



**ENVIRONMENTAL
DEFENDERS OFFICE (NT) INC.**

CONSTITUTION OF ENVIRONMENTAL DEFENDERS OFFICE (NT) INCORPORATED

As at 11 February 2014

**This Constitution replaces the Constitution of the Environmental
Defenders Office (NT) Incorporated as amended at 27 September 2013.**

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Part 1 – Preliminary

1. Name

The name of the incorporated Association shall be Environmental Defenders Office (NT) Incorporated referred to in this document as “the Association”.

2. Objects and purposes

The objects of the Association shall be:

- (1) To empower the community to protect the environment through law recognising:
 - (a) the suffering, distress and disempowerment that result from environmental damage and from being unable to obtain legal advice, assistance and representation in relation to such damage
 - (b) the importance of public participation in environmental decision making in achieving environmental protection
 - (c) the importance of Aboriginal involvement in protection of the environment
- (2) To provide legal representation, advice, information and services in connection with the conservation, protection, enhancement and/or promotion of the natural and built environment or any part of it.
- (3) To promote community educational programs in matters relating to environmental law in the legal system.
- (4) To undertake research with a view to ascertaining the needs of the community for legal assistance in environmental law matters and the most effective way of meeting those needs.
- (5) To publicise the existence of the organisation and its objects.
- (6) To establish a public fund known as the 'EDONT Donations Fund' (hereafter called the 'Public Fund') for the specific purpose of supporting the objectives of the Association. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the Income Tax assessment Act 1997.

3. Minimum number of members

The Association must have at least five members.

4. Definitions

In this Constitution, unless the contrary intention appears:

"Act" means the *Associations Act* and regulations made under that Act;

"Committee" means the Management Committee of the Association;

"financial institution" means an authorised deposit-taking institution within the meaning of section 5 of the *Banking Act 1959* of the Commonwealth;

"general meeting" means a general meeting of members convened in accordance with clause 44;

"member" means a person or a body, including an incorporated body, admitted to membership of the Association;

"register of members" means the register of the Association's members established and maintained under section 34 of the Act;

"special resolution" means a resolution notice of which is given under clause 47 and passed in accordance with section 37 of the Act.

Part 2 – Constitution and Powers of Association

5. Powers of Association

- (1) For achieving its objects and purposes, the Association has the powers conferred by sections 11 and 13 of the Act.
- (2) Subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes, and in particular, may:
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on the terms and in the manner it considers appropriate;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf; and
 - (g) enter into any other contract it considers necessary or desirable.

6. Effect of Constitution

This Constitution binds every member and the Association to the same extent as if every member and the Association had signed and sealed this Constitution and agreed to be bound by it.

7. Inconsistency between Constitution and Act

If there is any inconsistency between this Constitution and the Act, the Act prevails.

8. Altering the Constitution

- (1) The Association may alter this Constitution by special resolution but not otherwise.
- (2) If the Constitution is altered, the public officer must ensure compliance with section 23 of the Act.

Part 3 – Members

Division 1 - Membership

9. Application for membership

- (1) Any person who agrees with the objects of the Association or any body whose objects do not conflict with the objects of the Association may apply for membership.
- (2) To apply to become a member of the Association a person or authorised representative of a body, must:
 - (a) submit a written application for membership to the Committee:
 - (i) in a form approved by the Committee; and

(ii) signed by the applicant

(b) pay the joining fee

10. Approval of Committee

- (1) The Committee must consider any application made under clause 9 at the next available Committee meeting and must accept or reject the application at that meeting or the next.
- (2) If any application for membership is not raised at such meeting then it is automatically accepted at the conclusion of the meeting.
- (3) If an application is rejected, the applicant may appeal against the decision by giving notice to the Secretary within 14 days after being advised of the rejection.
- (4) If an applicant gives notice of an appeal against the rejection of his or her application, the Committee must reconsider the application at the next Committee meeting after receipt of the notice of appeal.
- (5) If after reconsidering an application the Committee reaffirms its decision to reject the application, the decision is final.

11. Joining fee

- (1) If an application in accordance with clause 9 is approved by the Committee, the applicant becomes a member.
- (2) The joining fee is the amount determined from time to time by resolution at a general meeting.

