



WEST MIDLANDS
GROUP

West Midlands Group Incorporated

CONSTITUTION

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www.wmgroup.org.au

1. Name of Association

The name of the association is the West Midlands Group Incorporated.

2. Objects of Association

(1) (a) The principal purpose of the Association is to protect and enhance the natural environment by the encouragement of sustainable farming practices.

(b) In furtherance of carrying out the principal purpose, the Association may undertake the following activities:

- (i) the commissioning or carrying out of research and development activities into the protection or enhancement of soil, water and air quality;
- (ii) provision of information and education;
- (iii) undertaking soil conservation works;
- (iv) undertaking works to protect and enhance biodiversity;
- (v) undertaking work to improve air and water quality;
- (vi) promoting the principles of ecologically sustainable development amongst the farming community; and
- (vii) establish a public fund that may be placed on the register of environmental organisations in accordance with subdivision 30-E of the Income Tax Assessment Act 1997.

(2) The property and income of the Association shall be applied solely towards the promotion of the objects of the Association. No portion of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of these objects provided that nothing shall prevent the payment in good faith of remuneration to any officer or employee of the Group or to any other person other than a member, in return for services rendered to the Group.

3. Powers of Association

The powers conferred on the Association by section 13 of the Act are subject to the following additions, exclusions or modifications:

- (1) To purchase, lease, exchange hire or otherwise acquire property necessary to fulfil the objects of the Association.
- (2) To employ and pay employees of the Association.

- (3) Perform others acts as are incidental or conducive to the attainment of the objects of the Association.

4. Membership of Association

- (1) Membership of the Association must consist of no less than:
 - (a) 50 individual persons; or
 - (b) 5 bodies corporate.
- (2) A person or organisation that wishes to become a member shall apply for membership to the Board by:
 - (a) completing and signing a membership form (as approved by the Board from time to time); and
 - (b) paying any required membership fee.

5. Register of members of Association

- (1) The Association shall keep and maintain the register of members in accordance with section 27 of the act.
- (2) Members are required to notify the Association in writing of any changes to their contact details contained in the Register of members.
- (3) The Association shall cause the name of a person who dies or who ceases to be a member under rule 7 (3), 8 (1) or 8 (5) for any reason to be deleted from the register of members referred to in sub-rule (1).

6. Subscriptions of members of the Association

- (1) The Board shall from time to time determine the amount of any subscription to be paid by each Member.
- (2) Each member shall pay to the Association, annually on or before 1st January the amount of the subscription determined under sub-rule (1).
- (3) A member whose subscription is not paid within 1 month after 1st January ceases on the expiry of that period to be a member, unless the Board decides otherwise.

7. Resignation of members of the Association

- (1) A member who delivers to the Association a written notice of resignation ceases on that delivery to be a member.
- (2) A person or organisation that ceases to be a member under sub-rule(1) remains liable to pay the Association the amount of any subscription due and payable by that person or organisation to the Association but unpaid at the date of that cessation.
- (3) The Group may call for resignation of a member convicted of a crime.

8. Expulsion of members of the Association

- (1) If the Board considers that a member should be expelled from membership of the Association because of conduct detrimental to the interests of the Association, the Board shall communicate in writing to the member at the member's address in the Register of members.
 - (a) notice of the proposed expulsion and of the time, date and place of the Board meeting at which the question of that expulsion will be decided: and
 - (b) particulars of that conduct,
 - (c) not less than 21 days before the date of the Board meeting referred to in paragraph (a).
- (2) At the Board meeting referred to in a notice communicated under sub-rule (1), the Board may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board, expel or decline to expel that member from membership of the Association and shall, forthwith after deciding whether or not so to expel that member, communicate that decision in writing to that member.
- (3) A member who is expelled under sub-rule (2) from membership of the Association and who wishes to appeal against expulsion shall give notice to the Secretary of the intention to do so within the period of 14 days of the date of the Board decision.
- (4) The Association:
 - (a) in a general meeting may, after having afforded the member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing confirm or set aside the decision of the Board to expel that member; and

- (b) the member who gave that notice does not cease to be a member unless and until the decision of the Board to expel the member is confirmed.
- (5) The decision of the Association in a general meeting in relation to any appeal is final, when notice is given under 7 (3).

