authorities or institutions which:

- (a) have charitable purposes similar to the Environmental Purposes;
- (b) prohibit their income and property from being paid to members on at least the terms of this clause 2.3.2;

- (c) are registered under the ACNC Act if the Company had been;
- (d) are income tax exempt under the ITAA if the Company had been;
- (e) can receive deductible gifts under the ITAA if the Company could and on the same basis; and
- (f) are selected at or before wind up or dissolution by:
 - (1) special resolution of the Members;
 - (2) failing clause (1), by resolution of the Board;
 - (3) failing clause (2), by application to the Victorian Supreme Court.

2.4 Surplus gifts

If the Company is not required to maintain a gift fund, on winding up of the Company or revocation of the Company's deductible gift recipient endorsement (whichever is the earlier), any surplus gifts, fundraising contributions or money received because of them as set out in section 30-125(6)(b) of the ITAA must be transferred to one or more funds, authorities or institutions determined according to clause 2.3.2 which is also endorsed as a deductible gift recipient on the same basis as the Company.

2.5 Public fund

The Company establishes and maintains the CANA Public Fund in accordance with clause 3.

3 CANA PUBLIC FUND

3.1 Establishing and maintaining the CANA Public Fund

- 3.1.1 The Company hereby establishes and maintains the CANA Public Fund.
- 3.1.2 The CANA Public Fund is established for the Environmental Purposes.
- 3.1.3 The CANA Public Fund is established to receive all gifts of money or property for the Environmental Purposes.
- 3.1.4 Any money received because of gifts referred to in clause 3.1.3 will be credited to the CANA Public Fund's bank account.
- 3.1.5 The CANA Public Fund will not receive any other money or property into its account.
- 3.1.6 The CANA Public Fund will comply with Subdivision 30-EA of the ITAA.

3.2 Requirements of the CANA Public Fund

The Company must inform the Department responsible for the environment as soon as possible if:

- 3.2.1 it changes its name or the name of the CANA Public Fund; or
- 3.2.2 there is any change to the membership of the management committee of the CANA Public Fund; or

3.2.3 there has been any departure from the rules of the CANA Public Fund.

3.3 Ministerial Rules

The Company 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.

3.4 Conduit Policy

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

3.5 Winding-up

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

3.6 Statistical Information

3.6.1 Statistical information requested by the Department on donations to the CANA Public Fund will be provided within four months of the end of the financial year.

3.6.2 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;

3.7 General

3.7.1 The objective of the CANA Public Fund is to support the Company's Environmental Purposes.

3.7.2 Members of the public are to be invited to make gifts of money or property to the CANA Public Fund for the environmental objects and purposes of the organisation.

3.7.3 Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the CANA Public Fund.

3.7.4 A separate bank account is to be opened to deposit money donated to the CANA Public Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Company.

3.7.5 Receipts are to be issued in the name of the CANA Public Fund and proper accounting records and procedures are to be kept and used for the CANA Public Fund.

3.7.6 The CANA Public Fund will be operated on a non-profit basis.

3.7.7 A fund committee of no fewer than 3 persons will administer the CANA Public Fund. The Fund Committee will be appointed by the Board. A majority of the members of the fund committee are required to be

'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.

4 MEMBERSHIP

4.1 Limited liability of Members / guarantee

4.1.1 A Member's liability is limited to the guaranteed amount in clause 4.1.2.

4.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to \$1.00 towards:

- (a) the Company's liabilities contracted before the person ceased to be a Member; and
- (b) costs, charges and expenses to wind up and adjust the rights of the contributories among themselves.

4.2 Classes of Members and eligibility

4.2.1 The classes of membership of the Company are:

- (a) Ordinary Membership;
- (b) Associate Membership; and
- (c) such other voting or non-voting classes whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status will be determined by the Board.

4.2.2 For all classes of membership, an applicant will only be eligible for membership if:

- (a) the applicant is a body corporate
- (b) the applicant has been nominated in writing for membership by a current Ordinary Member;
- (c) the nomination has been approved by the Board;
- (d) the applicant meets all criteria set out in:
 - (1) this Constitution; and
 - (2) the Regulations from time to time.

4.2.3 An applicant is eligible to be an Ordinary Member if the applicant meets all criteria for becoming an Ordinary Member set out in:

- (a) this Constitution; and
- (b) the Regulations from time to time.

