

Constitution

Pittwater Environmental Foundation (“**Company**”)

A Company Limited by Guarantee

Constitution

Contents

1	Purpose of Company	5
1.1	Charitable purpose of the Company	5
1.2	Application of income for objects only	5
1.3	Payment by the Company in good faith	5
1.4	Application of property on winding up	5
1.5	Charitable Fundraising Act	6
1.6	The Trust	6
1.7	Amendment of this Constitution	6

2	Membership	6
2.1	Becoming a Member	6
2.2	Serving Directors are Members	6
2.3	Ceasing to be a Member	6
2.4	Resignation	7
2.5	Termination	7
2.6	Limited liability	7
2.7	Settlor may establish other interests	7
2.8	Patron	7

3	General meetings	7
3.1	Annual general meeting	7
3.2	Power to convene general meeting	7
3.3	Notice of general meeting	7
3.4	Calculation of period of notice	8
3.5	Non-receipt of notice of general meeting	8
3.6	Directors entitled to attend general meetings	8
3.7	Cancellation or postponement of general meeting	8
3.8	Written notice of cancellation or postponement of general meeting	8
3.9	Contents of notice postponing general meeting	8
3.10	Notice period for postponed general meeting	8
3.11	Business at postponed general meeting	8
3.12	Non-receipt of notice of cancellation or postponement of a general meeting	9
3.13	Proxy at postponed general meeting	9

4	Proceedings at general meetings	9
4.1	Reference to a Member	9
4.2	Number for a quorum	9
4.3	Requirement for a quorum	9
4.4	If quorum not present	10
4.5	Adjourned meeting	10
4.6	Appointment and powers of Chair of general meeting	10
4.7	Absence of Chair at general meeting	10
4.8	Conduct of general meetings	10
4.9	Adjournment of general meeting	11
4.10	Notice of adjourned meeting	11
4.11	Questions decided by majority	11

4.12	Equality of votes - casting vote for Chair	11
4.13	Declaration of results	11
4.14	Poll	12
4.15	Objection to voting qualification	12
4.16	Chair to determine any poll dispute	12
5	Votes of Members	12
5.1	Voting rights	12
5.2	Right to appoint proxy	12
6	Directors	13
6.1	Number of Directors	13
6.2	Appointment	13
6.3	Change of number of Directors	13
6.4	Rotation of Directors	13
6.5	Office held until conclusion of meeting	13
6.6	Directors to retire	13
6.7	Reappointment of retiring Directors	13
6.8	Remuneration of Directors	13
6.9	Reimbursement of expenses	14
6.10	Payments to Directors	14
6.11	Director's interests	14
6.12	Vacation of office	15
7	Powers and duties of Directors	15
7.1	Directors to manage Company	15
7.2	Specific powers of Directors	15
7.3	Appointment of attorney	15
7.4	Provisions in power of attorney	15
7.5	Minutes	15
8	Proceedings of Directors	16
8.1	Directors meetings	16
8.2	Director may convene a meeting	16
8.3	Questions decided by majority	16
8.4	Proxy voting	16
8.5	Chair's casting vote	16
8.6	Quorum	16
8.7	Two Directors can constitute a quorum	16
8.8	Effect of vacancy	16
8.9	Director attending and voting by proxy	17
8.10	Convening meetings	17
8.11	Chair and Deputy Chair	17
8.12	Removal of Chair by the Directors	17
8.13	Chair to preside over Directors' meeting	17
8.14	Questions of Directors' meeting decided by majority	17
8.15	Directors' committees	17
8.16	Powers delegated to Directors' committees	17
8.17	Directors' committee meetings	18
8.18	Circulating resolutions	18
8.19	Meeting by use of technology	18
8.20	Validity of acts of Directors	18

9	Chief Executive Officer	18
10	Secretary	18
10.1	Appointment of Secretary	18
10.2	Suspension and removal of Secretary	18
10.3	Powers, duties and authorities of Secretary	19
11	Seals	19
11.1	Safe custody of common seals	19
11.2	Use of common seal	19
12	Service of documents	19
12.1	Document includes notice	19
12.2	Methods of service	19
12.3	Post	19
12.4	Fax or electronic transmission	20
13	Indemnity	20
13.1	Indemnity of officers	20
13.2	Insurance	20
14	Winding up	21
15	Accounts	21
16	Definitions and interpretation	21
16.1	Definitions	21
16.2	Interpretation	22
16.3	Corporations Act	22
16.4	Headings	23
16.5	Powers	23
	Signing page	24
	Annexure A - Trust Deed (articles 1.1 and 1.6)	i

Constitution

1 Purpose of Company

1.1 Charitable purpose of the Company

The Company must not act in any capacity other than as trustee for the Trust, and may only pursue charitable purposes in Australia associated with the purposes of the Trust as described in clause 3 of the Trust Deed, and in accordance with the terms of the Trust Deed.

