

# Constitution of Upper Snowy Landcare Network Incorporated

*Under the Associations Incorporation Act 2009*

**About this constitution.**

The constitution of this incorporated association forms the structure within which the association operates. It is based on the revised model under the Associations Incorporation Regulation 2022 as provided by NSW Fair Trading which covers the matters required by law. It supersedes the constitution of Upper Snowy Landcare Network last revised in August 2019.

August 30 2023

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## Part 1 – Preliminary

### 1. Definitions

(1) In this constitution:

**association** means “Upper Snowy Landcare Network Incorporated”;

**committee member** means an office-bearer or ordinary committee member

**exercise** a function includes perform a duty

**function** includes a power, authority or duty

**office-bearer** means a committee member who is elected to an office referred to in clause 16(2).

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

**register of members** means the register of members maintained under clause 6

**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 association;

**special general meeting** means a general meeting of the association other than an annual general meeting;

**subcommittee** means a subcommittee established under clause 22

**the Act** means the *Associations Incorporation Act 2009*;

**the Regulation** means the *Associations Incorporation Regulation 2022*;

Note: The Act and the Interpretation Act 1987 contain definitions and other provisions that affect the interpretation and application of this constitution.

(2) The *Interpretation Act 1987* applies to this constitution as if it were an instrument made under the Act.

Note: The Act, Part 4 deals with various matters relating to the management of associations.

### 2. Name

In this constitution "the association" is “**Upper Snowy Landcare Network Incorporated**” referred to in this constitution as the association.

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

#### **Mission**

The Upper Snowy Landcare Network (USLN) supports the landcare community in the catchment of the Upper Snowy River and adjoining areas who are working to improve the sustainability of the environmental and agricultural resources of that area.

#### **Objectives**

- (1) Provide processes where the views and needs of landcarers can be conveyed to governments, sponsors and other interested parties.
- (2) Provide representation for the Landcare groups in the Upper Snowy River region.
- (3) Encourage and facilitate effective, fair and equitable coordination of resources, information and ideas across the Upper Snowy River region that supports the Landcare community.
- (4) Enter into agreements with individuals or organisations that promote and further develop Landcare in the region.
- (5) Implement Landcare projects across the Upper Snowy region which:
  - (a) increase the capacity of primary producers to introduce sustainable agricultural practices and practices that conserve the natural environment, and
  - (b) protect, enhance and rehabilitate the natural environment in both urban and rural areas.
- (6) Establish and maintain a public fund to be called the 'Upper Snowy Landcare Network Deductible Gift and Contributions Account' for the specific purpose of supporting the environmental objects/purposes of the association.

## **Part 2 – Membership**

### **4. Membership generally**

- (1) A person is eligible to be a member of the association if:
  - (a) the person is a natural person and
  - (b) has expertise or interests deemed by the committee to be beneficial to the pursuit of the objectives of Upper Snowy Landcare Network or
  - (c) the person is a member of Upper Snowy Landcare Network at the time this constitution comes into effect.

### **5. Membership**

- (1) A person is taken to be a member of the association if:
  - (a) the person is eligible for membership according to clause 4(1), and
  - (b) the person is a committee member of a Landcare group based within the geographic area of interest of Upper Snowy Landcare Network, with a maximum of 7 committee members being accepted per group, or
  - (c) the person is a committee member or delegate of a group or organisation, with a maximum of 7 committee members being accepted per group, accepted by vote of a general meeting of the committee as having objectives in landcare consistent with those of Upper Snowy Landcare Network, or
  - (d) the person has requested to be a member and been accepted upon review of the application by the committee, or

- (e) the person has been approached by the association following a resolution of the committee or a general meeting of the association, and
  - (f) a member of the association is nominated and elected by the majority of members at the AGM as a life member in recognition of exceptional service to the association, and
  - (g) the person is accepted by the committee as a person who will abide by the constitution and work in the best interests of the association.
- (2) Membership under this clause is valid unless challenged by a member of the association in which case the challenge is to be dealt with in accordance with the provisions of clauses 9(2) through to 9(6) and clause 10.