9. Board of Management

- (1) The affairs of the Association shall be managed exclusively by a Board. That the number of board positions be seven (7) with the option for the Board to co-opt two (2) extra members for a maximum one (1) year period until the next AGM. The Board shall consist of
 - (a) a Chairperson;
 - (b) a Vice-Chairperson;
 - (c) a Secretary
 - (d) a Treasurer; and
 - (e) up to three other members,all of whom shall be members of the Association.
- (2) All members of the Board shall be elected at a general meeting and will be elected for a period of 2 years.
- (3) The quorum for meetings shall be three of the Board members.
- (4) All decisions of the Board shall be made by majority vote on a show of hands and each member of the Board shall have one vote. The Chair at any meeting of the Board shall have a casting vote.
- (5) The Board when forming Committees may:
 - (a) appoint committees to carry out any special duties for or on behalf of the Association;
 - (b) disband such committees.

The Chairperson of the board shall have an option to be a member of all committees.

Committees shall have and exercise such powers and duties as may be delegated by the Board.

- (6) The committee shall otherwise determine its own proceedings.

10. Chairperson

- (1) Subject to this Rule, the Chairperson shall preside at all Board meetings.
- (2) If for any reason the Chairperson is unable or unwilling to act, the Vice-Chairperson shall be the chair at such a meeting.
- (3) If both the Chairperson and Vice-Chairperson are unable or unwilling to act as chair of
 - (a) a Board meeting, then a member elected by the other members present at the general meeting shall preside; or
 - (b) a committee meeting, then a Committee member elected by the other Committee members present shall preside.

11. Secretary

The Secretary shall

- (a) Sign cheques as and when required;
- (b) Co-ordinate the correspondence of the Association;
- (c) Keep correct the minutes of the proceedings of the Association;
- (d) Keep register a of members of the Association as detailed in Section 4;
- (e) Have custody of all books, documents, records and registers of the Association other than those kept and maintained by Treasurer; and
- (f) The Board may appoint a staff person to assist in the provision of secretarial duties.

12. Treasurer

The Treasurer shall

- (a) sign cheques as and when required
- (b) shall inspect or appoint a member of the Board to inspect presented accounts to ensure that all is correct and compliant
- (c) be responsible for the receipt of all moneys paid to or received by him or her on behalf of, the Association and shall issue receipts for those moneys in the name of the Association

- (d) pay all moneys referred to in paragraph (a) into such accounts of the Association as the Board may from time to time direct
- (e) make payments from the funds of the Association of all accounts received. Present record of all payments together with supporting invoices each general meeting of the board. The Board shall inspect or appoint a member of the Board to inspect presented accounts to ensure that all is correct and compliant. The Board will when satisfied pass the accounts as a true record
- (f) comply on behalf of the Association with sections 25 and 26 of the Act in respect of the accounting records of the Association
- (g) provide a summary of the financial position at each Board Meeting
- (h) have custody of all securities, books and documents of a financial nature and accounting records of the Association
- (i) prepare Audited General Purpose Financial Reporting annual accounts, including Profit & Loss statement, cash flow statement, statement of changes in equity, income statement and Balance Sheet, for presentation at the Annual General Meeting
- (j) develop accounting policies as required
- (k) the Board may appoint a staff person to assist in the provision of Treasurer duties