12. Annual membership fees

- (1) The annual membership fee is the amount determined from time to time by resolution at a general meeting.
- (2) Each member must pay the annual membership fee to the Treasurer by the first day of each financial year or another date determined by the Committee from time to time.
- (3) A member whose subscription is not paid within 3 months after the due date ceases to be a member unless the Committee determines otherwise.
- (4) On approval of a membership application by the Committee, a member is deemed to have paid his or her annual membership fee until the following year's due date (determined in accordance with clause 12(2)).
- (5) If a member pays the annual membership fee during the 3 calendar months before the due date (determined in accordance with clause 12(2)) the member is deemed to have paid his or her annual membership fee until the following year's due date (as determined by clause 12(2)).

Division 2 – Rights of members

13. General

- (1) Subject to clause 14(2), a member may exercise the rights of membership when his or her name is entered in the register of members.
- (2) A right of membership of the Association:
 - (a) is not capable of being transferred or transmitted to another person; and

- (b) terminates on the cessation of membership whether by death, resignation or otherwise.

14. Voting

- (1) Subject to subclause (2) and clause 18, each member has one vote at general meetings of the Association.
- (2) A member is not eligible to vote until after his or her application has been accepted.

15. Notice of meetings and special resolutions

The Secretary must give all members notice of general meetings and special resolutions in the manner and time prescribed by this Constitution.

16. Access to information on Association

The following must be available for inspection by members:

- (a) a copy of this Constitution;
- (b) minutes of general meetings;
- (c) annual reports and annual financial reports.

17. Raising grievances and complaints

- (1) A member may raise a grievance or complaint about a Committee member, the Committee or another member of the Association.
- (2) The grievance or complaint must be dealt with by the procedures set out in Part 8.

18. Associate members

An associate member must not vote but may have other rights as determined by the Committee or by resolution at a general meeting.

Division 3 – Termination, death, suspension and expulsion

19. Termination of membership

Membership of the Association may be terminated by:

- (a) a notice of resignation addressed and posted to the Association or given personally to the Secretary or another Committee member;
- (b) non-payment of the annual membership fee within the time allowed under clause 12(3); or
- (c) expulsion in accordance with this Division.

20. Death of member or whereabouts unknown

If a member dies or the whereabouts of a member are unknown, the Committee must cancel the member's membership.

21. Suspension or expulsion of members

- (1) If the Committee considers that a member should be suspended or expelled because his or her conduct is detrimental to the interests of the Association, the Committee must give notice of the proposed suspension or expulsion to the member.

- (2) The notice must:
 - (a) be in writing and include:
 - (i) the time, date and place of the Committee meeting at which the question of that suspension or expulsion will be decided; and
 - (ii) the particulars of the conduct; and
 - (b) be given to the member not less than 30 days before the date of the Committee meeting referred to in paragraph (a)(i).
- (3) At the meeting, the Committee must afford the member a reasonable opportunity to be heard or to make representations in writing.
- (4) The Committee may suspend or expel or decline to suspend or expel the member from the Association and must give written notice of the decision and the reason for it to the member.
- (5) Subject to clause 22, the decision to suspend or expel a member takes effect 14 days after the day on which notice of the decision is given to the member.

22. Appeals against suspension or expulsion

- (1) A member who is suspended or expelled under clause 21 may appeal against that suspension or expulsion by giving notice to the Secretary within 14 days after receipt of the Committee's decision.
- (2) The appeal must be considered at a general meeting of the Association and the member must be afforded a reasonable opportunity to be heard at the meeting or to make representations in writing prior to the meeting for circulation at the meeting.
- (3) The members present at the general meeting must, by resolution, either confirm or set aside the decision of the Committee to suspend or expel the member.
- (4) The member is not suspended or does not cease to be a member until the decision of the Committee to suspend or expel him or her is confirmed by a resolution of the members.

Part 4 – Management Committee

Division 1 – General

23. Role and powers

- (1) The business of the Association must be managed by or under the direction of a Management Committee.
- (2) The Committee may exercise all the powers of the Association except those matters that the Act or this Constitution requires the Association to determine through a general meeting of members.
- (3) The Committee may appoint and remove staff.
- (4) The Committee may establish one or more subcommittees consisting of the members of the Association the Committee considers appropriate.

