



Russell Kennedy
Lawyers

HEALTHY FORESTS FOUNDATION LIMITED
ACN 678 651 502

CONSTITUTION

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

A charity registered with the Australian Charities and Not-for-profits Commission

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HEALTHY FORESTS FOUNDATION LIMITED
ACN 678 651 502

CONSTITUTION

1 PURPOSE OF THE COMPANY

The Company is a not-for-profit and charitable institution established and operated in Australia whose principal purpose is the protection and enhancement of the natural environment and the provision of information, education and the carrying on of research about the natural environment. The Company achieves its principal purpose by:

- 1.1.1 promoting public knowledge about the characteristics of healthy forests and the activities needed to maintain healthy forested areas or restore degraded forested areas to health;
- 1.1.2 promoting public knowledge about research relevant to the management, maintenance and repair of forested ecosystems conducted by scientists who demonstrate academic rigor and open-mindedness, acknowledge uncertainty and are respectful, collaborative and ethical;
- 1.1.3 partnering with Australia's Traditional Custodians in applying their knowledge and skills to protect and enhance the natural environment, in respect of the restoration of forested areas and landscapes, consistent with their cultural responsibilities to their ancestral lands;
- 1.1.4 promoting education about the protection and enhancement of forested areas and the importance of supporting Traditional Custodians to apply cultural knowledge and skills to the restoration and management of forested areas and landscapes, resulting in the promotion of reconciliation, mutual respect and tolerance between different groups in Australia;
- 1.1.5 providing support for forest management and repair works to improve, restore or maintain forests and landscapes for the benefit of all Australians;
- 1.1.6 contributing to further development of scientific evidence by partnering with researchers in evaluating the impact of forest management and repair works undertaken by the Company; and
- 1.1.7 promoting the improvement of the environment including nature repair.

(together, the **Purposes**)

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

2.1 Powers

Solely to carry out the Purpose, the Company has all the powers of an individual and a company limited by guarantee under the Corporations Act.

2.2 Income applied for the Purpose

The Company's income and property:

- 2.2.1 must be applied solely towards the Purpose; and
- 2.2.2 must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise, unless permitted by clause 2.3 or 2.5.

2.3 Permitted payments to Members

The Company may pay a Member in good faith with prior Board approval up to a fair and reasonable amount for:

- 2.3.1 expenses properly incurred for the Company;
- 2.3.2 goods or services supplied to the Company;
- 2.3.3 interest on money lent to the Company; or
- 2.3.4 rent for premises let to the Company.

2.4 Winding up

Subject to clauses 2.7 and 2.8, the Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

- 2.4.1 must not be paid or given to current or former Members unless eligible under clause 2.5; and
- 2.4.2 must be paid to eligible recipients selected under clauses 2.5 and 2.6.

2.5 Eligible recipients

A fund, authority or institution is eligible to receive any surplus under clauses 2.4.2, 2.7.5 and 2.8 if it:

- 2.5.1 has not-for-profit and charitable purposes similar to the Purpose;
- 2.5.2 prohibits its income and property from being paid to members on at least the terms of this clause 2;
- 2.5.3 is a charity registered under Relevant Laws if the Company had been;
- 2.5.4 is income tax exempt under Commonwealth taxation Laws if the Company had been; and
- 2.5.5 can receive deductible gifts under the Commonwealth taxation Laws if the Company could and on the same basis.

2.6 Selection of eligible recipients

Eligible recipients to receive any surplus referred to in clause 2.5 must be selected:

- 2.6.1 by Member special resolution;
- 2.6.2 failing clause 2.6.1, by Board resolution; and
- 2.6.3 failing clause 2.6.2, by application to the Supreme Court in the state or territory in which the Company's registered office is located.