4.2.4 An applicant is eligible to be an Associate Member if the applicant:

- (a) meets all criteria for becoming an Associate Member set out in:
 - (1) this Constitution; and

- (2) the Regulations from time to time; and
- (b) either:
 - (1) is not qualified to be an Ordinary Member, or
 - (2) indicates that it does not wish to be an Ordinary Member.

4.3 Limit on number of Members

The number of Members is unlimited unless the Members set a limit in general meeting.

4.4 Member rights and obligations

4.4.1 Ordinary Members and other voting Members:

- (a) have the right to receive notice of, attend, speak at and vote at general meetings if they have paid their annual membership subscription; and
- (b) may receive newsletters and publications of the Company; and
- (c) may participate in any forums convened by the Company.

4.4.2 Associate Members and other non-voting Members:

- (a) have the right to receive notice of, attend, speak at, but not vote at general meetings; and
- (b) may receive newsletters and publications of the Company; and
- (c) may participate in any forums convened by the Company.

4.5 Rights not transferrable

A person's membership rights and privileges:

- 4.5.1 apply only whilst the person is a Member; and
- 4.5.2 are personal and may not be transferred or transmitted.

4.6 Membership period / subscription fees

The Board may determine:

- 4.6.1 the membership period (including common expiry dates) and the timing for membership to be renewed;
- 4.6.2 fees payable by Members, including any application fee to apply for membership, any entrance fee to be admitted as a Member and any annual membership subscriptions; and
- 4.6.3 whether fees are refundable or non-refundable.

4.7 Representatives

A Member which is a body corporate may appoint a representative in accordance with Part 2G.2 Division 6 of the Act.

4.8 Register of Members, including closure of register

4.8.1 The Company must maintain a register of Members in accordance with the Act and the ACNC Act which contains the following details for current and recent former Members:

- (a) name;
- (b) addresses for notices; and
- (c) membership start and end dates.

4.8.2 The Board may establish Regulations which regulate closure of the register for up to 60 days per year.

4.8.3 Separate to the register, the Company may maintain a database of personal Member details which are not used for notices.

4.9 Change of Member details

A Member must notify the Company if the Member's addresses for notices change within 28 days of the change.

5 BECOMING AND CEASING TO BE A MEMBER

5.1 Nomination for Membership

A nomination of an organisation for Membership of the Company:

- 5.1.1 can only be made by a Member entitled to vote at a general meeting;
- 5.1.2 shall be made in writing in the form prescribed by the Board from time to time; and
- 5.1.3 shall be lodged with the Secretary.

5.2 Admission of Members

5.2.1 Any Member entitled to vote at a general meeting may nominate a candidate to be admitted as a Member in accordance with clause 5.1.

5.2.2 The Board must review and consider any nomination for membership received within a reasonable time.

5.2.3 The Board may admit in its absolute discretion approve or deny a nomination for membership.

5.2.4 The Board need not provide reasons for admitting or refusing to admit a person as Member.

5.2.5 Successful applicants become Members when they are added to the register of Members.

5.3 Resignation of Members

- 5.3.1 A Member may resign as Member by written notice to the Company.
- 5.3.2 The resignation takes effect when the Company receives the Member's notice or on a later date specified in the notice.

5.4 Ceasing to be a Member

A person automatically ceases to be a Member if the person:

- 5.4.1 does not renew the membership by the due date;
- 5.4.2 has not paid the annual membership subscription for 3 months after the due date, unless the Board has by prior resolution resolved to allow the Member a longer period to pay the subscription;
- 5.4.3 becomes untraceable for 6 months because the Member cannot be contacted using the address on the register of Members; or
- 5.4.4 experiences an Insolvency Event;

5.5 Disciplining Members

The Board may at any time terminate a person's Membership or warn, fine, censure, suspend or expel a Member if the Member:

- 5.5.1 engages in Terminable Conduct, subject to:
 - (a) the decision being made by two-thirds majority of all Directors whether they are all present and voting;
 - (b) the Member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and
 - (c) the Member's appeal rights (if any) set out in the Regulations and prescribed by law;
- 5.5.2 refuses or neglects to comply with the provisions of this Constitution or the Regulations;
- 5.5.3 is found guilty by a court of an indictable offence; or
- 5.5.4 has a debt to the Company which remains unpaid for one year or more.