## **6. Register of members**

- (1) The secretary must establish and maintain a register of members of the association.
- (2) The register:
- (a) may be in written or electronic form, and
  - (b) must include, for each member:
    - i. the member's full name, and
    - ii. a residential, postal or email address, and
    - iii. the date on which the person became a member, and
    - iv. if the person ceases to be a member, the date on which the person ceased to be a member, and
  - (c) must be kept in New South Wales:
    - i. at the association's main premises, or
    - ii. if the association has no premises - at the association's official address, and
  - (d) must be available for inspection, free of charge, by members at a reasonable time, and
  - (e) if kept in electronic form - must be able to be converted to hard copy.
- (3) If the register is kept in electronic form, the requirements in subclause (2)(c) and (d) apply as if a reference to the register is a reference to a current hard copy of the register.
- (4) A member may obtain a hard copy of the register, or a part of the register, on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that the information not be made available.
- (6) A member must not use information about a member obtained from the register to contact or send material to the member, unless:
- (a) the information is used to send the member:
    - i. a newsletter, or
    - ii. a notice for a meeting or other event relating to the association, or
    - iii. other material relating to the association, or
  - (b) it is necessary to comply with a requirement of the Act or the Regulation.

## **7. Fees and subscriptions**

- (1) The association may set admission fees and annual membership fees as deemed necessary. These can be set only at a special general meeting or annual general meeting of the association.
- (2) When a fee has not been set by a resolution of the association then the following applies:
- (a) A member of the association, who is not a Landcare group committee member or delegate, or affiliated group member, must, on admission to membership, pay to the

association a joining fee of \$1 or, if some other amount is determined by the association, that other amount.

- (b) In addition to any amount payable by that member under subclause (2a), a member of the association, who is not a Landcare or affiliated group committee member or delegate, must pay to the association an annual membership fee of \$2 or, if some other amount is determined by the association, that other amount:
  - i. except as provided by paragraph (b), before 1 July in each calendar year, or
  - ii. if the member becomes a member on or after 1 July in any calendar year, on becoming a member and before 1 July in each succeeding calendar year.

## **8. Members' liabilities**

The liability of a member of the association to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 7.

- (a) the debts and liabilities of the association,
- (b) the costs, charges and expenses of the winding up of the association.

## **9. Disciplining of members**

- (1) A complaint may be made to the committee by any member that a member of the association has:
  - (a) failed to comply with a provision of this constitution, or
  - (b) wilfully acted in a way prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if the committee considers the complaint to be trivial or vexatious.
- (3) If the committee decides to deal with the complaint, the committee must:
  - (a) serve notice of the complaint on the member, and
  - (b) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the committee about the complaint, and
  - (c) consider any submissions made by the member.
- (4) The committee may, by resolution, expel the member from the association or suspend the member's membership 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.
- (5) If the committee expels or suspends the member, the secretary must, within 7 days of that action being taken, give written notice to the member of the action taken, the reasons given by the committee for taking the action, and the member's right of appeal under clause 10.
- (6) The expulsion or suspension does not take effect until the later of the following:
  - (a) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
  - (b) if the member exercises the member's right of appeal within the period – the association confirms the resolution under clause 10.

## 10. Right of appeal against disciplinary action

- (1) A member may appeal against a resolution of the committee under clause 9 by lodging a notice of appeal with the secretary within 7 days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) The secretary must notify the committee that the secretary has received a notice of appeal.
- (4) If notified that a notice has been received, the committee must call a general meeting of the association to be held within 28 days of the day the notice was received.
- (5) At the general meeting:
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the member must be given an opportunity to state the member's case orally or in writing, or both, and
  - (c) the committee must be given the opportunity to state the committee's case orally or in writing, or both, and
  - (d) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the members.

