

CONSTITUTION
OF
FNQ NRM LTD
(ACN 106 385 899)

Amended 28 November 2014

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A COMPANY LIMITED BY GUARANTEE
CONSTITUTION
OF
FNQ NRM Ltd (ACN 106 385 899)

1. DEFINITIONS AND INTERPRETATION

1.1 Replaceable Rules

The replaceable rules contained in the *Corporations Act* do not apply to this Company to the extent they are inconsistent with these regulations.

1.2 Definitions

In these regulations:

"Bilateral Agreement" means the agreement for the implementation of the Intergovernmental Agreement on a National Action Plan for Salinity and Water Quality entered into between the Commonwealth and the State of Queensland;

"Board" means the Board of Directors of the Company;

"Chairperson" means the Chairperson of Directors appointed or elected pursuant to these regulations;

"Company" means FNQ NRM Limited ACN 106 385 899

"Delegate" means the representative of a member appointed in accordance with these regulations;

"Law" means the *Corporations Act 2001* (Cth.);

"member" means a member of the Company and shall refer to both ordinary members and other members unless the context otherwise requires;

"NRM" means Natural Resource Management;

"other Member" means a person admitted to another category of membership (not being ordinary membership) pursuant to regulation 10.

"person" includes unincorporated associations, incorporated associations and corporations;

"Registered Address" means the last address recorded in the Register of Members as the address for a member;

"Register of members" means the register required to be maintained under regulation 8;

"regulations" means the regulations of the Company;

"seal" means the common seal of the Company and includes any official seal of the Company;

"Secretary" means any person appointed to perform the duties of a secretary of the Company;

"SISP" means the Standing Independent Selection Panel (see regulation 20).

"Special Resolution of the Board" means a resolution passed at a meeting of the Board of which not less than 21 days notice of the prepared resolution has been given being a resolution passed by a majority of 75% of the Directors present and voting.

"Trust Fund" means the Public Fund to be established by the Company to be known as the "NATURAL CAPITAL FUND".

1.3 Interpretation

Unless the context otherwise requires:

- (a) singular includes plural and vice versa;
- (b) an expression used in a particular Chapter of the *Corporations Act* that is given by that Chapter a special meaning for the purposes of that Chapter has, in any of these regulations that deals with a matter dealt with by that Chapter, the same meaning as in that Chapter;
- (c) headings and the index are to be disregarded in the interpretation of these regulations;
- (d) expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;
- (e) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders in council, rules, by-laws and ordinances made under those statutes;
- (f) if any authority, institute, association or body whether statutory or otherwise ("a Body") referred to in these regulations:
 - (a) ceases to exist or to carry out the functions for which it was formed;
 - (b) is reconstituted or replaced; or
 - (c) has its powers or functions are transferred to another organisation

then reference to the Body is taken to include a reference to the organisation established or constituted in lieu of it or to which its powers or functions are transferred, or, in the absence of either of the above, to the organisation which most closely serves the same purposes as the Body.

2. OBJECTS

The objects for which the Company is established are:

- (a) to fill the role of a regional NRM body for the Wet Tropics region as provided for in the Bilateral Agreement;

- (b) the protection and enhancement of the natural environment or of a significant aspect of the natural environment and the provision of information or education or the carrying on of research, about the natural environment or a significant aspect of the natural environment;
- (c) to carry out any expanded or additional role given to NRM bodies under the Natural Heritage Trust; and
- (d) to carry out any other activities associated with ecologically sustainable management of natural resources
- (e) the establishment and maintenance of a Public Fund to be called the "NATURAL CAPITAL FUND" for the purpose of assisting in the protection and enhancement of the natural environment particularly by disseminating information and providing for education or the undertaking of research about the natural environment or significant aspects of the natural environment.

3. COMPANY LIMITED BY GUARANTEE

- 3.1 The Company is a Company limited by guarantee.
- 3.2 Subject to regulation 3.3, all income and property of the Company must be applied solely towards the promotion of the objects of the Company and no part of it is to be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise, to the members of the Company.
- 3.3 Nothing in this regulation prevents:
 - (a) the payment in good faith of remuneration to any officers or servants of the Company or to any member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business; or
 - (b) the payment of interest at a rate not exceeding the rate for the time being fixed for the purpose of this regulation by the Directors on money borrowed from any members of the Company; or
 - (c) reasonable and proper rent for premises demised or let from any member of the Company.
- 3.4 The liability of members of the Company is limited.