1.2 Application of income for objects only

The profits (if any) or other income and the property of the Company (including capital), however derived, must be applied solely towards the promotion of the purposes of the Company referred to in article 1.1. No part of those profits or that income or property may be paid or transferred to the Members, either directly or indirectly by way of dividend, bonus or otherwise.

1.3 Payment by the Company in good faith

Subject to article 6.8, article 1.2 does not prevent payment in good faith to an officer or Member, or to a firm of which an officer or Member is a partner:

- (a) of remuneration for services to the Company; or
- (b) for goods supplied in the ordinary course of business,

with the unanimous approval of the Directors.

1.4 Application of property on winding up

If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Members but must be given or transferred to some other institution:

- (a) having objects similar to the objects of the Company or the Trust;
- (b) whose memorandum of association or constitution prohibits the distribution of its income and property among its members to an extent at least as great as imposed on the Company under this Constitution (save that in the case of the prohibition in article 1.2, the memorandum of association or constitution may contain exceptions which may include those set out in article 1.3, and interest, rent or other compensation in a similar manner as referred to in article 1.3); and
- (c) being an institution accepted as a deductible gift recipient under sub-division 30-B, section 30-100 of the Income Tax Assessment Act 1997 (Cwlth) by the Commissioner of Taxation or otherwise approved for these purposes by the Commissioner of Taxation.

The institution is to be determined by the Members at or before the time of dissolution.

1.5 Charitable Fundraising Act

Funds raised by means of a fundraising appeal within the meaning of the Charitable Fundraising Act 1991 (NSW) must be maintained in accordance with that Act.

1.6 The Trust

The Company must execute the Trust Deed in the form executed by the Settlor.

1.7 Amendment of this Constitution

No provision of this Constitution may be amended without the prior approval of the elected council of the Settlor.

2 Membership

2.1 Becoming a Member

Except for a person who agreed in writing to this Constitution before the application for the Company's registration was lodged, a person may only become a Member under article 2.2.

2.2 Serving Directors are Members

The Directors appointed under article 6.2 or reappointed under article 6.7 are Members, subject to this Constitution.

2.3 Ceasing to be a Member

A person ceases to be a Member on:

- (a) resignation;
- (b) ceasing to hold office as a Director;
- (c) death;
- (d) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
- (e) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
- (f) the termination of the person's membership by the Settlor in accordance with this Constitution.

2.4 Resignation

A Member may by written notice to the Company resign from membership with immediate effect or with effect from a specified date occurring not more than one month after the service of the notice.

2.5 Termination

The Settlor may by written notice to the Member terminate the Member's membership with immediate effect or with effect from a specified date occurring not more than one month after service of the notice.

2.6 Limited liability

A Member has no liability as a Member except as set out in article 15.

2.7 Settlor may establish other interests

With the prior approval of the elected council of the Settlor, the Board may, subject to the Trust Deed:

- (a) adopt by-laws for the Company to establish classes of Contributors and define the rights, restrictions and obligations of Contributors in that class (including the right to attend but not vote at general meetings); and
- (b) vary or cancel the rights, restrictions and obligations of Contributors in any new or existing class.

2.8 Patron

The Board may appoint a person with appropriate standing in the community as patron of the Company.

3 General meetings

3.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

3.2 Power to convene general meeting

A Director or the Directors may convene a general meeting when they think fit and must do so if required to do so under the Corporations Act.

3.3 Notice of general meeting

Notice of a meeting of Members must be given in accordance with article 12 and the Corporations Act.

3.4 Calculation of period of notice

In computing the period of notice under article 3.3, both the days on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

3.5 Non-receipt of notice of general meeting

The non-receipt of notice of a general meeting, or the accidental omission to give notice of a general meeting to a person entitled to receive notice does not invalidate any resolution passed at the general meeting.