6 GENERAL MEETINGS

6.1 Convening meetings — annual / special

- 6.1.1 General meetings other than annual general meetings are called special general meetings.
- 6.1.2 The Board must convene and hold annual and special general meetings of the Members if required by the Act and the ACNC Act.
- 6.1.3 The Board or 4 Directors may convene special general meetings of the Members.

6.1.4 The Board must convene a special general meeting upon requisition in writing by not less than 5% of the total number of Members.

6.2 Ordinary and special business

6.2.1 The ordinary business of an annual general meeting is to:

- (a) consider the Board's, financial and auditor's report;
- (b) declare the Director election results;
- (c) appoint an auditor if that office has or will become vacant at the meeting; and
- (d) consider any other matter required by the Act or the ACNC Act.

6.2.2 Special business means:

- (a) for an annual general meeting — business which is not ordinary business according to clause 6.2.1; and
- (b) for a special general meeting — all business specified in the notice of meeting.

6.2.3 The notice of meeting must specify the general nature of any special business, unless the Act or the ACNC Act requires otherwise.

6.3 Notice of meeting

6.3.1 At least 21 days' notice of any general meeting must be given specifying the place, date and time of the meeting, unless section 249H(2) of the Act or the ACNC Act requires or permits some other period of notice.

6.3.2 Notice of every general meeting must be given in writing in accordance with clause 11.6 to:

- (a) every Director;
- (b) every Member entitled to attend who has supplied an address for notices to the Company; and
- (c) the Company's auditor.

6.3.3 No other person is entitled to receive notices of general meetings.

6.3.4 A general meeting and any resolution passed at the meeting is not invalid merely because of:

- (a) the accidental omission to give notice of the meeting; or
- (b) the non-receipt of any such notice.

6.4 Postponement

6.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members.

6.4.2 Clause 6.4.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 6.1.3 or by court order.

6.5 Quorum

6.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.

6.5.2 The quorum for general meetings is 5% of voting Members present in person or by proxy.

6.5.3 If a quorum is not present within half an hour of the time scheduled to start the general meeting:

- (a) the meeting, if requisitioned by Members, is dissolved; and
- (b) in any other case, the meeting is adjourned to such other place, date and time as the Board determines and notifies to Members (if required to do so by clause 6.7).

6.5.4 If a quorum is not present within 30 minutes from the scheduled time to start the adjourned meeting, the meeting is dissolved.

6.6 General meeting chair

6.6.1 The President may chair a general meeting.

6.6.2 If the President is not present and willing to act:

- (a) the Directors present may choose one of their number to chair the meeting;
- (b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair.

6.6.3 In addition to powers conferred by law, the meeting chair may:

- (a) determine the meeting's conduct and procedures to ensure proper and orderly discussion or debate;
- (b) make rulings without putting a question to the vote, or terminate discussion or debate and require that matter to be put to a vote;
- (c) refuse to allow debate or discussion on any matter which is not ordinary or special business; and
- (d) refuse any person admission to a general meeting (including for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

6.6.4 All procedural decisions by the meeting chair are final.

6.7 Adjournment

6.7.1 The meeting chair:

(a) may, with the consent of any general meeting at which a quorum is present; and

(b) must, if so directed by the meeting,

adjourn the meeting to some other time or place.

6.7.2 The adjourned meeting may only transact unfinished business from the original meeting.

6.7.3 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.8 Voting – show of hands / poll

6.8.1 A resolution put to the vote of the general meeting must be decided by a show of hands unless a poll is demanded pursuant to clause 6.8.4.

6.8.2 A declaration by the meeting chair that a resolution has on a show of hands been carried, carried unanimously, carried by a particular majority or lost, and an entry to that effect made in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

A poll must be held on a resolution before the general meeting if demanded on or before the meeting chair declaring the result by at least 3 Members present in person or by proxy and entitled to vote.

6.8.3 The demand for a poll may be withdrawn.

6.8.4 If a poll is demanded:

(a) when electing a meeting chair under clause 6.6 or on a question of adjournment, it must be taken immediately;

(b) otherwise, it must be taken at the general meeting at which it is demanded (or at its adjournment), in such manner as the meeting chair directs.