4. MEMBERS LIABILITY

- 4.1 This regulation applies if the Company is wound up while a member is a member of the Company or within one (1) year after the member ceases to be a member.
- 4.2 Each member of the Company undertakes to contribute an amount to the property of the Company for payment of:
 - (a) the debts and liabilities of the Company contracted or incurred before the time at which the member ceased to be a member; and
 - (b) the costs charges and expenses of winding up; and

(c) for an adjustment of the rights of contributories among themselves.

4.3 The amount of the contribution from each member under this regulation is limited to ten dollars (\$10.00).

5. DISTRIBUTION ON WINDING UP

5.1 This clause applies if any property remains upon the winding up or dissolution of the Company after satisfaction of all its debts and liabilities ("Remaining Property").

5.2 Remaining Property must not be paid to or distributed among the members of the Company.

5.3 (a) Remaining Property must be given or transferred to some other Company, association and/or institution having objects similar to the objects of the Company and whose regulations prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of this regulation.

(b) The Company, association and/or institution for the purposes of this regulation is to be chosen by the members of the Company at or before the time of the dissolution of the Company and in default of them doing so by application to the Supreme Court for determination.

(c) This Clause shall not apply to the NATURAL CAPITAL FUND in respect of which separate provision is made in these regulations for the winding up of that Fund.

6. ACCOUNTS

6.1 True accounts must be kept of:

(a) the sums of money received and expended by the Company and the matter in respect of which such receipt or expenditure takes place; and

(b) the property, credits and liabilities of the Company.

6.2 Subject to any reasonable restrictions as to the time and manner of inspection that may be imposed by the Directors from time to time the Company's books of account must be open to the inspection of the members.

6.3 Once at least in every year, the accounts of the Company must be examined by one or more properly qualified Auditor or Auditors who must report to the members in accordance with the provisions of the Law.

7. MEMBERS

7.1 The members of the Company shall comprise ordinary members and other members.

7.2 The number of members of the Company is unlimited.

8. MEMBERSHIP

8.1 All persons who are members of the Company at the date of the adoption of these regulations are ordinary members of the Company. Immediately following the adoption of these regulations the ordinary membership of any natural person of the Company shall be terminated and thereafter ordinary membership of the Company shall be confined to

associations either incorporated or unincorporated who meet the criteria for ordinary membership.

- 8.2 Following the adoption of these regulations the initial ordinary membership of the Company shall comprise those organisations or entities whose names are set out in a Register of Members tabled at the time of adoption of these regulations.
- 8.3 The Board may at its discretion admit other entities to ordinary membership of the Company by Special Resolution of the Board.
- 8.4 Applications for ordinary membership must be made in writing to the Secretary.
- 8.5 In deciding whether or not to admit an entity as an ordinary member, the Board shall have regard to the following criteria :-
- (a) the bona fide motives of the body applying for membership
 - (b) the evidenced commitment to the principles of sustainable natural resource management in the FNQ region
 - (c) the membership of the body applying for membership
 - (d) the completion of an application for membership, accompanied by any membership subscription.
- 8.6 An ordinary member has all the rights conferred on an ordinary member by these regulations including the right to attend and to vote at annual general and other general meetings of the Company.
- 8.7
- (a) A Register of members of the Company must be kept in the office of the Company.
 - (b) The Register of ordinary members must show:
 - (i) the names in full and addresses of all ordinary members of the Company; and
 - (ii) the date of admission to and cessation of ordinary membership; and
 - (iii) such other information as the Board may from time to time determine.
 - (c) Each ordinary member must notify the Secretary in writing of any change in that ordinary member's address within a period of one (1) month after the change.
 - (d) An ordinary member must pay the annual subscription (if any) determined from time to time by the Board.

9. CESSATION OF ORDINARY MEMBERSHIP

- 9.1 Every member of the Company has the right at any time to resign from ordinary membership of the Company by giving written notice to the Secretary.
- 9.2 An ordinary member ceases to be a member:
- (a) on the passing of a resolution in accordance with regulation 9.3;
 - (b) upon the ordinary member resigning;

