

CONSTITUTION OF THE

**RIVERLAND WEST LANDCARE INCORPORATED**

**(in South Australia)**

THESE RULES WERE DULY ADOPTED BY RESOLUTION OF THE MEMBERS AT THE ANNUAL GENERAL  
MEETING HELD ON 2<sup>ND</sup> NOVEMBER, 2014

This is the annexure marked 'A' referred to in the statutory declaration of ..... made on  
the ..... day of ....., 2014

Before me .....

Justice of the Peace.

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# THE CONSTITUTION OF THE RIVERLAND WEST LANDCARE INCORPORATED

## **1. NAME**

The name of the Incorporated Association is the “RIVERLAND WEST LANDCARE INCORPORATED” (referred to herein as “the association”).

## **2. INTERPRETATION**

In these rules, unless the contrary appears – “committee” means the committee of management of the Incorporated Association;

- a) ‘member’ means those persons or organisations eligible for a membership of the association as defined in Section 5;
- b) ‘committee member’ means those persons on the Committee of Management of the Incorporated Association;
- c) all words shall have their natural and ordinary meaning;
- d) “the Act” means the Associations Incorporation Act 1985;
- e) “the designated area” means the area set out in annexure “A” hereto
- f) “the Environment Secretary” means the Secretary of the Environment Department
- g) “Treasurer” means the Australian Government Minister responsible for the administering of the *Income Tax Assessment Act 1997* (Cth);
- h) “Environment Minister” means the Australian Government Minister administering section 1 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
- i) “the Secretary” means and includes the Secretary and any assistant or acting secretary and any other person for the time being appointed to perform whether alone or in addition to any other person or persons the duties of a secretary of the Association;
- j) “writing” includes printing an lithography and other modes of reproducing or representing words in a visible form, and “written” has a corresponding meaning;
- k) “the River Murray” means those parts of the state of South Australia defined as the River Murray Proclaimed Watercourse;
- l) the singular shall include a body corporate;
- m) “the Commission” means the Corporate Affairs Commission as specified in the Associations Incorporations Act 1985.

- n) "Fund" or "Public Fund" means the Riverland West Landcare Fund;
- o) "Fund Management Committee" means the Committee of Management of the Fund;
- p) "Department" means the Australian Government Department that:
  - deals with matters arising under section 1 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); and
  - is administered by the Environment Minister

### **3. OBJECTS AND PURPOSES**

The principle objects of the Associations are

- a) to promote, educate and facilitate appropriate community management of natural resources.
- b) to reduce degradation of natural resources;
- c) to promote the rehabilitation of natural resources by industries and the wider community;
- d) to promote ecologically sustainable development and management of natural resources;
- e) to undertake initiatives and programmes consistent with the association's objectives as defined from time to time.
- f) to establish and maintain a public fund to be called the "Riverland West Landcare Fund" for the specific purpose of supporting the environmental objectives/purposes 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.

### **4. POWERS**

The association shall so long as it is acting in pursuit of its objects have all the powers conferred by Section 25 of the Act, and without limiting the generality thereof shall have the following specific powers:

- 4.1 to apply for and obtain grants or other assistance from any Government or Governmental or Statutory Authority or private sector;
- 4.2 to employ and to remunerate such servants agents employees consultants and contractors as the committee thinks fit;
- 4.3 to enter into contracts agreements arrangements and understandings necessary by the committee;
- 4.4 to invest any moneys not immediately required for the purposes of the association in accordance with the Act;

- 4.5 and do all things necessary or considered desirable by the association for the purpose of achieving or carrying into effect any of the foregoing.

## **5. MEMBERSHIP OF THE ASSOCIATION**

- 5.1 Membership of the Association shall be open to any person or the representative of a body corporate of contractual capacity and with common aims and objectives who:
- (a) is resident in the designated area; or
  - (b) has a place of business or who owns land in the designated area; or
  - (c) is a representative of any government or governmental or statutory authority who has applied in writing to be a member and has been approved by the committee; or
  - (d) is a representative of an association which has common aims and objectives to the association and who has applied in writing and whose membership has been approved by the committee.
- 5.2 People become members upon acceptance by the committee of a valid application in accordance with clause 5.1 and are then entitled to vote.
- 5.3 The application for membership of the representative of a body corporate shall be signed by a director in the case of a company or two committee persons in the case of other entities.

## **6. RESIGNATIONS**

- 6.1 A member may resign from membership of the association by giving written notice thereof to the secretary or public officer of the association. Any member so resigning shall be liable for any outstanding subscriptions which may be recovered as a debt due to the association.