3.6 Directors entitled to attend general meetings

A Director is entitled to receive notice of and attend all general meetings and speak at those meetings.

3.7 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Directors, they may, when they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them. This article does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members, or to a meeting convened by the Court.

3.8 Written notice of cancellation or postponement of general meeting

Written notice of cancellation or postponement of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. The notice must be given at least two days before the date for which the meeting is convened and must specify the reason for cancellation or postponement.

3.9 Contents of notice postponing general meeting

A notice postponing the holding of a general meeting must specify:

- (a) a date and time for the holding of the meeting; and
- (b) a place for the holding of the meeting, which may be either the same as or different to the place specified in the notice convening the meeting.

3.10 Notice period for postponed general meeting

The number of clear days from when a notice postponing the holding of a general meeting is given to the date specified in that notice for the holding of the meeting may not be less than the number of days' notice of the meeting required to be given by this Constitution or the Corporations Act.

3.11 Business at postponed general meeting

The only business that may be transacted at a general meeting which is postponed is the business specified in the notice convening the meeting.

3.12 Non-receipt of notice of cancellation or postponement of a general meeting

The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by any person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.

3.13 Proxy at postponed general meeting

Where:

- (a) by the terms of an instrument appointing a proxy or of an appointment of a Representative, the appointed person is authorised to attend and vote at:
 - (i) a general meeting to be held on a specified date; or
 - (ii) a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy or appointment of Representative,

then, by force of this article, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or appointment of Representative unless the Member appointing the proxy or Representative gives to the Company at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

4 Proceedings at general meetings

4.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in this article 4 means a person who is a Member, or:

- (a) a proxy; or
- (b) a Representative

of that Member.

4.2 Number for a quorum

Subject to article 4.5, three Members present in person or by proxy are a quorum at a general meeting.

4.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is

present at the beginning of a meeting it is taken to be present throughout the meeting unless the Chair of the meeting on their own motion or at the request of a Member or proxy who is present declares otherwise.

4.4 If quorum not present

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

4.5 Adjourned meeting

At a meeting adjourned under article 4.4, two persons each being a Member or proxy present at the meeting are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

4.6 Appointment and powers of Chair of general meeting

If the Directors have elected one of their number as Chair, that person is entitled to preside as Chair at a general meeting.

4.7 Absence of Chair at general meeting

If a general meeting is held and:

- (a) a Chair has not been elected by the Directors; or
- (b) the elected Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as Chair of the meeting (in order of precedence):

- (c) the Deputy Chair (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present.

4.8 Conduct of general meetings

The Chair of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the Chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and

- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the Chair under this article is final.

4.9 Adjournment of general meeting

The Chair of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting. The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:

- (a) in exercising this discretion, the Chair may, but need not, seek the approval of the Members present. Unless required by the Chair, a vote may not be taken or demanded by the Members present in respect of any adjournment; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

4.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given in accordance with article 3.3.

4.11 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

4.12 Equality of votes - casting vote for Chair

If there is an equality of votes, whether on a show of hands or on a poll, the Chair of the general meeting is entitled to a casting vote in addition to any votes to which the Chair is entitled as a Member or proxy of a Member.

4.13 Declaration of results

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded (in accordance with section 250L of the Corporations Act) and the demand is not withdrawn. A declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the Chair nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

4.14 Poll

If a poll is properly demanded in accordance with section 250L of the Corporations Act:

- (a) it must be taken in the manner and at the date and time directed by the Chair and the result of the poll is the resolution of the meeting at which the poll was demanded;
- (b) on the election of a Chair or on a question of adjournment it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

Section 250L(1) applies to the Company as if 3 were substituted for 5 wherever appearing.

4.15 Objection to voting qualification

Objection may not be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll except at that meeting or adjourned meeting or when that poll is taken. Every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is valid.

4.16 Chair to determine any poll dispute

If there is a dispute as to the admission or rejection of a vote, the Chair of the meeting must decide it and the Chair's decision made in good faith is final and conclusive.

5 Votes of Members

5.1 Voting rights

Subject to any restrictions in this Constitution:

- (a) on a show of hands, each Member present in person and each other person present as proxy of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy of a Member has one vote for each Member that the person represents.

5.2 Right to appoint proxy

Subject to the Corporations Act, a Member entitled to attend at a meeting of the Company or of any class of Members is entitled to appoint another person (whether a Member or not) as proxy to attend in the Member's place at the meeting. A proxy has the same right as the Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.