## 11. Resolution of internal disputes

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation:
  - (a) a dispute between 2 or more members of the association, but only if the dispute is between the members in their capacity as members, or
  - (b) a dispute between 1 or more members and the association.
- (2) If the dispute is not resolved by mediation within 3 months of the referral to the Community Justice Centre, the dispute must be referred to arbitration.
- (3) The *Commercial Arbitration Act 2010* applies to any such dispute referred to arbitration.

## 12. Membership entitlements not transferable

A right, privilege or obligation that a person has because the person is a member of the association:

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of the association.

## 13. Resignation of membership

- (1) A member of the association may resign from being a member by giving the secretary written notice of at least 1 month, or another period determined by the committee, of the member's intention to resign.
- (2) The member ceases to be a member on the expiration of the notice period.

## 14. Cessation of membership

A person ceases to be a member of the association if the person:

- (a) dies, or

- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to pay the annual membership fee required under clause 7 within 3 months after the fee is due, or
- (e) ceases to be a committee member, office bearer or delegate of a Landcare or affiliated subgroup; or the subgroup fails to nominate an updated committee or delegate list within 1 month of the subgroup's Annual General Meeting or if the subgroup has not held an AGM 1 month prior to the Upper Snowy Landcare Network Annual General Meeting.

## **Part 3 - Committee**

### ***Division 1 Constitution***

#### **15. Functions of committee**

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

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all 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 association.

#### **16. Composition of committee**

- (1) The committee is to consist of the office-bearers of the association and at least three ordinary members each of whom is to be elected at the annual general meeting of the association.

Note: The Act, section 28 contains requirements relating to membership eligibility and composition of the committee.

- (2) The office-bearers of the association shall be
  - (a) chairperson
  - (b) deputy chairperson
  - (c) secretary, and
  - (d) treasurer.
- (3) The ordinary committee members shall be
  - (a) one delegate (or their alternates) appointed by each of the subgroups of the association where the subgroup is not represented by an office-bearer, or
  - (b) individual members who are not a member of a subgroup or representative of a member organisation.
- (4) A committee member may hold up to 2 offices, other than both the chairperson and deputy chairperson offices or the chairperson and treasurer offices.



- (5) Each member of the committee shall, subject to this constitution, hold office only until the conclusion of the annual general meeting following the date of the member's election but is eligible for re-election.

## **17. Election of committee members**

- (1) Any member of the association may be nominated as a candidate for election as an office-bearer or ordinary committee member.
- (2) The nomination must be:
  - (a) made in writing, and
  - (b) signed by at least 2 members of the association, not including the candidate, and
  - (c) accompanied by the written consent of the candidate to the nomination, and
  - (d) given to the secretary at least 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (3) If insufficient nominations are received to fill all vacancies:
  - (a) the candidates nominated are taken to be elected, and
  - (b) a call for further nominations must be made at the meeting.
- (4) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (5) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (6) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (7) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.
- (8) All nominations are to be supported at the meeting by 2 association members as mover and seconder of the nomination.
- (9) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.

## **18. Terms of office**

- (1) Subject to this constitution, a committee member holds office from the day the member is elected until immediately before the next annual general meeting.
- (2) A member is eligible, if otherwise qualified, for re-election.
- (3) There is no limit on the number of consecutive terms for which a committee member may hold office.

## **19. Vacancies in office**

- (1) A casual vacancy in the office of a member of the committee arises if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) resigns from office by written notice given to the secretary, or
  - (d) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (e) resigns office by notice in writing given to the secretary, or
  - (f) is removed from office by the association under this clause, or

- (g) becomes a mentally incapacitated person, or
  - (h) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
  - (i) 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
  - (j) 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.
- (2) The association in general meeting may, by resolution:
- (a) remove a committee member from office at any time, and
  - (b) appoint another member of the association to hold office for the balance of the committee member's term of office.
- (3) A committee member to whom a proposed resolution referred to in subclause (2) relates may:
- (a) give a written statement, of a reasonable length, to the president or secretary, and
  - (b) request that the committee send a copy of the statement to each member of the association at least 7 days before the general meeting at which the proposed resolution will be considered.
- (4) If the committee fails to send a copy of a statement received under subclause (3)(a) to each member in accordance with a request made under subclause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (5) The committee may appoint a member of the association to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.
- (6) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

## 20. Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes 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:
- (a) kept in written or electronic form, and
  - (b) must be signed, in writing or by electronic means, by:
    - i. the member who presided at the meeting, or
    - ii. the member presiding at the subsequent meeting.