24. Composition of Committee

- (1) The Committee will consist of at least 8 members and no more than 13 members.

- (2) The Committee shall be comprised of the following offices elected at an AGM –
 - (a) the Chairperson;
 - (b) the Secretary;
 - (c) the Treasurer;
 - (d) the Public Officer; and
 - (e) at least 4 other members, three of whom may reside in Central Australia.
- (3) At the first Committee meeting following the AGM each year the Committee shall invite each of the following organisations to nominate a member to the Committee –
 - a. The Environment Centre of the Northern Territory;
 - b. The National Trust;
 - c. Darwin Community Legal Service; and
 - d. subject to clause 9(1) of this Constitution one other environmental organisation as determined from time to time by the Committee;
- (4) Where any of the Organisations at clause 3 decline to nominate a person or do not respond within 28 days of the invitation being posted the Committee may invite any other member to fill the vacant positions.
- (5) The Executive Officer of the Association; as an *ex-officio* member with no voting rights.

25. Delegation

- (1) The Committee may delegate to a subcommittee or staff any of its powers and functions other than –
 - (a) this power of delegation; or
 - (b) a duty imposed on the Committee by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (3) The Committee may, in writing, revoke wholly or in part the delegation.

Division 2 – Tenure of office

26. Eligibility of Committee members

- (1) A Committee member must be a member who is 18 years or over.
- (2) Committee members must be elected to the Committee at an annual general meeting, invited to join the Committee under clause 24, or appointed under clause 33.
- (3) A Committee Member must not hold –
 - (a) any salaried position within the Association; or
 - (b) any office of the Association for which fees are received.
- (4) No remuneration or other benefit, in cash or in kind, shall be given by the Association to

any Committee member except for the repayment of out-of-pocket expenses.

- (5) Sub-clause 4 does not prevent the Committee from awarding a contract for goods or services to a member of the Committee in circumstances where the Committee is satisfied that the member of the Committee is the best placed person to fulfill the requirements of the contract after considering all relevant matters.
- (5) Sub-clauses (3) and (4) do not apply in the case of the Executive Officer as an ex-officio member.

27. Nominations for election to Committee

- (1) A member is not eligible for election to the Committee unless
 - (a) the Secretary receives a written nomination for that member by another member not less than 7 days before the date of the next annual general meeting; or
 - (b) an oral nomination is made during the course of a general meeting in which nominations for election to the Committee are being sought.
- (2) The written nomination must be signed by:
 - (a) the nominator; and
 - (b) the nominee to signify his or her willingness to stand for election.
- (3) The oral nomination must be made by –
 - (a) the nominee to signify his or her willingness to stand for election; and
 - (b) seconded by another member.
- (4) A person who is eligible for election or re-election under this clause may:
 - (a) propose or second himself or herself for election or re-election; and
 - (b) vote for himself or herself.

28. Retirement of Committee members

- (1) A Committee member holds office until the next annual general meeting unless the member vacates the office under clause 31 or is removed under clause 32.
- (2) Subject to subclause (3), at an annual general meeting the office of each Committee member becomes vacant and elections for eight new Committee Members must be held.
- (3) The Chairperson of the outgoing Committee must preside at the annual general meeting until a new member is elected as Chairperson.
- (4) Members may serve consecutive terms on the Committee.

29. Election by default

- (1) If the number of persons nominated for election to the Committee under clause 27 does not exceed the number of vacancies to be filled, the Chairperson must declare the persons to be duly elected as members of the Committee at the annual general meeting.
- (2) If vacancies remain on the Committee after the declaration under subclause (1), additional nominations of Committee members may be accepted from the floor of the annual general meeting.

- (3) If the nominations from the floor do not exceed the number of remaining vacancies, the Chairperson must declare those persons to be duly elected as members of the Committee.
- (4) If the nominations from the floor are less than the number of remaining vacancies, the unfilled vacancies are taken to be casual vacancies and must be filled by the new Committee in accordance with clause 33.

30. Election by ballot

- (1) If the number of nominations exceeds the number of vacancies on the Committee, ballots for those positions must be conducted.
- (2) The ballot must be conducted in a manner determined from time to time by resolution at a general meeting.
- (3) The members chosen by ballot must be declared by the Chairperson to be duly elected as members of the Committee.