- (c) on a liquidation or winding-up of the ordinary member except for the purposes of reconstruction or amalgamation;
 - (d) on the expiry of three months from the due date of unpaid annual subscriptions.
- 9.3 Subject to regulation 9.4, the Board may by Special Resolution of the Board terminate the ordinary membership of a member and/or terminate the right of a delegate of an ordinary member to participate in meetings of the Company if either the ordinary member or the delegate:
- (a) has wilfully refused or neglected to comply with the provisions of these regulations and the Law; or
 - (b) is guilty of any conduct which in the opinion of the Board is unbecoming of an ordinary member or prejudicial to the interest of the Company.
- 9.4 At least one (1) month before the meeting of the Board at which a resolution under this regulation is considered the ordinary member must be given notice:
- (a) of that meeting; and
 - (b) of what is alleged against the ordinary member; and
 - (c) of the intended resolution; and

that the ordinary member will at the meeting and before the voting on any such resolution have an opportunity of giving orally or in writing any explanation or response the member may think fit.

10. OTHER CATEGORIES OF MEMBERSHIP

- 10.1 The Board may admit natural persons or corporate bodies to other categories of membership of the Company and by resolution determine the particular categories of membership e.g. personal, family and business and the annual membership fee payable by any category of membership. The Board may also prescribe procedures in relation to an appropriate method of application for other categories of membership.
- 10.2 In deciding whether or not to admit a person or a corporate body to another category of membership the Board shall have regard to the following criteria:-
- (a) evidence of interest and/or involvement in natural resource management;
 - (b) evidence of commitment to the principles of Sustainable Natural Resource Management; and,
 - (c) Completion of the application for membership accompanied by the appropriate membership subscription.
- 10.3 Members who are admitted to other categories of membership (in these regulations referred to as "other members") shall have no voting rights but shall have the right to attend General Meetings of the Company and speak on any issue raised at any General Meeting.
- 10.4 A Register of other members of the Company must be kept in the office of the Company.
- 10.5 The Register of other members must show:

- (a) the names in full and addresses of all other members of the Company; and
 - (b) the date of admission to and cessation of other membership; and
 - (c) the category of the other membership; and
 - (d) such other information as the Board may from time to time determine.
- 10.6 Each other Member must notify the Secretary in writing of any change in that member's address within a period of one (1) month after the change.
- 10.7 Another Member shall be liable to pay the annual subscription, if any, determined from time to time by the Board in relation to the other Member's category of membership.
- 10.8 The Board may at any time by Special Resolution for reasonable cause terminate the membership of any other Member.

11. GENERAL MEETINGS

- 11.1 Subject to the Law and regulation 11.1, an annual general meeting of the Company must be held at such time and place as may be determined by the Board.
- 11.2 An annual general meeting must be held in each calendar year not more than fifteen (15) months after the holding of the last preceding annual general meeting.
- 11.3 All meetings of members pursuant to these regulations and the Law other than the annual general meeting are called general meetings.
- 11.4 Subject to the provisions of the Law relating to special resolutions, fourteen (14) days' notice at least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which the notice is given) of the date, hour and place of any general meeting and of any business deemed by these regulations to be special business must be given by the Secretary to all members of the Company.
- 11.5 A copy of the Audited Financial Statement to be presented to the annual general meeting must be forwarded with the notice of an annual general meeting.
- 11.6 The accidental omission to give notice of a meeting to any member does not invalidate the proceedings at any general meeting.

12. PROCEEDINGS AT GENERAL MEETINGS

- 12.1 All business transacted at a general meeting is special business.
- 12.2 The business to be conducted at an annual general meeting is:
- (a) to adopt and confirm the minutes of the previous Annual General meeting;
 - (b) to receive the Directors' Report to members;
 - (c) to receive and consider the Audited Financial Statement in accordance with the Law;
 - (d) to appoint an Auditor and/or receive the Auditor's Report; and

- (e) to deal with any other business which is deemed to be special business.
- 12.3 No business is to be transacted at an annual general meeting or any general meeting of the Company unless a quorum of ordinary members is present by a Delegate at the time when the meeting proceeds to business.
- 12.4 Subject to any other provision of these regulations, the lesser of 20 ordinary members or twenty per-cent (20%) of the ordinary members of the Company present in person or Delegate is a quorum for the purposes of these regulations.
- 12.5 The Chairperson may, with the consent of any meeting at which a quorum is present (and must if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 12.6 (a) When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- (b) Subject to regulation 12.6(a), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 12.7 (a) At any general meeting a resolution put to the vote of the meeting is decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (i) by the Chairperson; or
 - (ii) by at least three (3) ordinary members present in person.
- (b) Unless a poll is so demanded a declaration by the Chairperson that a resolution has on a show of hands been carried unanimously or by a 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 without proof of the number or proportion of the votes recorded in favour or against the resolution.
- (c) The demand for a poll may be withdrawn.
- (d) Subject to regulation 12.7(e), a poll must be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.
- (f) In a case of an equality of votes whether on a show of hands or on a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote which shall be in addition to any vote he may be able to exercise as of right.
- (g) An ordinary member entitled to vote at a general meeting of the Company whether on show of hands or a poll has one (1) vote only. A delegate of an ordinary member who is also a delegate for another or other ordinary members shall be entitled to a separate vote in respect of each ordinary member for which he is a delegate.