13. Casual vacancies in the membership of the Board

- (1) If a casual vacancy occurs in the office of a Committee member, the Committee may appoint a member to fill the position until the next election of office bearers.
- (2) A casual vacancy occurs in the office of a Committee member and that office becomes vacant if the Committee member-
 - (a) dies;
 - (b) resigns by notice in writing delivered to the Chairperson or, if the Committee member is the Chairperson, to the Vice-Chairperson and that resignation is accepted by resolution of the Committee;
 - (c) is convicted of an offence under the Act;
 - (d) is permanently incapacitated by mental or physical ill-health;
 - (e) is absent from more than-

- (i) 3 consecutive Committee meetings; or
 - (ii) 3 Committee meetings in the same financial year without tendering an apology to the person presiding at each of those Committee meetings; of which meetings the member received notice, and the Committee has resolved to declare the office vacant;
- (f) ceases to be a member of the Association; or
- (g) is the subject of a resolution passed by a general meeting of members terminating his or her appointment as a Committee member.

14. Proceedings of Board

- (1) The Board shall meet together for the dispatch of business not less than every four months and the Chairperson may at any time convene a meeting of the Board.
- (2) Each Board member is to have a deliberative vote.
- (3) A question or issue arising at a Board meeting shall be decided by a majority of votes, but, if there is an equality of votes, then the person presiding at the Board meeting shall have a casting vote in addition to his or her deliberative vote.
- (4) Subject to these rules, the procedure and order of business to be followed at a Board meeting shall be determined by the Board members present at the Board meeting.

15. General Meetings

- (1) The Board
 - (a) May at any time convene a special general meeting;
 - (b) Shall convene annual general meetings within the period of four (4) months beginning at the end of the association's most recently ended financial year as stated in section 23 of the Act; and
 - (c) Shall, within 30 days of
 - (i) receiving a request in writing to do so from not less than 10 members, convene a special general meeting for the purpose specified in that request; or
 - (ii) otherwise than as a result of a request, notice or action referred to in paragraph (i), the general meeting stands

adjourned to the same time on the same day in the following week and to the same venue.

- (2) The members making a request for a special meeting shall
 - (a) State in that request the purpose for which the special general meeting concerned is required; and
 - (b) Sign that request.
- (3) If a special general meeting is not convened within the relevant period of 30 days
 - (a) The members who made the request concerned may themselves convene a special general meeting as if they were the Board; or
 - (b) The member who gave the notice may convene a special general meeting as if that member were the Board.
- (4) When a special general meeting is convened the Board shall ensure that the member or members convening the special general meeting have ability to contact all members.
- (5) The Association shall give to all members not less than 14 days notice of a general meeting and of any motions to be moved at the general meeting.
- (6) The Association shall give to all members not less than 21 days notice of a general meeting at which a special resolution is to be proposed and any other motions to be moved at that General meeting.
- (7) A notice given under subrule (5) shall specify
 - (a) When and where the general meeting concerned is to be held; and
 - (b) Particulars of the business to be transacted at the general meeting concerned and of the order in which that business is to be transacted.
- (8) In the case of an annual general meeting, the order in which business is to be transacted is
 - (a) First, the consideration of the audited accounts and reports of the Board,
 - (b) Second, the election of Board members to replace outgoing Board members, and
 - (c) Third, the election of an Auditor reasonably qualified to by full or spot method as they deem necessary audit the financial records and provide a report to the Association, and

- (9) The Association will be deemed to have given notice under any requirements of this clause
 - (a) Serving it on a member personally; or
 - (b) Sending it by ordinary pre paid mail to a member at the address recorded in the register of members for that member;
 - (c) Email notice of meeting.

16. Quorum in proceedings at general meetings

- (1) At a general meeting five (5) members or one third of the total membership, whichever is greater, present in person or by proxy constitute a quorum.
- (2) If within 15 minutes after the time specified for the holding of a general meeting.
 - (a) A quorum is not present, the general meeting lapses; or
 - (b) The general meeting stands adjourned to the same time on the same day in the following week to the same venue.
- (3) If within 15 minutes of the time appointed by subrule (2) (b) for the resumption of an adjourned general meeting a quorum is not present, the members who are present in person or by proxy may nevertheless proceed with the business of that general meeting as if a quorum were present.
- (4) At a general meeting
 - (a) An ordinary resolution put to the vote shall be decided by a majority of votes cast on a show of hands; and
 - (b) A special resolution put to the vote shall be decided in accordance with section 24 of the Act.