31. Vacating office

The office of a Committee member becomes vacant if:

- (a) the member:
 - (i) is disqualified from being a committee member under section 30 or 40 of the Act;
 - (ii) resigns by giving written notice to the Committee;
 - (iii) dies or is rendered permanently incapable of performing the duties of office by mental or physical ill-health;
 - (iv) ceases to be a resident of the Territory; or
 - (v) ceases to be a member of the Association;
 - (vi) ceases to be eligible under clause 26
- (b) the member is absent from more than:
 - (i) 3 consecutive Committee meetings; or
 - (ii) 3 meetings in the same financial year without tendering an apology to the Chairperson;

of which meetings the member received notice and the Committee has resolved to declare the office vacant.

32. Removal of Committee member

- (1) The Association, through a special general meeting of members, may remove any Committee member before the member's term of office ends.
- (2) If a vacancy arises through removal under subclause (1), an election must be held to fill the vacancy.

33. Filling casual vacancy on Committee

- (1) If a vacancy remains on the Committee after the application of clause 29 or if the office of a committee member becomes vacant under clause 31, the Committee may appoint any member of the Association to fill that vacancy.

- (2) However, if the office of public officer becomes vacant, a person must be appointed under section 27(6) of the Act to fill the vacancy.

Division 3 – Duties of Committee members

34. Collective responsibility of Committee

- (1) As soon as practicable after being elected to the Committee, each Committee member must become familiar with the Act and regulations made under the Act.
- (2) The Committee is collectively responsible for ensuring the Association complies with the Act and regulations made under the Act.

35. Chairperson

- (1) Subject to subclauses (2) and (3), the Chairperson must preside at all general meetings and Committee meetings.
- (2) If the Chairperson is absent, from a meeting, the presiding member for that meeting must be:
- (a) a member elected by the other members present if it is a general meeting; or
 - (b) a Committee member elected by the other Committee members present if it is a Committee meeting.
- (3) The Chairperson shall be responsible for ensuring that a register of the members is kept, maintained and made available for inspection by members in accordance with section 34 of the Act.

36. Secretary

The Secretary must ensure that:

- (a) the correspondence of the Association is managed and coordinated;
- (b) minutes of all proceedings of general meetings, special general meetings and of Board meetings are kept in accordance with section 38 of the Act;
- (c) unless the members resolve otherwise at a general meeting – the safe custody of all books, documents, records and registers of the Association; and
- (d) any other duties imposed by this Constitution are performed.

37. Treasurer

- (1) The Treasurer must ensure that:
- (a) the receipt of all moneys paid to or received by the Association and ensure issue receipts for those moneys are issued in the name of the Association;
 - (b) all moneys received into an account of the Association are paid within 5 working days after receipt;
 - (c) any payments authorised by the Board or by a general meeting of the Association are paid from the Association's funds; and
 - (d) cheques are signed by him or her and at least 1 other Committee member, or by any 2 other nominees authorised by the Committee.

- (2) The Treasurer must ensure the accounting records of the Association are kept in accordance with section 41 of the Act.
- (3) The Treasurer must coordinate the preparation of the Association's annual statement of accounts.
- (4) If directed to do so by the Chairperson, the Treasurer must submit to the Committee a report, balance sheet or financial statement in accordance with that direction.
- (5) The Treasurer must ensure any other duties imposed by this Constitution on the Treasurer are performed.

38. Public officer

- (1) The public officer must ensure that documents are filed with the Commissioner of Consumer Affairs in accordance with sections 23, 28 and 45 of the Act.
- (2) The public officer must ensure a current copy of the Constitution of the Association is kept.

Part 5 – Meetings of Management Committee

39. Frequency and calling of meetings

- (1) The Committee must meet together for the conduct of business not less than 6 times in each financial year.
- (2) The Chairperson, or at least half the Committee members, may at any time convene a special meeting of the Committee.
- (3) A special meeting may be convened to deal with an appeal under clause 22.

40. Voting and decision making

- (1) Each Committee member present at the meeting has a deliberative vote.
- (2) A question arising at a Committee meeting must be decided by a majority of votes.
- (3) If there is no majority, the issue is resolved in the negative.