2.7 Gift fund

The Company must establish and maintain a gift fund as follows:

- 2.7.1 the gift fund is for pursuing the Purpose;

- 2.7.2 the gift fund must receive all gifts of money or property for the Purpose and fundraising contributions under Commonwealth taxation Laws;
- 2.7.3 any money received because of clause 2.7.2 must be credited to the gift fund's account;
- 2.7.4 the gift fund must not receive any other money or property; and
- 2.7.5 the gift fund's surplus assets must be paid to eligible recipients selected under clauses 2.5 and 2.6 on the earlier of:
- (a) the Company's deductible gift recipient endorsement being revoked; or
 - (b) the winding up of the Company.

2.8 Surplus gifts

Any surplus gifts, fundraising contributions under Commonwealth taxation Laws and money received because of those gifts or contributions, must be transferred to eligible recipients selected under clauses 2.5 and 2.6 on the earlier of:

- 2.8.1 the Company's deductible gift recipient endorsement being revoked; or
- 2.8.2 the winding up of the Company.

3 MEMBERSHIP

3.1 Limited liability of Members / guarantee

- 3.1.1 A Member's liability is limited to the guaranteed amount in clause 3.1.2.
- 3.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to \$10 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.

3.2 Classes of Members and eligibility

The Members of the Company comprise the classes of Members with the eligibility and rights set out in the table below and such other voting or non-voting categories whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status will be determined by the Board.

Class	Eligibility	Rights (see also clause 3.3)
Organisational Members	<ul style="list-style-type: none"> • A Traditional Owner representative organisation. 	Voting
Scientific Members	<ul style="list-style-type: none"> • Scientists or researchers who demonstrate a commitment to scientific inquiry regarding the management, maintenance and repair of forested ecosystems. 	Voting

Class	Eligibility	Rights (see also clause 3.3)
Founding Members	<ul style="list-style-type: none"> • Founders of the Company upon its establishment, and those who financially contribute to the establishment of the Company within the first 18 months of incorporation. • Children and grandchildren of a Founding Member (whether or not, current or alive) will be eligible for membership under this category, and will not be required to pay any admission fee. 	Voting

3.3 Member rights and obligations

- 3.3.1 Members have the right to receive notice of, participate in the requisition of, attend, speak at, vote at and join in the demand for a poll at general meetings.
- 3.3.2 Members have the right to appoint a Representative to exercise all the Member's rights.

3.4 Limit on number of Members

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

3.5 Rights not transferrable

A person's membership rights and privileges:

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

Membership period and fees

The Board may determine:

- 3.5.3 the membership period (including common expiry dates) as well as how and when membership is renewed;
- 3.5.4 fees payable by Members, including any fee to apply for membership or be admitted as a Member; and
- 3.5.5 whether fees are refundable or non-refundable.

3.6 Register of Members, including closure of register

- 3.6.1 The Company must maintain a register of Members in accordance with the Corporations Act which contains the name, addresses for notices and membership start/end dates for current and recent former Members.
- 3.6.2 The Board may establish Regulations to close the register to new Members for up to 60 days per year.
- 3.6.3 The Company may maintain a database of other Member details which is separate to the register of Members.

3.7 **Change of Member details**

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

4 **BECOMING AND CEASING TO BE A MEMBER**

4.1 **Admission of Members**

4.1.1 The Board may admit in its absolute discretion a person as Member upon application in accordance with any requirements specified in the Regulations.

4.1.2 The Board must consider membership applications as soon as reasonably practicable.

4.1.3 The Board need not provide reasons for refusing to admit a person as Member.

4.1.4 Successful applicants become Members when added to the register of Members.

4.2 **Resignation of Members**

4.2.1 A person may resign as Member by written notice to the Company.

4.2.2 The resignation takes effect when the Company receives the Member's notice or on a later date specified in the notice.

4.3 **Ceasing to be a Member**

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

4.3.1 does not attend or provide an apology in respect of the annual general meeting for 3 consecutive years;

4.3.2 not renew the membership by the due date;

4.3.3 has not paid membership fees for 3 months after the due date;

4.3.4 has a debt to the Company which remains unpaid for one year or more;

4.3.5 ceases to be eligible to be a Member in the relevant class;

4.3.6 becomes an employee of the Company;

4.3.7 becomes untraceable for 3 months because the Member cannot be contacted using the address on the register of Members;

4.3.8 dies or, in the case of a body corporate, is wound up or deregistered;

4.3.9 becomes bankrupt, or makes any arrangement or composition with the Member's creditors generally; or

4.3.10 no longer has capacity to give informed consent as defined under mental health legislation which provides for the decision-making capacity of an individual.