6.8.5 Any dispute regarding voting must be referred to the meeting chair, whose decision is final.

6.9 Proxies

6.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which that Member may attend and vote.

6.9.2 For the instrument appointing a proxy to be valid, it must be:

(a) in writing and signed by the appointor;

(b) in the form complying with section 250A of the Act or some other Board approved form; and

(c) lodged with the Secretary at least 24 hours before the time for holding the meeting or adjourned meeting.

- 6.9.3 No Member may hold more than 5 proxies at any one time.
- 6.9.4 A vote given according to the proxy instrument is valid despite:
- (a) the death, or unsoundness of mind, of the appointor; or
 - (b) revocation of the instrument or of the authority under which the instrument was executed,
- if no knowledge in writing of that fact was received by the Company before commencing the meeting or adjourned meeting at which the instrument is used.

6.10 Use of technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

6.11 Circular resolution

- 6.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by circular resolution, unless the Act or the ACNC Act requires a special or ordinary resolution to be passed at a general meeting.
- 6.11.2 The Board may determine in the Regulations:
- (a) the form of the circular resolution;
 - (b) the polling date;
 - (c) the method for responding to the circular resolution; and
 - (d) whether voting on the circular resolution is to be by secret ballot.

7 BOARD

7.1 Structure of Board / Number of Directors

The Board will comprise between 4 and 9 Directors as follows:

- 7.1.1 between 4 and 8 Elected Directors, elected by the voting Members in accordance with clause 7.2; and
- 7.1.2 a President, if the Board appoints a person to the position of President, in accordance with clause 7.3, that is not an Elected Director.

7.2 Elected Directors

- 7.2.1 Nominations of candidates for election as a Director must be signed by the candidate, contain a consent to act as a Director signed by the candidate and must be received at least 7 days before the annual general meeting.
- 7.2.2 If the number of nominations of candidates for election does not exceed the number of vacancies, those candidates will be declared elected at the annual general meeting.

- 7.2.3 If the number of nominations of candidates exceeds the number of vacancies, a ballot shall be held.
- 7.2.4 The ballot for the election of Directors shall be conducted at the Annual General Meeting in such manner as the Board may direct.
- 7.2.5 The returning officer appointed by the Board must declare the election result at the annual general meeting.

7.3 President

- 7.3.1 At the first meeting of the Board after the Company's annual general meeting the Board shall appoint a President who may or may not be a Director.
- 7.3.2 The Board may only appoint a person as President if the person has provided a written consent to act as a Director.

7.4 Eligibility to be a Director

A person is eligible to become a Director if he or she:

- 7.4.1 is over the age of 18 years;
- 7.4.2 consents in writing to become a Director;
- 7.4.3 is not prohibited or disqualified or otherwise prevented from being a Director of a company under the Act or a responsible person of a registered charity under the ACNC Act; and
- 7.4.4 is not an employee of the Company.

7.5 Limits on period of office as a Director

If a Director has served 9 years or more continuously, then the Director may finish serving his or her current term of office but does not become eligible to be elected or appointed (whether or not to a casual vacancy) until he or she has not been a Director for a subsequent continuous period of 2 years.

7.6 Term of office of Directors

- 7.6.1 An Elected Director holds office:
 - (a) from immediately after the annual general meeting at which his or her election was declared;
 - (b) until the end of the second annual general meeting after the one at which his or her election was declared.
- 7.6.2 The President holds office:
 - (a) from immediately after the Board meeting at which he or she was appointed;
 - (b) until the end of the second annual general meeting after the his or her appointment.
- 7.6.3 Subject to clause 7.5, a retiring Director is eligible for re-appointment.

7.7 Casual vacancies

- 7.7.1 If a casual vacancy occurs for any Elected Director office, the Board may appoint a person eligible to serve as a Director in his or her place until the end of the next annual general meeting. The voting Members must then elect a person to fill the Elected Director in accordance with clause 7.2. The person elected will serve only for the balance of the term of the original Elected Director.
- 7.7.2 If a casual vacancy occurs for the President position, the Board may appoint a person eligible to serve as the President for the balance of the term of the original President.
- 7.7.3 The Board may continue to act despite vacancies on the Board. However, if there are less than 4 Directors, the Board may only:
- (a) act in the case of emergencies;
 - (b) appoint persons to fill casual vacancies; or
 - (c) convene a general meeting.