- 12.8 (a) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (b) Any such objection must be referred to the Chairperson of the meeting, whose decision is final.
- (c) A vote not disallowed pursuant to such an objection is valid for all purposes.

13. DELEGATES

13.1 An ordinary member must appoint one (1) person to be its delegate to attend and vote on its behalf at general meetings.

13.2 An ordinary member may at any time:

- (a) appoint any person to be a substitute Delegate for any particular or other general meeting; and
- (b) revoke the appointment of any Delegate or substitute Delegate and appoint some other person in his or her place.

13.3 An instrument appointing or revoking the appointment of a Delegate must be in writing by the ordinary member.

13.4 (a) Every instrument appointing a Delegate must be substantially in the following form or as otherwise determined by the Directors from time to time.

“Appointment of Delegate:

Name of ordinary member] hereby appoints {name of Delegate] as its Delegate *to attend the meeting of the Company of [insert date]/*until further notice. (*Delete one)

.....
Signed by [the ordinary member] on [date]”

- (b) The Chairperson may in his or her discretion admit an instrument of appointment of a Delegate notwithstanding that it fails to comply strictly with the form set out in this regulation.
- (c) A Delegate may be appointed only for a single meeting in which case the instrument must specify the day upon which the meeting at which it is intended to be used is to be held and must only entitle the Delegate to attend and vote at the meeting in the case of the Delegate of an ordinary member so specified and any postponement or adjournment thereof.

13.5 (a) Regulations 13.1, 13.1, 13.2 and 13.3 are subject to this regulation.

- (b) The Directors may from time to time determine:
 - (i) that the appointment of a Delegate under this regulation must be registered; and
 - (ii) a date (“Cut Off Date”) by which that appointment must be registered.

(c) Registration under this regulation takes place by the ordinary member appointing a Delegate delivering the original signed instrument appointing the Delegate to the Company's registered office before 5pm on the Cut Off Date.

(d) If the Directors make a determination under this regulation, the appointment of a Delegate is not effective unless it is registered in accordance with this regulation.

14. DIRECTORS

14.1 Membership of Board

The Board is skills-based and must be capable of overseeing the strategic delivery of community based natural resource management across the Wet Tropics region. The Board of Directors consists of one Chairperson and six Directors filled in accordance with these regulations:

- (a) Chairperson of Directors;
- (b) Six Directors with a mix of natural resource management and corporate governance skills ensuring coverage across all sectors of the Wet Tropics region. In recognition that the Aboriginal peoples of the Wet Tropics are the Traditional Owners and custodians of the region, one of the six Directors must be Indigenous.

14.2 Chairperson

- (a) When the office of Chairperson becomes vacant, the other Directors must appoint another member of the Board of Directors to be Chairperson *pro tempore* until the Standing Independent Selection Panel ("SISP") appoints a new Chairperson.
- (b) The Board must notify the SISP as soon as the office of Chairperson becomes vacant and in circumstances where the Board is aware that the office of Chairperson is likely to become vacant because of the time factors in these regulations limiting the periods for which a person can be Chairperson, the Board must give the SISP at least three months notice of the likely termination of the Chairperson's period of office and request the SISP to commence the process for the recruitment and selection of a suitably qualified person to fulfil the role as Chairperson.
- (c) For the purpose of appointing a Chairperson *pro tempore* the following rules shall be applied:
 - (i) If the other Directors by majority resolution appoint a current Director to the office of Chairperson, that person becomes the Chairperson.
 - (ii) If the other Directors do not by majority resolution appoint a Chairperson, the Chairperson is to be elected by the Directors in accordance with this regulation.
 - (iii) Each Director may, but is not obliged to, nominate one person to hold the office of Chairperson.
 - (iv) Each Director is entitled to cast one vote for one candidate.
 - (v) The candidate with the greatest number of votes becomes the Chairperson *pro tempore* and shall hold office until the SISP notifies the Board in writing of the name of the person who it has appointed as Chairperson.