4.4 **Disciplining Members**

The Board may warn, censure, suspend or expel a Member if the Member:

- 4.4.1 engages in Unacceptable Conduct, subject to:
- (a) the decision being made by two thirds majority of all Directors (excluding Directors who are conflicted) 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;
- 4.4.2 does not comply with the provisions of this Constitution or the Regulations;
- 4.4.3 is found guilty by a court of an indictable offence; or
- 4.4.4 has a debt to the Company which remains unpaid for six months or more.

4.5 **Initial Members**

The initial Members of the Company are those persons named in the application to the Australian Securities and Investments Commission to register the Company.

5 **GENERAL MEETINGS**

5.1 **Convening an annual general meeting**

- 5.1.1 The Board must convene an annual general meeting to be held at least once every year in accordance with the Corporations Act. The requirements for convening an annual general meeting may otherwise be set out in the Corporations Act or Relevant Laws.
- 5.1.2 The 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 is or will become vacant;
 - (d) consider any other matter required by the Corporations Act or Relevant Laws; and
 - (e) consider any special business, the general nature of which is specified in the notice of meeting.

5.2 **Convening a special general meeting**

- 5.2.1 General meetings other than annual general meetings are called special general meetings.
- 5.2.2 The Board must convene and hold special general meetings of the Members if required by the Corporations Act or Relevant Laws.
- 5.2.3 The Board or 2 Directors may convene special general meetings of the Members.
- 5.2.4 The notice of special general meeting must specify the general nature of special business, unless the Corporations Act or Relevant Laws require otherwise.

5.3 Notice of meeting

- 5.3.1 At least 21 days' notice of any general meeting must be given specifying the meeting's place, date and time, unless the Corporations Act or Relevant Laws require or permit some other period of notice.
- 5.3.2 Notice of a general meeting must specify the meeting's format (including if it is a Hybrid Meeting), place, date and time, and include Electronic Voting instructions if applicable.
- 5.3.3 Notice of every general meeting must be given in writing in accordance with clause 10.6 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.
- 5.3.4 No other person is entitled to receive notices of general meetings.
- 5.3.5 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.

5.4 Postponement

- 5.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members.
- 5.4.2 Clause 5.4.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 5.2.3 or by court order.

5.5 Quorum

- 5.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.
- 5.5.2 The quorum for general meetings is 50% of Members present in person or virtually, or by Representative.
- 5.5.3 If a quorum is not present within 30 minutes 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 5.7).
- 5.5.4 If a quorum is not present within 30 minutes of the time scheduled to start the adjourned general meeting, the meeting is dissolved.

5.6 Meeting chair

- 5.6.1 The Chair may chair a general meeting.
- 5.6.2 If the Chair is not present and willing to act the Deputy Chair may chair.
- 5.6.3 If the Chair and Deputy Chair are not present and willing to act:
- (a) the Directors present may choose one of their number to chair the meeting; and
 - (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.
- 5.6.4 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.
- 5.6.5 All procedural decisions by the meeting chair are final.

5.7 Adjournment

- 5.7.1 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.
- 5.7.2 The adjourned meeting may only transact unfinished business from the original meeting.
- 5.7.3 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.

5.8 Voting – show of hands / poll

- 5.8.1 By default, resolutions at general meetings must be voted on by a show of hands. Voting at a Hybrid Meeting or a wholly virtual meeting will be by ballot, which may occur via Electronic Voting.
- 5.8.2 In the event of an equality of votes the meeting chair does not have a second or casting vote.