7.8 Resignation of Directors

- 7.8.1 A Director may resign as Director by written notice to the Company.
- 7.8.2 The resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

7.9 Ceasing to be a Director

- 7.9.1 The Members may remove any Director in accordance with the Act.
- 7.9.2 A Director automatically ceases to hold that position if the Director:
- (a) dies or is physically incapable of fulfilling his or her duties as a Director;
 - (b) becomes disqualified from being a Director pursuant to the Act or ACNC Act;
 - (c) for more than 4 months is absent without permission of the Board from meetings of the Board held during that period;
 - (d) the Director experiences an Insolvency Event; or
 - (e) 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.

7.10 Director remuneration and reimbursements

- 7.10.1 The Directors are not entitled to any fees or remuneration for undertaking the ordinary duties of a Director.
- 7.10.2 Despite clause 2.1.1:

- (a) the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Company's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board; and
- (b) the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the ordinary duties of a Director where:
 - (1) the service and amount payable is on reasonable and proper terms; and
 - (2) the provision of that service has the Board's prior approval.

7.11 Transitional arrangements

Despite clause 7.6:

- 7.11.1 at the annual general meeting of the Company to be held in 2017, and at each annual general meeting occurring each two years thereafter, half or the closest number to half of the Elected Directors shall retire but shall be eligible for re-election subject to clause 7.5; and
- 7.11.2 at the annual general meeting of the Company to be held in 2018, and at each annual general meeting occurring each two years thereafter, half or the closest number to half of the Elected Directors shall retire but shall be eligible for re-election subject to clause 7.5.

8 BOARD POWERS

8.1 Management vests in Board

- 8.1.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the Act, the ACNC Act or this Constitution required to be exercised by the Members in general meeting.
- 8.1.2 The powers under clause 8.1.1 are subject to:
 - (a) this Constitution;
 - (b) the Act and the ACNC Act; and
 - (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.
- 8.1.3 A resolution under clause 8.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

8.2 Power to delegate

- 8.2.1 The Board may delegate its powers and functions in writing to:
 - (a) an officer or employee of the Company; or

(b) a committee under clause 10.

8.2.2 The Board may amend or revoke the terms of its delegation at any time.

8.3 Power to appoint Secretary

8.3.1 The Board must appoint an Elected Director to the position of Secretary on such terms and conditions as the Board determines from time to time.

8.3.2 The Board may remove an Elected Director from the position of Secretary by resolution.

8.3.3 A Secretary may attend Board meetings and general meetings, if so directed by the Board from time to time.

8.3.4 The Secretary will have the responsibilities set out in the Act and the ACNC Act, in addition to any other responsibilities determined by the Board.

8.4 Power to appoint Treasurer

8.4.1 The Board may appoint an Elected Director to the position of Treasurer.

8.4.2 The Board may remove an Elected Director from the position of Treasurer by resolution.

8.4.3 The Treasurer will have the responsibilities determined by the Board.

8.5 Power to make Regulations

8.5.1 The Board may from time to time make, vary and rescind Regulations in relation to the Company.

8.5.2 The Regulations for the time being in force, and which are not inconsistent with this Constitution, are binding on Members and have full effect accordingly.

9 BOARD MEETINGS

Subject to this clause 9, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

9.1 Number of meetings

The Board must meet at least 4 times per year.

9.2 Convening meetings

The Secretary must arrange a Board meeting:

9.2.1 at the request of the President; or

9.2.2 on the requisition of one or more Directors.

9.3 Notice of meeting

9.3.1 At least 48 hours' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.

9.3.2 The notice must specify the business to be transacted. The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least 24 hours' before the meeting.

9.3.3 The decision of the meeting chair as to whether business is routine is conclusive.

9.4 Quorum

9.4.1 The quorum for a Board meeting is 3 Directors. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

9.4.2 If a Board meeting is adjourned due to lack of quorum, the President must set a further date for the adjourned meeting.

9.5 Board meeting chair

9.5.1 The President may chair a Board meeting.

9.5.2 In the absence of the President, the Directors may appoint a meeting chair from among their number.

9.6 Voting

9.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.