## 21. Treasurer

The treasurer of the association must ensure:

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

## **22. Delegation to subcommittees**

- (1) The committee may:
  - (a) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
  - (b) appoint 1 or more members of the association to be the members of the subcommittee.
- (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than:
  - (a) this power of delegation, or
  - (b) a duty imposed on the committee by the Act or another law.

Note: The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.

## ***Division 2 Procedure***

### **23. Committee meetings**

- (1) The committee must meet at least 3 times in each 12-month period at the place and time determined by the committee.
- (2) Additional meetings of the committee may be called by any committee member.
- (3) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee.

Note: The Act, section 30(1) provides that committee meetings may be held as and when the association's constitution requires.

### **24. Notice of committee meeting**

- (1) The secretary must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business described in the notice, and
  - (b) business that the committee members present at the meeting unanimously agree is urgent business.

### **25. Quorum**

- (1) The quorum for a meeting of the committee is 3 committee members.
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
  - (a) to the same place, and
  - (b) to the same time of the same day in the following week.

- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.
- (5) If the number of committee members is less than the number required to constitute a quorum for a committee meeting, the committee members may appoint 1 or more members of the association as committee members to enable the quorum to be constituted.
- (6) A committee member appointed under subclause (5) holds office, subject to this constitution, until the next annual general meeting.
- (7) This clause does not apply to the filling of a casual vacancy to which clause 19 applies.

Note: The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

## **26. Presiding committee member**

- (1) The following committee member presides at a meeting of the committee:
  - (a) the chairperson,
  - (b) if the chairperson is absent - the deputy chairperson,
  - (c) if both the chairperson and deputy chairperson are absent, one of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

## **27. Voting**

A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

## **28. Acts valid despite vacancies or defects**

- (1) Subject to clause 25(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or subcommittee.

## **29. Transaction of business outside meetings or by telephone or other means**

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).

- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

Note: The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 4 - General meetings**

### **30. Annual general meetings**

- (1) The association must hold the association's first annual general meeting within 18 months of the day the association was registered under the
- (2) The association must hold its annual general meetings:
  - (a) within six (6) months after the close of the association's financial year, or
  - (b) within the later period allowed or prescribed in accordance with the Act section 37(2)(b).
- (3) The annual general meeting of the association is, subject to the Act, to be convened on such date and at such place and time as the committee thinks fit.
- (4) 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 reports from the committee on the activities of the association during the last preceding financial year,
  - (c) to elect office-bearers of the association and ordinary committee members,
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (5) An annual general meeting must be specified as such in the notice convening it.

Note: The Act, section 37(1) and (2) provides for when annual general meetings must be held.

### **31. Special general meetings**

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the request in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A request of members for a special general meeting:
  - (a) must be in writing, and
  - (b) must state the purpose or purposes of the meeting, and
  - (c) must be signed by the members making the requisition, and
  - (d) must be lodged with the secretary, and
  - (e) may consist of more than 1 document in a similar form, each signed by one or more of the members making the requisition, and
  - (f) may be in electronic form signed and lodged by electronic means.
- (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 request may convene a special general meeting to be held not later than 3 months after that date.