17. Minutes of meetings of the Association

The Association shall cause proper minutes of all proceedings of all general meetings and Board meetings to be taken and then to be published within 30 days after the holding of each general meeting of Board meeting, as the case requires.

18. Voting rights of members of the Association

- (1) Subject to these Rules, current paid members present in person or by proxy at a general meeting will be entitled to the following deliberative vote(s): Full membership - one vote and corporate membership no voting power.
- (2) A financial member (in this rule called "the appointing member") may appoint in writing another member who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any general meeting.

19. Rules of the Association

- (1) The Association may alter or rescind these Rules, or make additions to these Rules, in accordance with the procedure set out in sections 17, 18 and 19 of the Act.
- (2) Only financial members who are present in person or by proxy may vote with respect to such resolutions.
- (3) These Rules bind every member and the Association to the same extent as if every member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

20. Control of Funds

- (1) All payments (via cheque, electronic funds transfer or credit facilities) must be authorised by the treasurer (or the staff person appointed by the Board to assist in the provision of Treasurer duties) and by one other of three (3) people nominated by the Committee, two (2) of whom shall be committee members.
- (2) The financial year will commence on 1st of January each year.

21. Common Seal of the Association

- (1) The Association shall have a common seal on which its corporate name shall appear in legible characters.
- (2) The common seal of the Association shall not be used without the express authority of the Board and every use of that common seal shall be recorded in the minute book referred to in Rule 15.
- (3) Any two of the Chairperson, the Secretary and the Treasurer shall witness the affixing of the common seal of the Association.

- (4) The common seal of the Association shall be kept in the custody of the Chair or of such other person as the Board from time to time decides.

22. Use of Group Assets

- (1) If the Group loans, leases or provides for the use of any assets to another entity the Board must ensure that
 - (a) The Group is legally indemnified under a correctly drawn contract or agreement.
 - (b) Such contract or agreement requires the entity to provide a copy of Liability Insurance valid for the period of the contract or agreement.

23. Inspection of records etc of Association

- (1) A member may at any reasonable time inspect without charge books, documents, records and securities of the Association.

24. Appointment and duties of the Auditor of the Association

- (1) At each general meeting of the Association, the members present shall appoint a person who is not a member of the Committee of the Association as the Auditor of the Association.
- (2) The Auditor shall be a qualified accountant being a member of an appropriate professional accountancy body or fellowship.
- (3) A person so appointed shall hold office until the annual general meeting next after that at which he or she is appointed, and is eligible for re-appointment.
- (4) Once at least in each financial year of the Association, ending 31st December, the accounts of the Association shall be examined by the Auditor appointed.
- (5) The Auditor shall certify as to the correctness of the accounts of the Association and shall in a written statement, report thereon to the members present at the annual general meeting.
- (6) The auditor cannot be the same person or firm for a period of longer than 3 successive years.

- (7) The Auditor;
- (a) Has a right of access to the accounts book, records, vouchers and documents of the Association;
 - (b) May require from the servants of the Association such information and explanations as may be necessary for the performance of the duties of the Auditor;
 - (c) May employ persons to assist in the investigation of the accounts of the Association; and
 - (d) May, in relation to the accounts of the Association, examine any member of the Board or any servant of the Association.