- 5.8.3 The meeting chair must declare whether resolutions were carried, carried unanimously, carried by particular majority or lost. These voting results must be minuted.
- 5.8.4 The minutes of the voting results are final without the need to record the number or proportion of, or manner in which votes were cast.
- 5.8.5 A poll may be demanded by the meeting chair or at least two Members present in person and entitled to vote.
- 5.8.6 A demand for a poll must be made on or before the result being declared, and may be withdrawn.
- 5.8.7 A poll to elect a meeting chair or adjourn the meeting must be taken immediately. Polls must otherwise be taken at that meeting in the manner directed by the meeting chair.
- 5.8.8 The meeting chair must decide all voting disputes, and that decision is final.

5.9 Proxies

- 5.9.1 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.
- 5.9.2 A proxy need not be a Member.
- 5.9.3 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 the Corporations Act or some other Board approved form; and
 - (c) lodged with the Company at least 48 hours before the time for holding the meeting or adjourned meeting.
- 5.9.4 A vote given according to the proxy instrument is valid despite:
 - (a) the death, or loss of decision making capacity, 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.

5.10 Meeting format and use of technology

- 5.10.1 Subject to the Corporations Act, a general meeting may be held as a physical meeting in two or more places, as a wholly virtual meeting, or as a Hybrid Meeting, as determined by the Board acting reasonably.
- 5.10.2 Such meetings must be held using any technology approved by the Board that gives Members as a whole a reasonable opportunity to participate.

5.11 **Ballot**

- 5.11.1 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 postal or electronic ballot (**Ballot**) without a general meeting, unless the Corporations Act or Relevant Laws require a general meeting.
- 5.11.2 The Board may determine in the Regulations:
- (a) the form of the Ballot;
 - (b) the polling date;
 - (c) the method for responding to the Ballot; and
 - (d) whether voting on the Ballot is to be secret.
- 5.11.3 A resolution approved by a majority or specific majority of the Members has the same force and effect as such a resolution passed in a general meeting.

6 **BOARD**

6.1 **Structure of Board / Number of Directors**

The Board will comprise between 3 and 9 Directors as follows:

- 6.1.1 Between 3-6 Directors by the Members in accordance with clause 6.2 (**Elected Directors**); and
- 6.1.2 up to 3 Directors appointed by the Board in accordance with clause 6.3 (**Appointed Directors**).

6.2 **Election of Elected Directors**

- 6.2.1 Nominations of candidates for election as a Director must be signed by the candidate and a proposing Member, contain a consent to act as a Director signed by the candidate, and must be received at least 14 days before the annual general meeting.
- 6.2.2 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. However, where vacancies are for different terms of office, an election must proceed to determine which candidates receive which terms of office.
- 6.2.3 If candidates are not declared elected pursuant to clause 6.2.2, then balloting lists must be printed containing candidate names in alphabetical order and sent to each Member at least 5 days before the annual general meeting.
- 6.2.4 Vacancies (from longest to shortest term of office) will be filled by candidates with the most votes according to the election system previously approved by the Board.
- 6.2.5 The returning officer appointed by the Board must declare the election result at the annual general meeting.

6.3 Appointment of Appointed Directors

- 6.3.1 Subject to this Constitution, the Board must determine any other procedures or matters in relation to the selection process to appoint Appointed Directors and may make Regulations for that purpose.
- 6.3.2 Unless the Board resolves otherwise, the Company Secretary:
- (a) is responsible for the conduct of the selection process of Appointed Directors; and
 - (b) may decide all matters in relation to the conduct of the selection process, subject to this Constitution and the Regulations.
- 6.3.3 The Regulations pursuant to clause 6.3.1 must be consistent with the following:
- (a) Before each annual general meeting, the Company Secretary must publicly call for Appointed Director candidates who need not be Members.
 - (b) The Company Secretary must convene a committee for the purpose of conducting the selection process.
 - (c) The committee may, but is not required to, interview all candidates for becoming an Appointed Director.
 - (d) The committee must recommend candidates to be appointed as Appointed Directors on the basis of their skills, background and expertise deemed necessary or desirable by the Board (including, without limitation, to complement the Elected Directors) for the effective operation of the Board.
 - (e) At the Board meeting preceding each annual general meeting, the Board may appoint Appointed Directors after considering the recommendations from the committee conducting the selection process.
 - (f) The meeting chair must announce the Appointed Directors at the annual general meeting. Appointments take effect at the end of the annual general meeting at which the appointments are announced.