41. Quorum

For a Committee meeting, a quorum is constituted by the lower of –

- (a) 5 members including those attending by telephone or electronic means; or
- (b) 50% of the Committee members.

42. Procedure and order of business

- (1) The procedure to be followed at a Committee meeting must be determined from time to time by the Committee.
- (2) The order of business may be determined by the members present at the meeting.
- (3) Only the business for which the meeting is convened may be considered at a special meeting.

43. Disclosure of interest

- (1) A Committee member who has a direct or indirect pecuniary interest in a contract, or proposed contract, with the Association must disclose the nature and extent of the interest to the Committee in accordance with section 31 of the Act.
- (2) The Secretary must ensure the disclosure is recorded in the minutes of the meeting.
- (3) The Chairperson must ensure a Committee member who has a direct or indirect pecuniary interest in a contract, or proposed contract, complies with section 32 of the Act.

Part 6 – General Meetings

44. Convening general meetings

- (1) The Association must hold all annual general meetings within 5 months after the end of the Association's financial year.
- (2) The Committee:
 - (a) may at any time convene a special general meeting;
 - (b) must, within 30 days after the Secretary receives a notice under clause 22(1), convene a special general meeting to deal with the appeal to which the notice relates; and
 - (c) must, within 30 days after it receives a request under clause 45(1), convene a special general meeting for the purpose specified in that request.

45. Special general meetings

- (1) Half the number of members constituting a quorum for a general meeting may make a written request to the Committee for a special general meeting.
- (2) The request must:
 - (a) state the purpose of the special general meeting; and
 - (b) be signed by the members making the request.
- (3) If the Committee fails to convene a special general meeting within the time allowed:
 - (a) for clause 44(2)(b) – the appeal against the decision of the Committee is upheld; and
 - (b) for clause 44(2)(c) – the members who made the request may convene a special general meeting as if they were the Committee.
- (4) If a special general meeting is convened under subclause (3)(b), the Association must meet any reasonable expenses of convening and holding the special general meeting.
- (5) The Chairperson must give to all members not less than 14 days notice of a special general meeting.
- (6) The notice must specify:
 - (a) when and where the meeting is to be held; and
 - (b) the particulars of and the order in which business is to be transacted.

46. Annual general meeting

- (1) The Chairperson must give to all members not less than 30 days notice of an annual general meeting unless otherwise provided in the Schedule.
- (2) The notice must specify:
 - (a) when and where the meeting is to be held; and
 - (b) the particulars of and the order in which business is to be transacted.
- (3) The order of business for each annual general meeting is as follows:
 - (a) first – the consideration of the accounts and reports of the Committee;
 - (b) second – the election of new Committee members;
 - (c) third – any other business requiring consideration by the Association at the meeting.

47. Special resolutions

- (1) A special resolution may be moved at any general meeting of the Association.
- (2) The Chairperson must give all members not less than 14 days notice of the meeting at which a special resolution is to be proposed.
- (3) The notice must include the resolution to be proposed and the intention to propose the resolution as a special resolution.

48. Notice of meetings

- (1) The Chairperson must give a notice under this Part by –
 - (a) serving it on a member personally; or
 - (b) sending it by post or email or other electronic means of communication to a member at the address of the member appearing in the register of members.
- (2) If a notice is sent by post under subclause (1)(b), sending of the notice is taken to have been properly effected if the notice is addressed and posted to the member by ordinary prepaid mail.

49. Quorum at general meetings

At a general meeting a quorum is constituted by the lower of –

- (a) 10 members; or
- (b) 50% of the members.

50. Lack of quorum

- (1) If within 30 minutes after the time specified in the notice for the holding of a general meeting a quorum is not present –
 - (a) for an annual general meeting or special general meeting convened under clause 44(2)(a) – the meeting stands adjourned to the same time on the same day in the following week and to the same place;

- (b) for a meeting convened under clause 44(2)(b) – the members who are present in person or by proxy may proceed with hearing the appeal for which the meeting is convened; or
 - (c) for a meeting convened under clause 44(2)(c) – the meeting lapses.
- (2) If within 30 minutes after the time appointed by subclause (1)(a) for the resumption of an adjourned general meeting a quorum is not present, the members who are present in person or by proxy may proceed with the business of that general meeting as if a quorum were present.
 - (3) The Chairperson may, with the consent of a general meeting at which a quorum is present, and must, if directed by the members at the meeting, adjourn that general meeting from time to time and from place to place.
 - (4) There must not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.
 - (5) If a general meeting is adjourned for a period of 30 days or more, the Secretary must give notice of the adjourned general meeting as if that general meeting were a fresh general meeting.