25. Distribution of surplus property on winding up of the Association

- (1) If upon the winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members but shall be given or transferred:
- (i) to another association incorporated under the Act; or
 - (ii) for charitable purposes,
- which incorporated association or purposes, as the case requires shall be determined by the resolution of the members when an authorising and directing the Board under Section 33(3) of the Act to prepare a distribution plan of the surplus property of the Association.
- (2) Notwithstanding Rule 25(1), if the Association is endorsed as a deductible gift recipient (DGR) under the income tax laws and it loses that endorsement, the Association must distribute any surplus assets to another fund or organisation that is endorsed as a DGR under the same or similar category.
- (3) In the event of the winding up or dissolution of the association, the Deputy Commissioner of Taxation, if required by law shall be advised of the date of dissolution within 30 days of the dissolution.”

26. Establishment and Operation of Public Fund

(1) Maintaining Public Fund

The Association must maintain for its objectives as set out in Rule 2 (**Principal Purpose**) and where required in accordance with subdivision 30-E of the Income Tax Assessment Act 1997 (**ITAA 1997**), a fund to be known as the West Midlands Group Public Fund (**Public Fund**):

- (a) to which members of the public are invited to make gifts of money or property for the Principal Purpose;
- (b) to which money received by the Public Fund because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

(2) Public Fund Management Committee

- (a) The Public Fund must be managed by a management committee (The Public Fund Management Committee) appointed by the Association in a general meeting.
- (b) The Public Fund Management Committee must comprise a majority of people who a responsibility to the community as a whole (responsible persons).
- (c) The Public Fund Management Committee must comprise no less than three persons who must be Australian citizens who live permanently in Australia.
- (d) To avoid doubt, the Board, or a committee delegated by the Board may be the Public Fund Management Committee.

(3) Public to be invited to contribute to the Public Fund

The Public must be invited to contribute to the Public Fund.

(4) Rules of the Public Fund

The Public Fund Management Committee must ensure that:

- (a) Money from interest in donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Public Fund; and
- (b) The Public Fund is operated on a not for profit basis.

(5) Limits on use of Public Fund

The Association must apply for no other purpose than the Principal Purpose:

- (a) gifts made to the Public Fund; and
- (b) any money received because of those gifts.

(6) Receipts

Receipts for donations to the Public Fund must be issued in the name of West Midlands Group Public Fund.

(7) Bank Account

- (a) The Association must maintain a separate bank account for the Public Fund.
- (b) The signatories to the bank account for the Public Fund shall be any two of the Public Fund Management Committee.

(8) Non Conduit Policy

- (a) The Association must not be directed by a donor to the Public Fund to act as a conduit for passing a donation of money or property to another organisation, body or person.
- (b) The Association must not act as a collection agency for tax deductible donations intended by a donor to be passed on to another organisation or person.
- (c) Despite sub rules (a) and (b) above, the Association may pass funds to another entity for the purpose of fulfilling the Principal Purpose of the Association.

(9) Statistical Information

The Association must agree to give any Government department or organisation (including Federal Department of the Environment and Heritage (**Department**)) as required by the law within a reasonable period after the end of the financial year, statistical information about gifts made to the Public Fund during the previous financial year, together with an audited financial statement of the Association and its Public Fund.

(10) Agreement to abide by Ministerial Rules

- (a) The Association must comply with any Rules that the Assistant Federal Treasurer and Minister responsible for the Department

make to ensure that gifts made to the Public Fund are used only for the Principal Purpose of the Association.

- (b) The Association must answer all questions required by the Department stated on an annual statistical return form, including an audited and financial statement for the Association and its Public Fund which provides information on the expenditure of the Public Fund monies and the management of Public Fund assets (if any).
- (c) The Association must inform the Department as soon as possible:
 - (i) if it changes its name or the name of its Public Fund;
 - (ii) if there is any change to the membership of the Public Fund Management Committee; or
 - (iii) if there has been any departure from the Rules of the Public Fund.

(11) Winding up of the Public Fund

In the case of winding-up of the Public Fund, any surplus assets must be transferred to another fund or funds with similar objectives that is on the Register of Environmental Organisations established by the secretary of the Federal Department of the Environment and Heritage or its successor; under section 30-255 of the ITAA 1997.