6.4 Eligibility to be a Director

A person is eligible to become a Director if they:

- 6.4.1 are 18 years of age or older;
- 6.4.2 consent in writing to become a Director;
- 6.4.3 hold or have applied for a Director Identification Number (**DIN**);
- 6.4.4 do not have any personal or familial relationship with an officer or employee of the Company.
- 6.4.5 are not prohibited, disqualified or otherwise prevented from being a Director under the Corporations Act or Relevant Laws; and
- 6.4.6 are not an employee of the Company.

6.5 Limits on period of office as a Director

A Director has served 9 years or more continuously, then the Director may finish serving their current term of office but does not become eligible to be elected or appointed (whether or not to a casual vacancy) until they have not been a Director for a subsequent continuous period of 3 years.

6.6 Term of office of Directors

6.6.1 An Elected Director holds office for a term of three Years:

- (a) commencing immediately after the annual general meeting at which their election was declared;
- (b) concluding at the end of the third annual general meeting after the one at which they were declared elected.

6.6.2 An Appointed Director holds office for a term of three Years:

- (a) commencing from the date the Board resolves to appoint the person (for example, the appointment may take effect immediately after the next annual general meeting);
- (b) concluding at the end of the third annual general meeting after commencing as an Appointed Director.

6.6.3 The Board may appoint an Appointed Director for a shorter term than under clause 6.6.2 if the Board so determines at the time of appointment.

6.7 Casual vacancies

6.7.1 If a casual vacancy occurs for any Elected Director office, the Board may appoint another eligible person in their place until the end of the next annual general meeting. The Members must then elect a person to fill the Elected Director in accordance with clause 6.2. The person elected will serve only for the balance of the term of the original Elected Director.

6.7.2 If a casual vacancy occurs for any Appointed Director office, the Board may appoint another eligible person in their place until the end of the next annual general meeting.

6.7.3 The Board may continue to act despite vacancies on the Board. However, if there are less than 3 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.

6.8 Office bearers

The Board may elect and remove the following office bearers from the Directors:

6.8.1 Chair;

6.8.2 Deputy Chair; and

6.8.3 such other office bearers with titles determined from time to time by the Board.

6.9 Resignation of Directors

6.9.1 A Director may resign as Director by written notice to the Company.

6.9.2 The resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

6.10 Ceasing to be a Director

6.10.1 The Members may remove any Director in accordance with the Corporations Act.

6.10.2 A directorship automatically ceases if the Director:

- (a) is no longer eligible to be a Director under clause 6.4;
- (b) dies or is physically incapable of fulfilling their duties as a Director;
- (c) becomes disqualified from being a Director pursuant to the Corporations Act or Relevant Laws;
- (d) for more than 6 months is absent without Board permission from Board meetings held during that period;
- (e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (f) no longer has capacity to give informed consent as defined under mental health legislation which provides for the decision-making capacity of an individual; or
- (g) is found guilty by a court of an indictable offence.

6.11 Director remuneration and reimbursement

6.11.1 The Directors are not entitled to any fees or remuneration for undertaking the ordinary duties of a Director.

6.11.2 Despite clause 2, 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.

6.11.3 Despite clause 2, the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the Director's ordinary duties where:

- (a) the service and amount payable is on reasonable and proper terms; and
- (b) the provision of that service has the Board's prior approval.

6.12 Initial Board

6.12.1 The initial Directors of the Company are those persons named in the application to the Australian Securities and Investments Commission to register the Company.