## **7. EXPULSION OF A MEMBER**

- 7.1 Subject to giving a member an opportunity to be heard or to make a written submission, the committee may resolve to expel a member upon a charge of misconduct detrimental to the interests of the association.
- 7.2 Particulars of the charge shall be communicated to the member at least one month before the meeting of the committee at which the matter will be determined.

- 7.3 The determination of the committee shall be communicated to the member, and in the event of an adverse determination the member shall, (subject to 7.4 below), cease to be a member 14 days after the committee has communicated its determination to the member.
- 7.4 It shall be open to a member to appeal to the association in general meeting against the expulsion. The intention to appeal shall be communicated to the secretary or public officer of the association within 14 days after the determination of the committee has been communicated to the member.
- 7.5 In the event of an appeal under 7.4 above, the appellant's membership of the association shall not be terminated unless the determination of the committee to expel the member is upheld by the members of the association in general meeting after the appellant has been heard by the members of the association, and in such event, membership will be terminated at the date of the general meeting at which the determination of the committee is upheld.

## **8. REGISTER OF MEMBERS**

A register of members must be kept and contain:

- (a) the name and address of each member;
- (b) the date on which each member was admitted to the association; and
- (c) if applicable, the date of, and reason(s) for, termination of membership.

## **9. THE COMMITTEE**

### **9.1 POWERS AND DUTIES**

- (a) the affairs of the association shall be managed and controlled by a committee which in addition to any powers and authorities conferred by these rules may exercise all such powers and do all such things as are within the objects of the association, and are not by the Act or by these rules required to be done by the association in general meeting.
- (b) the committee has the management and control of the funds and other property of the association.
- (c) the committee shall have authority to interpret the meaning of these rules and any other matter relating to the affairs of the association on which these rules are silent.

- (d) the committee shall appoint a Public Officer as required by the Act.

## **9.2 APPOINTMENT**

- (a) the Committee shall be comprised of not less than six (6) members and not more than ten (10) members including the Chairman and Deputy Chairman and Secretary, all of whom shall be members of the association.
- (b) a committee member shall be a natural person.
- (c) the first committee of the association shall be appointed from the promoters of the association, or be comprised of such persons as hold office prior to incorporation. The first committee shall hold office until the first annual general meeting after incorporation at which time half of the members of the committee, who shall be chosen by ballot, shall retire from the committee but shall be eligible for reappointment. At each subsequent annual general meeting one half of the members being the longest serving members, shall retire.
- (d) a retiring committee member shall be eligible to stand for re-election without nomination. No other person shall be eligible to stand for election unless a member of the association has nominated that person at least 7 days before the meeting by delivering the nomination of that person to the secretary of the association. The nomination shall be signed by the proposer and by the nominee.
- (e) if there are inadequate nominations received prior to seven (7) days before the Annual General Meeting, nominations may be accepted from the members present at the Annual General Meeting.
- (f) notice of all persons seeking election to the committee shall be given to all members of the association by the placing of a notice detailing the nominations received at the association's office.
- (g) if only the required numbers of persons are nominated to fill existing vacancies, the secretary shall report accordingly to the annual general meeting, and the chairman of the meeting shall declare such persons duly elected as committee members.
- (h) the committee may appoint any person to fill a casual vacancy, and such a committee member shall hold office until the next annual general meeting of the association and shall be eligible for reappointment.
- (i) a committee member shall be resident within the area shown in Schedule A.



- (j) the District Council of Loxton Waikerie is entitled to nominate a member of the council to the committee as a non voting member
- (k) the Mid Murray Council is entitled to nominate a member of the council to the committee as a non voting member

### **9.3 PROCEEDINGS OF COMMITTEE**

- (a) the members of the committee shall regulate their meetings in such a manner as they think fit, provided that in any one year the committee shall meet a minimum of four times.
- (b) any question arising at a meeting of the committee shall be determined by a majority of votes. Each member present shall have one vote provided that in the event of an equality of votes the chairman shall have a casting vote in addition to a deliberative vote.
- (c) the quorum necessary for the transaction of business at a meeting of the committee shall be no less than 50% of the committee members. A member of the committee interested in any business of the meeting may be counted in a quorum, notwithstanding such interest or his inability to vote in respect of that matter.
- (d) any member of the committee who has any direct or indirect pecuniary interest in a contract or proposed contract, with the association must disclose the nature and extent of that interest to the committee as required by the Act, and shall not vote with respect to that contract or proposed contract. The member of the committee must disclose the nature and extent of his or her interest in the contract at the next annual general meeting of the association.
- (e) the committee may appoint either from their own numbers and or from members of the association such sub-committees as they deem expedient and may refer to any such sub-committees such powers and duties of the committee as they may determine.
- (f) at a sub-committee meeting, a majority of the members of such a sub-committee shall form a quorum.