- (5) A special general meeting convened held subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

### **32. Notice of general meeting**

- (1) The secretary must give each member notice of a general meeting:
  - (a) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
  - (b) otherwise - at least 14 days before the meeting.
- (2) The notice must specify:
  - (a) the place and time at which the meeting will be held, and
  - (b) the nature of the business to be transacted at the meeting, and
  - (c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
  - (d) for an annual general meeting - that the meeting to be held is an annual general meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business specified in the notice, and
  - (b) for an annual general meeting - business referred to in clause 30(4)
  - (c) that specified at the discretion of the chairperson.
- (4) A member may give written notice to the secretary of business the member wishes to raise at a general meeting.
- (5) If the secretary receives a notice under subclause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

### **33. Quorum**

- (1) The quorum for a general meeting is the greater of 3 or 50% of the committee.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
  - (a) if called on the request of members - is dissolved, or
  - (b) otherwise - is adjourned:
    - i. to the same time of the same day in the following week, and
    - ii. to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least 1 day before the adjourned meeting.
- (4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least 3 members present, the members present constitute a quorum.

### **34. Adjourned meetings**

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.

- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the secretary must give each member oral or written notice, at least 1 day before the adjourned meeting, of:
  - (a) the time and place at which the adjourned meeting will be held, and
  - (b) the nature of the business to be transacted at the adjourned meeting.

### **35. Presiding member**

- (1) The following member presides at a general meeting:
  - (a) the chairperson,
  - (b) if the chairperson is absent - the deputy chairperson,
  - (c) if both the chairperson and deputy chairperson are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

### **36. Voting**

- (1) A member is not entitled to vote at a general meeting unless the member:
  - (a) is at least 18 years of age, and
  - (b) has paid all money owed by the member to the association.
- (2) Each member has 1 vote, except as provided by clause 35(2)(b).
- (3) On any question arising at a general meeting of the association each landcare group or sub-group and each non-affiliated member shall have one vote.
- (4) 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.
- (5) A question raised at the meeting must be decided by:
  - (a) a show of hands, or
  - (b) if clause 39 applies - an appropriate method as determined by the committee, or
  - (c) a written ballot, but only if:
    - i. the member presiding at the meeting moves that the question be decided by ballot, or
    - ii. at least 5 members agree the question should be determined by ballot.
- (6) If a question is decided using a method referred to in subclause (5)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method:
  - (a) a declaration by the member presiding at the meeting,
  - (b) an entry in the association's minute book.
- (7) A written ballot must be conducted in accordance with the directions of the member presiding.
- (8) A member cannot cast a vote by proxy.

### **37. Special resolutions**

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

### **38. Postal ballots**

- (1) The association may hold a postal or electronic ballot to determine any issue or proposal (other than an appeal under clause 10).
- (2) A postal ballot is to be conducted in accordance with Schedule 2 to the Regulation.

### **39. Transaction of business outside meetings or by telephone or other means**

- (1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.
- (2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.
- (3) The association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the association.

Note: The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 5 - Administration**

### **40. Change of name, objects or constitution**

An application for registration of a change in the association's name, objects or constitution made under the Act, section 10 must be made by:

- (a) the public officer, or
- (b) a committee member.

### **41. Funds**

- (1) Subject to a resolution passed by the association, the association's funds may be derived from the following sources only
  - (a) entrance fees and annual subscriptions of members
  - (b) donations
  - (c) government and private grants, and



- (d) other sources as the committee determines.
- (2) Subject to a resolution passed by the association, the association's funds and assets must be used to pursue the association's objects in the way that the committee determines.
- (3) As soon as practicable after receiving money, the association must:
  - (a) deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account, and
  - (b) issue a receipt for the amount of money received to the person from whom the money was received.
- (4) A cheque or other negotiable instrument must be signed by 2 authorised signatories.

Note: The Act, section 36 provides for the appointment of authorised signatories.

## **42. Insurance**

The association may take out and maintain insurance as appropriate for the association's assets and liabilities.

## **43. Non-profit status**

Subject to the Act and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs in a way that provides pecuniary gain for any of its members.

Note: See the Act, section 40.