- (vi) If two or more candidates receive an equal number of votes, the Chairperson is selected from among those candidates by lot.
- (d) For the purpose of appointing a permanent Chairperson the following selection criteria must be applied by the SISP to the consideration of any candidates:
- (i) A resident of the Wet Tropics region who has demonstrated leadership skills;
 - (ii) Strong background in Natural Resource Management and demonstrated understanding of Whole-of-Catchment/Regional natural resource management issues;
 - (iii) Demonstrated capability in either or both of community engagement and capacity building;
 - (iv) Highly skilled in one or more of executive management, Governance policy, practices and processes, risk and compliance, strategic and corporate planning, advocacy and influence, finance and business management and fundraising and marketing;
 - (v) Highly regarded by Traditional Owner, Natural Resource Management and related industry groups within the Wet Tropics Region and Queensland and respected by all levels of government;
 - (vi) Strong mediation and issue resolution skills; and
 - (vii) Demonstrated ability to communicate effectively and sensitively with diverse peoples/populations and rural and urban communities.

14.3 Directors

- a) For the purpose of appointing six Directors the following selection criteria must be applied by the SISP to the consideration of any candidates:
- (i) A person who is a resident of the Wet Tropics and if not a resident, has demonstrated connection with and sound knowledge and understanding of natural resource management in the Wet Tropics region;
 - (ii) Demonstrated performance and knowledge in the delivery of improved natural resource management outcomes;
 - (iii) Well regarded within Aboriginal Traditional Owner, wider community, business, government and/or industry networks;
 - (iv) Highly skilled and experienced in one or more of the following areas of natural resource management and who has demonstrated support from groups within the region :
 - i. Industry related to natural resource management
 - ii. Aboriginal Traditional Owner related cultural and natural resource management
 - iii. Conservation
 - iv. World Heritage

- v. Waters and Water Quality
 - vi. Climate
 - vii. Catchment management
 - viii. Community engagement and capacity building
 - ix. Government and agency knowledge and networks
 - x. Land management and/or land use planning
- (v) Highly skilled in one or more of the following corporate governance areas:
- i. Executive management;
 - ii. Governance policy, practices and processes particularly not for profit sector;
 - iii. Risk and compliance ;
 - iv. Strategic and corporate planning;
 - v. Advocacy and influence;
 - vi. Finance and business management; and
 - vii. Fundraising and marketing
- (vi) Demonstrated ability to communicate effectively and sensitively with diverse peoples/population and rural and urban communities.

14.4 Chairperson and Directors – Finalisation of Appointments of SISP Selectees

The SISP must notify the Company in writing of the names of any person who the SISP selects to be the Chairperson or a Director and subject to that person signing a Consent to be appointed that person shall become the Chairperson or Director (as the case may be) from the time of signing such Consent.

14.5 Directors – General Provisions

- (a) A Director need not be a member.
- (b) Directors must be natural persons ordinarily residing in Australia.
- (c) Directors (and for the purpose of this subclause 14.11(c), the Chairperson shall be regarded as a Director) shall be appointed for three year terms. A retiring Director shall be eligible for re-appointment.
- (d) The provisions of subclauses (c) and (d) do not apply to Directors – Other.
- (e)
 - (i) The Directors are to be paid such remuneration as is from time to time determined by the Board by reference to fees paid to Directors of body's similar to this Company.
 - (ii) Director's remuneration is deemed to accrue from day to day.
 - (iii) The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