9.6.2 In the event of an equality of votes the meeting chair does not have a second or casting vote.

9.7 Use of technology

The Board may hold a technology enabled meeting if:

9.7.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting; and

9.7.2 those Directors participating by technological means can hear, or can hear and read the communications of all other participating Directors.

9.8 Circulating resolutions

9.8.1 A written resolution signed or approved by technological means (other than any Director on leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.

9.8.2 The written resolution may consist of:

(a) several documents in the same form, each signed by one or more Directors and, such a resolution takes effect when the last Director signs such a document; or

(b) permanent records indicating the identity of each Director, the text of the resolution and the Director's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect when the last Director indicates his or her approval.

9.9 Conflicts and personal interests

- 9.9.1 A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors written notice of the interest unless the ACNC Act or section 191(2) of the Act require otherwise.
- 9.9.2 A Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter, unless permitted to do so under the ACNC Act or section 195 of the Act.

9.10 Minutes

- 9.10.1 The Board must ensure that minutes of all proceedings of general, Board, committee meetings (and meetings of any other Board entity) are recorded in a minute book within one month after the relevant meeting is held.
- 9.10.2 The minutes must be signed by the meeting chair at which the proceedings took place or by the meeting chair of the next succeeding meeting.
- 9.10.3 Minutes entered and signed are prima facie evidence of the proceedings to which they relate.

9.11 Validity of acts / procedural defects

- 9.11.1 An act or decision of the Board will not be invalid by reason only of a defect or irregularity in connection with the election or appointment of a Director.
- 9.11.2 For entered and signed minutes, unless the contrary is proved:
- (a) the meeting is deemed to have been convened and held;
 - (b) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and
 - (c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

10 BOARD COMMITTEES

10.1 Committees

The Board may establish committees as follows:

- 10.1.1 a committee will comprise 2 or more committee members, of which at least one must be a Director;
- 10.1.2 the committee members otherwise need not be a Director or Member;
- 10.1.3 the committee has the purpose set out in its charter approved by the Board, and may undertake the powers and functions delegated to it by the Board; and

- 10.1.4 in the absence of any provision in the committee charter, meetings and proceedings of any committee are governed by the provisions of clause 9.

11 ADMINISTRATION

11.1 Change of name

- 11.1.1 The Members may change the Company's name by special resolution in accordance with the Act.
- 11.1.1 Despite clause 11.1.1, the Board may apply under the Act to omit "Limited" from its name.

11.2 Amendment of Constitution

- 11.2.1 The Members may amend this Constitution by special resolution in accordance with the Act and the ACNC Act.
- 11.2.2 If the Company is registered under the ACNC Act, a special resolution under clause 11.2.1 does not take effect if it would cause the Company to lose its entitlement to registration under the ACNC Act.

11.3 Accounts

The Board must cause:

- 11.3.1 proper accounting and other records to be kept in accordance with the requirements of the Act and the ACNC Act, and
- 11.3.2 financial statements to be made and laid before each annual general meeting as required by the Act and the ACNC Act.

11.4 Audits

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Act and the ACNC Act.

11.5 Records and inspection

A Member (other than a Director) is not entitled to inspect any document of the Company, except as provided by law or authorised by the Board.

11.6 Service of notices

- 11.6.1 Notices must be in writing and may be given by the Company to any Member:
- (a) in person;
 - (b) by sending it by post to the Member at the Member's registered address; or
 - (c) by sending it to the address, facsimile number, e-mail address or other address supplied for receiving notices.

11.6.2 A notice sent by post is deemed to have been given 2 business days after it was posted. A notice sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

11.7 Indemnity of officers

11.7.1 To the Relevant Extent, the Company indemnifies current and former Officers out of its assets against any Liability incurred by the Officer in or arising out of:

- (a) the conduct of the Company's affairs or business; or
- (b) the discharge of the Officer's duties,

unless the Liability arises out of conduct involving a lack of good faith.

11.7.2 To the Relevant Extent, the Company may execute any deed in favour of any current or former Officer to confirm the indemnities conferred by clause 11.7.1 in relation to that person to the extent the law does not preclude the Company from doing so.