51. Voting

- (1) Subject to clauses 14(2) and 18, each member present in person or by proxy at a general meeting is entitled to a deliberative vote.
- (2) At a general meeting:
 - (a) an ordinary resolution put to the vote is decided by a majority of votes made in person or by proxy; and
 - (b) a special resolution put to the vote is passed if two-thirds of the members who are present in person or by proxy vote in favour of the resolution.
- (3) A poll may be demanded by the Chairperson or by 3 or more members present in person or by proxy.
- (4) If demanded, a poll must be taken immediately and in the manner the Chairperson directs.

52. Proxies

A member may appoint in writing another member to be the proxy of the appointing member to attend and vote on behalf of the appointing member at any general meeting. No member shall hold more than three proxy votes.

Part 7 – Financial Management

53. Financial year

The financial year of the Association is 1 July – 30 June.

54. Funds and accounts

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (2) Subject to any restrictions imposed by the Association at a general meeting, the Committee may approve expenditure on behalf of the Association within the limits of the budget.

- (3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 members or by any 2 other nominees authorised by the Committee.
- (4) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt or as soon as practicable after that day.
- (5) All expenditure of the Association must be approved in accordance with the following rules:
 - (a) Where the Committee has adopted an itemised budget, any two staff, or the Committee may approve expenditure of amounts within an item of the budget - save that an individual staff member may approve expenditure of amounts less than \$50.00.
 - (b) The Committee must approve all other expenditure of amounts in excess of \$50.00.
- (6) With the approval of the Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

55. Accounts and audits

The responsibility of the Committee under clause 34(2) for ensuring compliance with the Act includes meeting the requirements of Part 5 of the Act and regulations made for that Part relating to:

- (a) the keeping of accounting records;
- (b) the preparation and presentation of the Association's annual statement of accounts; and
- (c) the auditing of the Association's accounts.

Part 8 – Grievance and disputes

56. Grievance and disputes procedures

- (1) This clause applies to disputes between:
 - (a) a member and another member; or
 - (b) a member and the Committee.
- (2) Within 14 days after the dispute comes to the attention of the parties to the dispute, they must meet and discuss the matter in dispute, and, if possible, resolve the dispute.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days after the meeting, hold another meeting in the presence of a mediator.
- (4) The mediator must be:
 - (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement:
 - (i) for a dispute between a member and another member – a person appointed by the Committee; or
 - (ii) for a dispute between a member and the Committee – a person who is a mediator appointed or employed by the department administering the Act.

- (5) A member of the Association can be a mediator.
- (6) The mediator cannot be a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must:
 - (a) give the parties to the mediation process every opportunity to be heard;
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute.
- (10) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

Part 9 – Miscellaneous

57. Common seal

- (1) The common seal of the Association must not be used without the express authority of the Committee and every use of that common seal must be recorded by the Secretary.
- (2) Two Committee members must witness the affixing of the common seal of the Association.
- (3) The common seal of the Association must be kept in the custody of the Secretary or another person the Committee from time to time decides.

58. Distribution of surplus assets on winding up

- (1) If on the winding up or dissolution of the Association, and after satisfaction of all its debts and liabilities, there remain any assets, the assets must not be distributed to the members or former members.
- (2) The surplus assets must be given or transferred to another Association incorporated under the Act that:
 - (a) has similar objects or purposes;
 - (b) is not carried on for profit or gain to its individual members; and
 - (c) is determined by resolution of the members.

59. Revocation of gifts

If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation to which income tax deductible gifts can be made:

- (a) gifts of money or property for the principal purpose of the organisation;
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation; and
- (c) money received by the organisation because of such gifts and contributions.