- 6.12.2 At the first Board meeting following the Company's registration, the Board must by agreement, or in the absence of agreement by drawing lots, determine which initial Directors will serve the following terms:
- (a) 2 Elected Directors will serve a term of 3 Years;
 - (b) 2 Elected Director will serve a term of 2 Years; and
 - (c) 2 Elected Directors will serve a term of 1 Year.

7 BOARD POWERS

7.1 Management vests in Board

- 7.1.1 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 Corporations Act, Relevant Laws or this Constitution required to be exercised by the Members in general meeting.
- 7.1.2 The powers under clause 7.1.1 are subject to:
- (a) this Constitution;
 - (b) the Corporations Act and Relevant Laws; and
 - (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.
- 7.1.3 A resolution under clause 7.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

7.2 Power to delegate

- 7.2.1 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 9.
- 7.2.2 The Board may amend or revoke the terms of its delegation at any time.

7.3 Power to appoint Chief Executive Officer

- 7.3.1 The Board may appoint a Chief Executive Officer on such terms and conditions as the Board determines from time to time.
- 7.3.2 The Board may remove a Chief Executive Officer for any lawful reason, subject to the Company complying with the terms of any agreement between the Company and the Chief Executive Officer.
- 7.3.3 The Chief Executive Officer is entitled to attend Board meetings and general meetings, if so directed by the Board from time to time.
- 7.3.4 The Chief Executive Officer will have the responsibilities determined by the Board.

7.4 **Power to appoint Company Secretary**

- 7.4.1 The Board must appoint at least one Company Secretary on such terms and conditions as the Board determines from time to time.
- 7.4.2 A Company Secretary may, but need not, be a Director or the Chief Executive Officer.
- 7.4.3 A Company Secretary may attend Board meetings and general meetings, if so directed by the Board from time to time.
- 7.4.4 A Company Secretary will have the responsibilities set out in the Corporations Act and Relevant Laws.

7.5 **Power to make Regulations**

- 7.5.1 The Board may from time to time make, vary and rescind Regulations in relation to the Company.
- 7.5.2 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.

8 **BOARD MEETINGS**

Subject to this clause 8, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

8.1 **Number of meetings**

The Board must meet at least 4 times per year.

8.2 **Convening meetings**

The Company Secretary must arrange a Board meeting:

- 8.2.1 at the request of the Chair; or
- 8.2.2 on the requisition of 2 or more Directors.

8.3 **Notice of meeting**

- 8.3.1 At least 5 days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.
- 8.3.2 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 3 days' before the meeting.
- 8.3.3 The decision of the meeting chair as to whether business is routine is final.

8.4 **Quorum**

- 8.4.1 The quorum for a Board meeting is a majority of the Directors entitled to attend and vote. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

- 8.4.2 If a Board meeting is adjourned due to lack of quorum, the Chair must set a further date for the adjourned meeting.

8.5 Meeting chair

- 8.5.1 The Chair may chair a Board meeting.
- 8.5.2 If the Chair is absent the Deputy Chair may chair.
- 8.5.3 In the absence of the Chair and the Deputy Chair, the Directors may appoint a meeting chair from among their number.

8.6 Voting

- 8.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.
- 8.6.2 Questions arising at a Board meeting must be decided by a majority of votes. Such a decision is for all purposes a decision of the Board.
- 8.6.3 In the event of an equality of votes the meeting chair does not have a second or casting vote.

8.7 Use of technology

The Board may hold a meeting in two or more places and conducted in a wholly virtual format or as a Hybrid Meeting if:

- 8.7.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting;
- 8.7.2 those Directors participating by technological means can communicate with all other participating Directors; and
- 8.7.3 at the commencement of the meeting each Director must announce their presence to all the other Directors taking part in the meeting.

8.8 Circulating resolutions

- 8.8.1 A written resolution signed or approved by technological means by all Directors (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.
- 8.8.2 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 their approval.

8.9 Conflicts and personal interests

- 8.9.1 A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written notice of the interest unless the Corporations Act or Relevant Laws require otherwise.
- 8.9.2 To the maximum extent required by Law, 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.