## **44. 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) A notice is taken, unless the contrary is proved, to have been given or served on a person, unless the contrary is proved:
  - (a) for a notice given or served personally - on the date on which the notice is received by the person, or
  - (b) for a notice sent by pre-paid post - on the date on which the notice would have been delivered in the ordinary course of post, or
  - (c) for a notice sent by electronic transmission:
    - i. on the date the notice was sent, or
    - ii. if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

## **45. Custody of records and books**

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales:

- (a) at the association's main premises, in the custody of either of the following persons, as determined by the committee:

- i. the public officer,
  - ii. a member of the association, or
- (b) if the association has no premises - at the association's official address, in the custody of the public officer.

## **46. Inspection of records and books**

- (1) The following documents must be available for inspection, free of charge, by members of the association at a reasonable time:
- (a) this constitution,
  - (b) minutes of committee meetings and general meetings of the association,
  - (c) records, books and other documents relating to the association.
- (2) A member may inspect a document referred to in subclause (1):
- (a) in hard copy, or
  - (b) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
- (a) that relates to confidential, personal, commercial, employment or legal matters, or
  - (b) if the committee considers it would be prejudicial to the interests of the association for the member to do so.

## **47. Financial year**

The financial year of the association is:

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

Note: The Regulation, section 21 contains a substitute clause 44 for certain associations incorporated under the *Associations Incorporation Act 1984*.

## **48. Public Fund**

- (1) Clause 48 only applies if the association establishes a public fund in a separate bank account named 'Upper Snowy Landcare Network Deductible Gift and Contributions Account', recognised as a Deductible Gift Recipient by the Australian Tax Office.
- (2) A Public Fund to be named 'Upper Snowy Landcare Network Deductible Gift and Contributions Account' may be established and maintained as a separate account for the specific purpose of supporting the environmental objects/purposes of the association. The fund is established to receive all tax deductible gifts and contributions of money or property for this purpose and any money received because of such gifts or contributions must be credited to its bank account. The fund must not receive any other money or property and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997. Members of the public are to be invited to make gifts of money or property to the fund for the environmental purposes of the association.

- (3) All receipts for tax deductible gifts, grants or contributions must be:
  - (a) issued in the name of the 'Upper Snowy Landcare Network Deductible Gift and Contributions Account',
  - (b) state that the receipt is for a gift or contribution and its environmental purpose, and
  - (c) state the Australian Business Number (ABN) of the association.
- (4) The association must use the Upper Snowy Landcare Network Deductible Gift and Contributions Account solely for the environmental purpose of the association.
- (5) The association must inform the Department responsible for the environment as soon as possible if:
  - (a) it changes its name or the name of its public fund; or
  - (b) there is any change to the membership of the management committee of the public fund;
  - (c) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations;
  - (d) and provide to the Secretary of the Department of the Environment, within four months of the end of the financial year, all information required for the annual statistical return including:
  - (e) statistical information about gifts and expenditure of the public fund monies during the income year
  - (f) an audited financial statement for the organisation and the public fund
  - (g) management of public fund assets.
- (6) The association agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that receipts made to the account are only used for the fund's principal purpose.
- (7) Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the association and not be influenced by the preference of the donor.
- (8) The public fund will be operated on a not-for-profit basis and must not conduct its affairs so as to provide a pecuniary gain for any of its members.
- (9) A committee of management of no fewer than three persons will administer the fund. The committee will be appointed by the association. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.
- (10) In case of the winding-up of the Upper Snowy Landcare Network Deductible Gift and Contributions Account or the revocation of its endorsement as a deductible gift recipient, any surplus assets of the fund are to be transferred to another fund with similar objectives and which has Deductible Gift Registration with the Australian Tax Office. Surplus assets under this clause are those remaining after satisfaction of the debts and liabilities of the Upper Snowy Landcare Network Deductible Gift and Contributions Account and the costs, charges and expenses of the winding up of this account.

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

## **49. Distribution of property on winding up of association**

- (1) Subject to the Act and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to another organisation:
  - (a) with similar objects, and

- (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association, excluding those within the Upper Snowy Landcare Network Deductible Gift and Contributions Account; and **surplus property** has the same meaning as in the Act, section 65.