- (f) The office of a Director becomes vacant if the Director:
- (i) becomes bankrupt or makes any arrangement or Composition with his creditors generally;
 - (ii) becomes prohibited from being a Director of a Company by reason of any order made under the law;
 - (iii) ceases to be a Director by operation of s.206A of the Law;
 - (iv) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (v) resigns his office by notice in writing to the Company;
 - (vi) is directly or indirectly interested in any contract or proposed contract with the Company which interest has not been disclosed by the Director in accordance with s.191 of the Law.
- (g) A Director automatically ceases to hold office if:
- (i) the Director is absent from three (3) consecutive meetings of the Board; and
 - (ii) the Directors have not, prior to the conclusion of the third meeting, resolved to grant a leave of absence to the absent Director.
- (i) (i) In the event of a vacancy in the office of a Director the Directors may appoint a person to fill the vacancy *pro tempore* pending a permanent appointment of a substitute Director by the SISP.
- (ii) The person so appointed holds office until the SISP appoints a new permanent Director or until the former Director would have been due to retire whichever is the earlier.
- (h) (i) The Company may:
- (A) by ordinary resolution, of which special notice pursuant to s.203D of the Law, has been given, remove any Director or other office-bearer before the expiration of his or her period of office; and
 - (B) by an ordinary resolution appoint another person in his or her stead *pro tempore* pending a permanent appointment of a Director by the SISP.
- (ii) a person appointed under this regulation holds office:
- (A) in the case of a Director, until the former Director would have been due to retire or the SISP appoints a new permanent Director whichever is the earlier;
 - (B) in the case of any other office bearer until the next annual general meeting.
- (i) When the office of a Director becomes vacant, the other Directors must arrange for the SISP to select another person to be the Director to hold the same portfolio as that held by the retiring Director, eg. if the Director – Catchment/Community

becomes vacant, the other Directors must arrange for the SISP to select another person to be the Director – Catchment/Community and pending the appointment of another permanent Director may at their discretion appoint some person to the position *pro tempore* and the method of appointment shall be the same as is required for the appointment of a Chairperson *pro tempore* as set out under regulation 14.2(d).

14.6 Appointment of Directors – Procedures for Invoking Action by SISP

- (a) At least six months prior to the time at which some Directors are scheduled to retire in accordance with the provisions of these regulations, the Directors shall determine in accordance with the provisions of 14.10(c) and 14.10(d) who shall be the Directors to retire.
- (b) Following such determination, the Board must request the SISP to embark upon the process of selecting Directors and where one of the Directors is the Chairperson, the selection of a Chairperson.

15. POWER AND DUTIES OF THE DIRECTORS

- 15.1
 - (a) Subject to the Law and to any other provisions of these regulations the business and general affairs of the Company is under the management of the Directors who may pay all expenses incurred in promoting the Company and may exercise all such powers of the Company as are not by the Law or by these regulations required to be exercised by the Company in general meeting.
 - (b) Without limiting the generality of the provisions of regulation 15.1(a), the Board may exercise all the powers of the Company to borrow or raise money to mortgage, charge, lease, licence or sell any property or business of the Company, or any part thereof and to issue debentures and other securities whether outright or as security for any debt, liability, or obligation of the Company or of any other person.
 - (c) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two Directors or in such other manner as the Board from time to time determines.
 - (d) For the purposes of these regulations the rate of interest payable in respect of money lent by members to the Company must not exceed the rate paid for the time being by the Company's bankers in respect of term deposits of the amount lent for the term lent.
- 15.2
 - (a) The Board may by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes with such powers and authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as the Board thinks fit.
 - (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
 - (c) The Board must cause minutes to be made:
 - (i) of all appointments of officers and servants; and

- (ii) of names of members of the Board present at all meetings of the Company and of the Board; and
- (iii) of all proceedings at all meetings of the Company and of the Board.
- (d) Such minutes must be signed by the Chairperson of the meeting at which the proceedings were held or by the Chairperson of the next succeeding meeting.

16. PROCEEDINGS OF THE DIRECTORS

- 16.1
 - (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit provided that at least two meetings of Directors are held per year.
 - (b) A Director may at any time convene a meeting of Directors by ten (10) days notice to each other Director. The notice must give details of the matters proposed to be raised and the time and place of the meeting.
 - (c) The Secretary must on the requisition of a Director convene a meeting of Directors by ten (10) days notice to each Director. The notice must give details of the matters proposed to be raised and the time and place of the meeting.
 - (d) Any notice of a meeting of Directors may be given in writing or by facsimile, telex, telegram or cable or by telephone or any other means of communication.
- 16.2
 - (a) Subject to these regulations, questions arising at any meeting of the Board shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Board.
 - (b) In case of an equality of votes, the Chairperson of the meeting has a casting vote in addition to his or her deliberative vote.
- 16.3 The quorum necessary for the transaction of the business of the Board is fifty per cent (50%) of the Directors as appointed from time to time.
- 16.4 Where a meeting of the Board is held and the Chairperson is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unable or unwilling to act the Directors present may elect one of their number to be Chairperson of the meeting.
- 16.5 The Board may act notwithstanding any vacancy on the Board but if and so long as their number is reduced below the minimum number fixed by these regulations, the continuing Director or Directors may act for the purpose of increasing the number of Directors to that number or of convening a general meeting of the Company, but for no other purpose.
- 16.6
 - (a) This regulation applies if it is discovered that there was some defect in the appointment of any Director or person acting as a Director, or that the Directors or any of them were disqualified.
 - (b) All acts done by any meeting of the Board or a sub-committee of the Board or by any person acting as a Director is as valid as if every such person had been duly appointed and was qualified to be a Director.
- 16.7
 - (a) If all Directors have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or if the Directors signed the document on different

days on the day on which and at the time at which the document was last signed by a Director.