11.7.3 Clause 11.7.1 applies whether or not any deed is executed under clause 11.7.2.

11.8 Insurance

To the Relevant Extent:

11.8.1 the Company may pay or agree to pay premiums for Directors and officers insurance to insure current or former Officers against any Liability incurred by the Officer in or arising out of:

- (a) the conduct of the Company's affairs or business; or
- (b) the discharge of the Officer's duties; and

11.8.2 the Company may execute any deed in favour of any current or former Officer to take out insurance referred to in clause 11.8.1, on such terms as the Board considers appropriate.

11.9 Company seal

11.9.1 The Board will determine whether or not the Company is to have a common seal and, if so, will provide for the safe custody of such seal.

11.9.2 The common seal, if any, of the Company may only be affixed to any instrument with the authority of the Board.

11.9.3 The affixing of the common seal must be attested by the signatures of persons authorised by the Board for that purpose.

11.10 Definitions

In this Constitution:

"**ACNC Act**" means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);

“**Act**” means the *Corporations Act 2001* (Cth);

“**Appointed Director**” means the President;

“**Board**” means the Board of Directors of the Company;

“**CANA Public Fund**” means the public fund set up and administered pursuant to clause 3 in accordance with the ITAA;

“**Company**” means the company named on page 1 of this Constitution;

“**Constitution**” means this constitution of the Company;

“**Department**” means the Department of the Environment and Energy;

“**Director**” means a director of the Company;

“**Elected Director**” means a Director elected in accordance with clause 7.2;

“**Environmental Purposes**” means the Principal Purpose and the Supporting Purposes;

“**Guidelines**” means the Department of the Environment and Energy Register of Environmental Organisations guidelines 2003;

“**Insolvency Event**” means any of the following events:

- (a) a receiver, receiver and manager, trustee, other controller as defined in section 9 of the *Corporations Act 2001* (Cth) or similar official is appointed over any of the assets or undertaking of the party;
- (b) the party suspends payment of its debts generally;
- (c) the party is or becomes unable to pay its debts when they are due or is or becomes unable to pay its debts or is presumed to be insolvent within the meaning of the *Corporations Act 2001* (Cth);
- (d) the party enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- (e) the party ceases to carry on business or threatens to cease to carry on business;
- (f) a resolution is passed or any steps are taken to appoint, or to pass a resolution to appoint, an administrator; or
- (g) an application or order is made for the winding up or dissolution of the party or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the party, otherwise than for the purpose of an amalgamation or reconstruction that has the prior written consent of the other party.

“**ITAA**” means the *Income Tax Assessment Act 1997* (Cth);

“**Liability**” includes cost, charge, loss, damage, expense or penalty;

“Member” means a person who is a member of the Company pursuant to clauses 4 and 5;

“Officer” has the meaning given in the Act;

“President” means the Director appointed in accordance with clause 7.3;

“Principal Purpose” means the principal purpose set out in clause 1.1;

“Regulations” means regulations made by the Board under clause 8.5;

“Secretary” means a secretary appointed under clause 8.3;

“Supporting Purposes” means the supporting purposes set out in clause 1.2;

“Terminable Conduct” means conduct of a Member which, in the reasonable opinion of the Board:

- (a) is, has been or will be prejudicial to the Company’s interests;
- (b) brings or could bring the Company into disrepute;
- (c) is not that of a fit and proper person or a person of good fame and character;
- (d) is unbecoming of Members; and
- (e) is conduct similar to the above which is set out in the Regulations;

“To the Relevant Extent” means to the extent the Company is not precluded from doing so by law (including the Act); and

“Treasurer” means a treasurer appointed under clause 8.4.

11.11 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 11.11.1 words importing the singular include the plural, and words importing the plural include the singular;
- 11.11.2 words importing a gender include every other gender;
- 11.11.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);
- 11.11.4 a reference to a person includes that person’s successors, legal personal representatives and permitted transferees;
- 11.11.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

- 11.11.6 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 11.11.7 headings and bold text are for convenience only and do not affect its interpretation; and
- 11.11.8 a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy or attorney.

11.12 Application of Act

- 11.12.1 This Constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the Company.
- 11.12.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Act has the same meaning in this Constitution as in that section.

11.13 Application of ACNC Act

This Constitution is to be interpreted subject to the ACNC Act.