60. Director's Indemnity

To the extent permitted by law, the Association shall indemnify a person who is, or has been a Committee Member, against any liability, loss or damage arising out of the execution of his or her official duties as Committee member which are incurred or suffered by that person in defending proceedings, whether criminal or civil, in which –

- (a) judgment is given in favour of that person;
- (b) that person is acquitted; or
- (c) the proceedings are discontinued by the initiating party.

61. Public Fund

- (1) The Association may establish a sub committee of not less than three persons for the purpose of sponsoring and maintaining a Public Fund; the majority of whom must be deemed by the Federal Department of Environment as 'responsible persons'.
- (2) The Public Fund shall at all times be a distinct entity with the principal purpose of the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.
- (3) The Public Fund shall be used:
 - (d) to receive gifts of money or property (which are allowable deductions under item 6.1.1 of sub-section 30-55(1) of the *Income Tax Assessment Act 1977*) for the Fund's purposes;
 - (e) to receive all interest on moneys in the Public Fund;
 - (f) to receive all money derived from the property given to the Public Fund; and
- (4) The Public Fund shall not be used to receive any other money or property and the Fund shall not be paid or distributed directly or indirectly by way of dividend, bonus or otherwise by way of profit or amongst the members of the Association.
- (5) The Public Fund subcommittee shall maintain a bank account at all times into which all Public Fund monies are paid and a register of any property donated to the Public Fund.
- (6) The Association will inform the Federal Department responsible for the environment as soon as possible if it:
 - (a) changes its name or the name of the public fund; or
 - (b) there is any change to the membership of the subcommittee managing the Fund; or
 - (c) if there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations.
- (7) The Association agrees to comply with any rules that the Federal Treasurer and the Federal Ministers with responsibility for the environment may make to ensure the gifts made to the fund are only used for its principal purpose.
- (8) The Public Fund subcommittee shall meet at least four times a year.
- (9) Upon receipt of a donation to the Public Fund, a receipt must be issued in the name of the Public Fund.
- (10) All disbursements for the Donations Fund shall be made by cheque crossed "not negotiable" and signed by any two members of the subcommittee.

- (11) As soon as practicable after the end of each financial year, the subcommittee shall cause to be prepared a statement containing particulars of:
 - (a) the income and expenditure of the Public Fund for the financial year just ended;
 - (b) the assets and liabilities and of all mortgages, charges and securities affecting the property of the Public Fund at the close of that year.
- (12) All such statements shall be examined by the auditor who shall present a report upon such audit to the subcommittee prior to the holding of the AGM next following the financial year in respect of which such audit was made.
- (13) The subcommittee shall provide for the safekeeping of all books, documents, instruments of title and securities of the Public Fund.
- (14) In the event that either:
 - (a) the Public Fund shall be wound up; or
 - (b) if the Association shall be wound up
 - (c) then any surplus assets in the Public Fund shall be transferred to another institution or institutions having objects similar to the objects of the Association, such institution to be eligible to receive tax deductible gifts under item 6.1.1 of sub-section 30-55(1) of the *Income Tax Assessment Act 1977* and to be on the Register of Environmental Organisations.
- (15) Statistical information requested by the Department responsible for the environment on donations to the Public Fund will be supplied within four months of the end of the financial year.
- (16) An audited financial statement for the Association and the Public Fund shall be supplied to the Department of Environment with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

62. Conduit Policy

Any allocation of funds or property (including the Public Fund) by this Association to other organisations or persons will be made in accordance with the established objectives of the Association and will not be influenced by the expressed preference or interests of a particular donor to the Association.

PART 10 – TRANSITIONAL PROVISIONS

63. Transition of Management Committee Members

At the time this Constitution is filed with the Commissioner in accordance with 23 of the Act

- (1) Members of the Management Committee who were
 - (a) pursuant to clause 18.2(b) of the Constitution as in force at the 2013 annual general meeting, elected at the 2013 annual general meeting, and
 - (b) pursuant to clause 18.1(c) of the Constitution as in force at the 2013 annual general meeting, invited to become members of the Management Committee

shall transition to the Management Committee as established by Part 4 of this Constitution.

- (2) The member of the Management Committee appointed pursuant to clause 18.1(a) of the Constitution as in force at the 2013 annual general meeting shall cease to be a member of the Management Committee.