- (b) For the purposes of this regulation two (2) or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

17. TELECONFERENCE MEETING OF DIRECTORS

- 17.1
- (a) Subject to the conditions in regulation 17.1(c), the contemporaneous linking together by telephone, radio or other form of instantaneous audio and visual communication of a number of Directors constituting not less than the quorum required for the purpose of these regulations is deemed to constitute a meeting of the Directors and all the provisions of these regulations as to the meetings of the Directors apply to such meeting.
 - (b) This regulation applies whether or not one or more of the Directors is outside the Commonwealth of Australia so long as the conditions set out in Article 52(2) are met.
 - (c) The conditions referred to in regulation 17.1(a) are:
 - (i) that all the Directors for the time being entitled to receive notice of a meeting of the Directors are given notice (in accordance with these regulations) of the meeting to be conducted by telephone, radio or other form of instantaneous audio or audio and visual communication;
 - (ii) that each of the Directors taking part in the meeting is linked by telephone, radio or other form of instantaneous audio or visual communication and is throughout the meeting able to hear each of the other Directors so taking part;
 - (iii) that at the commencement of the meeting each Director acknowledges his or her presence to all the other Directors taking part;
 - (iv) that if the Secretary is not part of the meeting one of the Directors so present takes minutes of the meeting.
 - (d) A Director may not cease to take part in a meeting conducted pursuant to this regulation by disconnecting his or her telephone, radio or other form of communication unless he or she has previously obtained the express consent of the Chairperson of the meeting.
 - (e) A Director is conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone, radio or other form of instantaneous audio or audio and visual communication unless he or she has previously obtained the express consent of the Chairperson of the meeting to cease taking part in the meeting.
 - (f) A minute of the proceedings of a meeting held by telephone, radio or instantaneous audio or audio and visual communication is sufficient evidence of such proceedings and of the observance of all necessary formalities if certified on as correct minute by the Chairperson of the meeting or by the secretary if present at the meeting.

18. COMMITTEES

- 18.1 The Board may from time to time form committees for any purpose whatever not being for the purpose of a duty imposed on the Board as the Directors of the Company by the Law or the general law.
- 18.2 (a) Each committee appointed in accordance with these regulations must have at least one (1) Director as a member of that committee.
- (b) Unless otherwise specified in the minute of the Directors appointing the committee the quorum of all committees consists of a majority of the members of such committee.
- (c) Any committee so formed must in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board.
- 18.3 The Board and any committee may also co-opt advisers who are not members of the Company but such advisers have no vote.
- 18.4 A committee may elect a Chairperson of its meetings and if no such Chairperson is elected or if at any meeting the Chairperson is not present within ten (10) minutes after the time appointed for holding the meeting, the members present may choose one of their number to be Chairperson of the meeting.
- 18.5 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting must be determined by a majority of votes of the members of the committee entitled to vote at general meetings of the Company who are present, and in the case of an equality of votes, the Chairperson in addition to his or her deliberative both has a casting vote.

19. ADVISORY PANELS

- 19.1 The Directors may from time to time resolve to appoint one or more groups of persons ("Advisory Panels") on an ad hoc or standing basis to assist the Board in any area or in relation to any issues determined by the Board.
- 19.2 The Directors may:
- (a) establish guidelines for the meetings and processes of the Advisory Panels;
- (b) appoint persons to the Advisory Panels;
- (c) terminate the appointment of persons to the Advisory Panels;
- (d) resolve to disband any Advisory Panel.
- 19.3 An Advisory Panel may make recommendations to the Board, but no recommendation or decision of an Advisory Panel is binding on the Board.

20. STANDING INDEPENDENT SELECTION PANEL

- 20.1 The Board must ensure that there is at all times a Standing Independent Selection Panel ("SISP") whose tasks will be to make appointments to the position of Chairperson and Director as required by these regulations.