### **9.4 DISQUALIFICATION OF COMMITTEE MEMBERS**

The office of a committee member shall become vacant if a committee member is:

- disqualified from being a committee member by the Act;

- expelled as a member under these rules;
- permanently incapacitated by ill health;
- absent without apology from more than four meetings in a financial year;
- no longer the duly appointed representative of a corporate member.

## **10. GENERAL MEETINGS**

### **10.1 Annual General Meetings**

- (a) the committee shall call an annual general meeting in accordance with the Act and these rules.
- (b) the first Annual General Meeting shall be held within eighteen (18) months after Incorporation of the association and thereafter within five (5) months after the end of its financial year.
- (c) the order of the business at the meeting shall be:
  - i) the confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting
  - ii) the consideration of the accounts and reports of the committee and the auditor's report
  - iii) the election of committee members
  - iv) the appointment of auditor
  - v) any other business requiring consideration by the association in general meeting.

### **10.2 Special General Meetings**

- (a) the committee may call a special general meeting of the Association at any time.
- (b) upon a requisition in writing of not less than 5% of the total number of members of the, committee shall within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- (c) every requisition for a special general meeting shall be signed by the members making the same and shall state the purpose of the meeting.
- (d) if a special general meeting is not convened within one month as required by sub-rule 10.2(b) above, the requisitionists, or at least 50% of their number, may convene a special general meeting. Such a meeting

convened in the same manner as nearly as practical as a meeting convened by the committee, and for this purpose the committee shall ensure that the requisitionists are supplied free of charged to the particulars of the members entitled to receive a notice of meeting. The reasonable expenses of convening and conduct of such a meeting shall be borne by the association.

### **10.3 Notice of General Meetings**

- (a) subject to 10.3b at least seven (7) days notice of any general meeting shall be given to members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting and be advertised in a newspaper circulating in the designated area.
- (b) notice of a meeting at which a special resolution is to be proposed shall be given at least fourteen (14) days prior to the date of the meeting by advertising the same in a newspaper circulating in the designated area..
- (c) a notice may be given by the association to any member by serving the member with the notice personally, or by sending it by post to the address appearing in the register of members.
- (d) where a notice is sent by post:
  - i) the service is effected by properly addressing prepaying and posting a letter or packet containing the notice; and
  - ii) unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

### **10.4 Proceedings at General Meetings**

- (a) ten members, present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.
- (b) if within 30 minutes after the time appointed for the meeting a quorum of members is not present, a meeting convened upon the requisition of members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the members present shall form a quorum.
- (c) subject to 10.4d, the chairman or deputy chairman shall preside as chairman at a general meeting of the association.

- (d) if the chairman or deputy chairman is not present within 5 minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the members may choose a committee member or one of their own number to be the chairman of that meeting.

#### **10.5 Voting at General Meetings**

- (a) subject to these rules, every member of the association has only one vote at a meeting of the association.
- (b) subject to these rules, a question for decision at a general meeting, other than a special resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at that meeting.
- (c) unless a poll is demanded by at least five members, a question for decision at a general meeting must be determined by a show of hands.
- (d) a member being a body corporate shall be entitled to appoint one person, who shall not be a member of the association, to represent it at a particular general meeting or at all general meetings of the association. That person shall be appointed by the corporate member by a resolution of its board, which may be authenticated under its seal. Such a person shall be deemed to be a member of the association for all purposes until the authority to represent the corporate member is revoked.

#### **10.6 Poll at General Meetings**

- (a) if a poll is demanded by at least five members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- (b) a poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

#### **10.7 Special and Ordinary Resolutions**

- (a) a special resolution is a special resolution as defined in the Act.
- (b) an ordinary resolution is a resolution passed by a simple majority at a general meeting.

## **10.8 Proxies**

A member shall be entitled to appoint in writing a natural person who is also a member of the association to be their proxy, and attend and vote at any general meeting of the association.