6 Directors

6.1 Number of Directors

The number of Directors is to be not less than three nor more than seven, subject to article 6.3.

6.2 Appointment

The elected council of the Settlor may appoint a person as a Director either to fill a casual vacancy or as an additional Director. However, the total number of Directors is not at any time to exceed the maximum fixed under article 6.1. The first Directors are the persons who have signed this Constitution with the approval of the elected council of the Settlor.

6.3 Change of number of Directors

The elected council of the Settlor may increase or reduce the number of Directors, and may also determine the rotation in which the increased or reduced number is to retire from office.

6.4 Rotation of Directors

At each annual general meeting one-third of the Directors, or, if their number is not three or a multiple of three, then the number nearest one-third, and any other Director who has held office for three years or more since last being appointed or reappointed, must retire from office.

6.5 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

6.6 Directors to retire

The Directors to retire at any annual general meeting must be those who have been longest in office since their last election. As between persons who were last elected as Directors on the same day, those to retire must be determined by lot, unless they otherwise agree among themselves.

6.7 Reappointment of retiring Directors

Where a Director has retired in accordance with article 6.4, that Director is deemed to be reappointed to that office unless the elected council of the Settlor has resolved:

- (a) to appoint another person to that office in accordance with the Trust Deed; or
- (b) not to appoint any person to that office.

6.8 Remuneration of Directors

A Director may not be paid any remuneration for services as a Director.

6.9 Reimbursement of expenses

A Director is entitled to be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the affairs of the Company.

6.10 Payments to Directors

Any payment to a Director must be approved by the Directors.

6.11 Director's interests

- (a) Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
- (i) hold any office or place of profit in the Company, except that of auditor;
 - (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
 - (iii) enter into a contract or arrangement with the Company;
 - (iv) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
 - (v) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
 - (vi) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors; and
 - (vii) sign or participate in the execution of a document by or on behalf of the Company.
- (b) A Director may do any of the above despite the fiduciary relationship of the Director's office:
- (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.
- (c) A reference to the Company in this article is also a reference to any related body corporate of the Company and the Trust.

6.12 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (b) resigns office by notice in writing to the Company;
- (c) is not present personally at meetings of the Directors for a continuous period of six months without leave of absence from the Directors; or
- (d) ceases to be a Member.

7 Powers and duties of Directors

7.1 Directors to manage Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

7.2 Specific powers of Directors

Without limiting the generality of article 7.1 the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

7.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes and with the powers, authorities and discretions held by the Directors for the period and subject to the conditions that they think fit.

7.4 Provisions in power of attorney

A power of attorney granted under article 7.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions of the attorney.

7.5 Minutes

The Directors must direct minutes of meetings to be made and kept in accordance with the Corporations Act.

8 Proceedings of Directors

8.1 Directors meetings

The Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.

8.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

8.3 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

8.4 Proxy voting

A person who is present at a meeting of Directors as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is a proxy. That person may also cast any vote they are entitled to cast in their own capacity as a Director.

8.5 Chair's casting vote

In the event of an equality of votes the Chair of the meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

8.6 Quorum

Until otherwise determined by the Directors, three Directors present in person or by proxy are a quorum.

8.7 Two Directors can constitute a quorum

Notwithstanding article 8.6, a quorum is present during the consideration of a matter at a meeting of the Directors only if at least two Directors who are entitled to vote on any motion that may be moved at the meeting in relation to that matter are actually present at the meeting.

8.8 Effect of vacancy

The continuing Directors may act despite a vacancy in their number. However, if their number is reduced below the minimum fixed by article 6.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or for calling a general meeting.

8.9 Director attending and voting by proxy

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings.

8.10 Convening meetings

A Director may, and the Secretary on the request of a Director must, convene a meeting of the Directors.

8.11 Chair and Deputy Chair

The Directors must elect a Director as Chair and may elect a Director as Deputy Chair and may determine the period during which each is to hold office.

8.12 Removal of Chair by the Directors

The Chair or Deputy Chair may be removed by a resolution of the Directors of which not less than 14 days' notice has been given to the Directors.

8.13 Chair to preside over Directors' meeting

The Chair is entitled to preside at meetings of the Directors. If the Chair is not present and able and willing to act within 15 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) the Deputy Chair; or
- (b) a Director chosen by a majority of the Directors present.