8.10 Minutes

- 8.10.1 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.
- 8.10.2 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.
- 8.10.3 Minutes entered and signed are prima facie evidence of the proceedings to which they relate.

8.11 Validity of acts / procedural defects

- 8.11.1 A Board act or decision will not be invalid by reason only of a defect or irregularity in connection with the election or appointment of a Director.
- 8.11.2 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.

9 COMMITTEES

Board's power to establish committees

- 9.1 The Board may establish committees as follows:
- 9.1.1 a committee will comprise two or more committee members, of which at least one must be a Director;
 - 9.1.2 the committee members otherwise need not be a Director or Member;
 - 9.1.3 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
 - 9.1.4 in the absence of any provision in the committee charter or Regulations, meetings and proceedings of any committee are governed by the provisions of clause 8.
- 9.2 The following standing committees are established under this Constitution:
- 9.2.1 Traditional Custodian Conservation Leadership committee; and

9.2.2 Science committee.

10 ADMINISTRATION

10.1 Change of name

10.1.1 The Members may change the Company's name by special resolution in accordance with the Corporations Act. Such a resolution authorises the Board to update all references to the Company's name in this Constitution.

10.1.2 Despite clause 10.1.1, the Board may apply under the Corporations Act to omit from or reinstate "Limited" in its name.

10.2 Amendment of Constitution

10.2.1 The Members may amend this Constitution by special resolution in accordance with the Corporations Act and Relevant Laws.

10.2.2 If the Company is registered under Relevant Laws, a special resolution under clause 10.2.1 (unless it expressly provides otherwise) does not take effect if it would cause the Company to lose any entitlements to registration under Relevant Laws.

10.3 Accounts

The Board must cause:

10.3.1 proper accounting and other records to be kept in accordance with the requirements of the Corporations Act and Relevant Laws, and

10.3.2 financial statements to be made and laid before each annual general meeting as required by the Corporations Act and Relevant Laws.

10.4 Audits

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

10.5 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.

10.6 Service of notices

10.6.1 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 postal, e-mail or other address supplied for receiving notices.

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

Indemnity of officers

- 10.6.3 Subject to clause 10.6.6, the Company indemnifies current and former Officers (**Indemnified Officer**) out of its assets against any Liability incurred by the Indemnified Officer in or arising out of:
- (a) the conduct of the Company's affairs or business; or
 - (b) the discharge of the Indemnified Officer's duties.
- but only to the extent that:
- (c) the Indemnified Officer:
 - (1) has acted in good faith;
 - (2) has not engaged in conduct which is fraudulent, criminal, dishonest or a wilful default of the Indemnified Officer's duties as an Officer;
 - (3) has not engaged in conduct attributable to a pecuniary penalty order against the Indemnified Officer for non-compliance with the Indemnified Officer's duties under the Relevant Law;
 - (4) has not engaged in misconduct under the Indemnified Officer's terms and conditions of appointment or engagement as an Officer or a breach of those terms and conditions (if any); and
 - (5) is not otherwise entitled or actually indemnified by a third party;
 - (d) the Company is not precluded by Law from doing so;
 - (e) there is no non-indemnification order of a Court that precludes the Company from doing so;
 - (f) the Liability does not arise in connection with a Claim against the Indemnified Officer by the Company; and
 - (g) the Liability is not a cost or expense for an unsuccessful application to a Court for relief under the Corporations Act, or the defence of civil or criminal proceedings where judgement is given against the Indemnified Officer or in which the Indemnified Officer is not acquitted.
- 10.6.4 The Company may execute any deed in favour of any Indemnified Officer to confirm the indemnities conferred by clause 10.6.3 in relation to that person.
- 10.6.5 Clause 10.6.3 applies whether or not any deed is executed under clause 10.6.4.
- 10.6.6 The obligations of the Company to indemnify the Indemnified Officer as set out in this clause 10.6.3 are extinguished and terminated immediately prior to the Company taking any steps required under the Corporations Act for the Company to be voluntary de-registered or wound up.