## **11. MINUTES**

- 11.1 Proper minutes of all proceedings of general meetings of the association and of meetings of the committee, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- 11.2 The minutes kept pursuant to this rule must be confirmed by the members of the association or the members of the committee (as relevant) at a subsequent meeting.
- 11.3 The minutes kept pursuant to this rule shall be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the next succeeding meeting at which the minutes are confirmed.
- 11.4 Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

## **12. DISPUTE RESOLUTION**

- 12.1 The dispute resolution procedure set out in this rule applies to disputes under these Rules between –
  - i) a member and another member
  - ii) a member and the association
- 12.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 12.3 If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
- 12.4 In this rule “member” includes any person who was a member not more than six months before the dispute occurred.

### **13. FINANCIAL REPORTING**

#### **13.1 Financial Year**

The first financial year of the association shall be the period ending on the next 30<sup>th</sup> day of June following incorporation, and thereafter a period of twelve months commencing on 1<sup>st</sup>. day of July and ending on the 30<sup>th</sup> day of June in each year.

#### **13.2 Accounts To Be Kept**

The association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the association in accordance with the Act.

#### **13.3 Accounts and Reports to Be Laid Before Members**

The accounts, together with the auditor's report on the accounts, the committee's statement and the committee's report, shall be laid before members at the annual general meeting.

#### **13.4 Appointment of Auditor**

- (a) at each annual general meeting, the members shall appoint a person to be auditor of the association.
- (b) the auditor shall hold office until the next annual general meeting and is eligible for re-appointment.
- (c) if an appointment is not made at an annual general meeting, the committee shall appoint an auditor for the current financial year.

### **14. PROHIBITION AGAINST SECURING PROFITS FOR MEMBERS**

The income and capital of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the association.

### **15. DISSOLUTION**

15.1 The association may be wound up in the manner provided for in the Act.

15.2 No member nor any relative of a member shall be entitled to any benefit in or from the assets remaining after dissolution or winding up of the association as aforesaid but the whole of any assets remaining shall be applied

for the benefit of other organisations or associations with similar purposes or objects generally in any manner or by any means as the last committee shall think fit.

## **16. APPLICATION OF SURPLUS ASSETS**

- 16.1 If after the winding up of the association there remains “surplus assets” as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.
- 16.2 Such organisation or organisations shall be identified and determined by a resolution of members in general meeting.

## **17. RULES**

- 17.1 These rules may be altered (including an alteration to the association’s name) by special resolution of the members of the association. This includes rescission or replacement by substitute rules.
- 17.2 The alteration shall be registered with the Office of Consumer and Business Affairs, Corporate Affairs and Compliance Branch, as required by the Act.
- 17.3 The registered rules shall bind the association and every member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all the provisions thereof.

## **18. THE SEAL**

- 18.1 The association shall have a common seal upon which its corporate name shall appear in legible characters.
- 18.2 The Seal shall not be used without the express authorization of the committee, and every use of the Seal shall be recorded in the Minute Book of the association. The affixing of the seal shall be witnessed by the chairman and secretary.
- 18.3 The chairman shall provide for the safe custody of the Seal.

## **19. THE PUBLIC FUND**

### **19.1 Donations**

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.

### **19.2 Income**

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

### **19.3 Banking**

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

The release of monies from the Fund and the management of, and sale of Fund assets must be authorized by the Fund Management Committee.

All signatories to the Fund account must be Members of the Fund Management Committee and must be permanently located in Australia.

### **19.4 Accounting Records**

Receipts (*in a form acceptable to the Department and ATO*) are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.

### **19.5 Not-for-Profit**

The Fund will be operated on a not-for-profit basis.

### **19.6 Committee of Management of the Fund**

A Committee of Management of no fewer than three persons will administer the Fund. The Fund Management Committee will be appointed by the Association. A majority of the members of the Fund Management Committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.

### **19.7 Ministerial Rules**

The Association agrees to comply with any rules that the Treasurer and the Environment Minister may make to ensure that gifts made to the fund are only used for its principal purpose.



#### **19.8 Conduit Policy**

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.

#### **19.9 Winding-up**

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

#### **19.10 Statistical Information**

The association agrees to give the Environment Secretary, within a reasonable period after the end of each income year, statistical information about gifts made to the public fund during that income year.

# Document History and Status

Rev	Description	Author	Reviewed	Approved	Date
A	Key changes to Constitution	DR	DR/KB	Members	19/09/2008
B	Inclusion of 9.2(j) and 9.2(k)	DR	DR/KB	Members	30/10/2009
C	Trading As name included	KB	KB	Members	28/10/2011
D	Inclusion of rules of Public Funds	KB	KB	Members	2/11/2014