8.14 Questions of Directors' meeting decided by majority

Questions arising at a meeting of the Directors are to be decided by a majority of votes and in the event of an equality of votes the Chair of the meeting has a second or a casting vote.

8.15 Directors' committees

The Directors may delegate any of their powers to committees consisting of the Directors that they think fit and may revoke that delegation.

8.16 Powers delegated to Directors' committees

A committee to which any powers have been delegated under article 8.15 must exercise those powers in accordance with any directions of the Directors.

8.17 Directors' committee meetings

Subject to article 8.16, the meetings and proceedings of a committee consisting of two or more Directors are governed by the provisions of this Constitution as to the meetings and proceedings of the Directors so far as they are applicable.

8.18 Circulating resolutions

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

8.19 Meeting by use of technology

A Directors' meeting may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent a reasonable time before the meeting.

8.20 Validity of acts of Directors

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director are valid even if it is afterwards discovered that there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office.

9 Chief Executive Officer

The Directors may appoint a Chief Executive Officer. The Directors may give a Chief Executive Officer any of the powers conferred on them by this Constitution, subject, at the Director's discretion, to:

- (a) any time period;
- (b) specific purposes; and
- (c) any other terms and restrictions.

All or any of those powers may be given collaterally with or to the exclusion of the powers of the Directors and may be revoked or varied by the Directors.

10 Secretary

10.1 Appointment of Secretary

There must be at least one Secretary who is to be appointed by the Directors.

10.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

10.3 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors.

11 Seals

11.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

11.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

12 Service of documents

12.1 Document includes notice

In this article 12, a reference to a document includes a notice.

12.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

12.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

12.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

13 Indemnity

13.1 Indemnity of officers

Every person who is or has been:

- (a) a Director; or
- (b) a Secretary, or
- (c) an executive officer of the Company,

is entitled to be indemnified out of the property of the Company against:

- (d) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (f) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (g) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

13.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or an executive officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

14 Winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up during, or within one year after the cessation of, the Member's membership on account of:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
 - (b) the costs of winding up; and
 - (c) adjustment of the rights of the contributories among themselves,
- an amount not to exceed \$10.00.

15 Accounts

The Directors must cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act and the Charitable Fundraising Act 1991 (NSW).

16 Definitions and interpretation

16.1 Definitions

In this Constitution unless the contrary intention appears:

article means an article of this Constitution.

Chair means the chair of the board of directors of the Company and **Deputy Chair** means the deputy chair of the board.

Chief Executive Officer means a person appointed as an executive director under Part 9.

Company means Pittwater Environmental Foundation.

Constitution means this constitution as it is amended from time to time.

Contributor means any person who donates money, or who otherwise provides support, to the Company in its capacity as trustee for the Trust.

Corporations Act means the Corporations Act 2001 (Cwlth).

Director means a director of the Company.

Directors means all or some of the directors of the Company acting as a board.

Member means a member of the Company.

Part means a Part of this Constitution.

Registered Office means the registered office for the time being of the Company.

Secretary means a person appointed as a secretary of the Company, and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Settlor means the Council of Pittwater, a local council constituted under the Local Government Act 1993 (New South Wales), or any other local government body which succeeds the Council of Pittwater. In the event that the boundaries of the Council of Pittwater are modified, **Settlor** means the local government body responsible for the majority of the land comprising the Council of Pittwater as at the date of this Constitution.

Trust means the trust fund to be established by the Settlor and called the Pittwater Environmental Trust.

Trust Deed means the trust deed which is to be executed by the Settlor and the Company, in its capacity as trustee for the Trust, a draft of which appears in annexure A.

16.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (b) the singular includes the plural and vice versa;
- (c) 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;
- (d) a reference to writing includes typewriting, printing, telex, telegram, facsimile and other modes of representing or reproducing words in a visible form;
- (e) a reference to an article is a reference to one of the articles;
- (f) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised from time to time and at any time.

16.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

The provisions of the **Corporations Act** that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

16.4 Headings

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

16.5 Powers

Powers conferred on the Company, the Directors, a committee of Directors, a Director or a Member may be exercised at any time and from time to time.

Constitution

Annexure A - Trust Deed (articles 1.1 and 1.6)

Draft of trust deed to be executed by the Settlor and the Company in its capacity as trustee for the Trust.