10.7 Insurance

- 10.7.1 The Company may pay or agree to pay premiums for directors and officers insurance to insure Indemnified Officers against any Liability incurred by the Indemnified Officer referred to in clause 10.6.3.

10.7.2 The Company may execute any deed in favour of any Indemnified Officer to take out insurance referred to in clause 10.7.1, on such terms as the Board considers appropriate.

10.8 Seal

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

10.8.2 The seal, if any, of the Company may only be affixed to any instrument with the Board's authority.

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

10.9 Definitions

In this Constitution:

Appointed Director means a Director appointed for the purposes of clause 6.1.2;

Board means the board of Directors of the Company with a quorum to transact business;

Business Day means a weekday which is not a public holiday in the state or territory of the Company's registered office;

Chair means the Director and office bearer under clause 6.8.1;

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

Company Secretary means a secretary appointed under clause 7.4;

Constitution means this constitution of the Company;

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

Director means a person for the time being who performs the role of director of the Company;

Deputy Chair means the Director and office bearer under clause 6.8.2;

Elected Director means a Director elected for the purposes of clause 6.1.1;

Electronic Voting means an electronic vote of members (including voting using electronic means, computer-mediated voting and voting via electric mail) conducted in accordance with this Constitution and the Regulations from time to time;

Hybrid Meeting means a meeting held in two or more locations where some or all of the participants' attendance is enabled by audio and video conferencing or similar technology;

Indemnified Officer has the meaning given in clause 10.6.3;

Law includes statute, regulation, legislative instrument, rules, standards, proclamation, ordinance or by-law which, by or under statute, bind a person from time to time;

Liability includes cost, charge, loss, damage, expense or penalty;

Member means a person who is a member of the Company pursuant to clauses 3 and 4;

Officer means an officer for the purposes of the Corporations Act;

Purpose has the meaning given in clause 1;

Regulations means regulations made by the Board under clause 7.5;

Relevant Laws means Laws regulating the registration, reporting or governance obligations of the Company and includes:

- (a) *Australian Charities and Not-for-profits Commission Act 2012* (Cth),
- (b) *Income Tax Assessment Act 1997* (Cth); and
- (c) *Charities Act 2013* (Cth);

Representative of a Member means:

- (a) a proxy appointed in accordance with clause 5.9;
- (b) an attorney of the Member, whose instrument of appointment has been provided to the Company;
- (c) a representative appointed by the body corporate Member in accordance with the Corporations Act,

and includes a Representative appointed on a standing basis;

Traditional Custodians means a person of Aboriginal and/or Torres Strait Island descent who, through a membership in a descent group or clan, has responsibility for caring for a particular country and is authorised to speak for country and its heritage, including a senior traditional owner, an elder, or registered as a Native Title claimant;

Unacceptable 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) is conduct which threatens the good order or integrity of the Company;
- (c) is not that of a fit and proper person or a person of good fame and character;
- (d) is conduct which creates conflicts or is contrary to the Company's Purpose, vision or values, or otherwise lacks honesty, integrity, ethics or professionalism;
- (e) is unbecoming of Members; and
- (f) is conduct similar to the above which is set out in the Regulations; and

Year, in relation to a Director's term of office, means the period of approximately one calendar year between annual general meetings.

10.10 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 10.10.1 words importing the singular include the plural, and words importing the plural include the singular;

- 10.10.2 words importing a gender include every other gender;
- 10.10.3 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;
- 10.10.4 headings and bold text are for convenience only and do not affect its interpretation; and
- 10.10.5 a Member is to be taken to be present at a general meeting if the Member is present in person, or by technology or by Representative.

10.11 **Interpretation subject to Relevant Laws**

- 10.11.1 This Constitution is to be interpreted subject to Relevant Laws. If there is any inconsistency, Relevant Laws prevail.
- 10.11.2 To the extent that Relevant Laws require this Constitution to include provisions so that the Company can hold a registration or exemption status, those provisions are taken to form part of this Constitution.
- 10.11.3 Provisions which are optional replaceable rules under the Corporations Act do not apply to the Company.