- 20.2 The primary objective of the SISP must be to ensure the overall Board is skills-based and capable of overseeing the strategic regional development and implementation of community-driven natural resource management in the Wet Tropics Region.
- 20.3 The SISP shall comprise four (4) persons including a Chairperson and three (3) others being:-
- (a) an independent Chair with broad based NRM skills and experience, and credibility and respect throughout the Wet Tropics Region;
 - (b) an "industry" representative;
 - (c) a "conservation" representative;
 - (d) an "indigenous" representative.

For the purpose of this regulation "industry" representative, "conservation" representative and "indigenous" representative means persons who have the attributes respectively required for a Director - Industry, Director – Conservation and Director – Indigenous described in regulations 14.4(b), 14.8(b) and 14.9(b) of these regulations.

- 20.4 The Board must take steps to ensure that the appointment of Members to the SISP shall form part of an agenda of a General Meeting (including an AGM) of the Company to be held within six (6) months of the date of the adoption of these regulations. For this purpose agenda papers to be sent to Members for the meeting must include an invitation to Members to nominate persons to be appointed to the SISP. The agenda papers may themselves include names of persons whom the Board or any Member of the Board may wish to put forward as possible appointees. Following the tabling of all nominations the Meeting may then proceed to decide upon a process to be undertaken at that Meeting to effect the appointments. Any resolution to decide upon a process or to effect an appointment may be carried by a simple majority of Members entitled to vote at the Meeting. If for any reason appointments cannot be finalised at that General Meeting the question of appointments may be adjourned from General Meeting to General Meeting until the appointments are complete. Once appointed a Member of the SISP shall continue to hold office until the fourth Annual General Meeting following that person's appointment. Any person vacating membership of the SISP at the fourth Annual General Meeting shall be eligible for re-appointment.
- 20.5 Whenever a vacancy occurs on the SISP either as a result of resignation, incapacity or death, the Board must take steps to fill the vacancy as soon as practicable by undertaking the process set out in regulation 20.4. If an Annual General Meeting is to be held within three (3) months of the vacancy occurring the filling of the vacancy can be left until the Annual General Meeting otherwise the Board must convene a Special General Meeting for that purpose.
- 20.6 In making appointments to the Board the SISP must endeavour to achieve a situation where the Board will:-
- (a) have a well developed understanding of NRM issues and a commitment to finding solutions from a regional perspective;
 - (b) act and operate as a cohesive and integrated team in the best interests of the region's bio-diversity conservation and sustainable use of natural resources in the Wet Tropics; and
 - (c) have the capacity to:-

- (i) engender trust in the community, business sector, NRM groups and Government in decisions relating to planning and implementing priority projects and initiatives to achieve cost effective outcomes for NRM in the region; and
- (ii) develop an environment in which these same groups are prepared to invest and committed to implementing change.

20.7 Prior to embarking on a selection process for a particular position the SISP must satisfy itself that an appropriate publicity program to inform regional stakeholders about the vacant position and the selection criteria attaching to the position has been undertaken. Any such program must require that the applications will be lodged initially at the registered office of the Company or a designated employment agency. The SISP may undertake a "short-listing" process in relation to applications and must not select an appointee without having first interviewed the appointee and persons which may have been short-listed for the appointment.

21. SECRETARY

The Secretary must be appointed by the Directors in accordance with the Law for such term and upon such conditions as they think fit, and any secretary so appointed may be removed by them.

22. EXECUTION WITH OR WITHOUT COMMON SEAL

22.1 Execution without Common Seal

The Company may execute a document without using the common seal if the document is signed by:

- (a) two Directors of the Company; or
- (b) a Director and the Secretary of the Company.

22.2 Execution with Common Seal

(a) If the Company has a common seal, the Company may execute a document if the seal is affixed to the document and the affixing of the seal is witnessed by:

- (i) two Directors of the Company; or
- (ii) a Director and the Secretary of the Company.

(b) The Directors must provide for the safe custody of the common seal.

23. ACCOUNTS

23.1 The Board must:

- (a) cause proper accounting and other records to be kept; and
- (b) distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditor's report thereon as required by the Law; and

- (c) cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to a date not more than five (5) months before the date of the meeting.

23.1 The Board must from time to time determine in accordance with these regulations at what times and places and under what conditions or directions the accounting and other records of the Company is open to the inspection of members.

24. AUDIT

A properly qualified Auditor or Auditors must be appointed and his/her or their duties regulated in accordance with the Law.

25. NOTICES

- 25.1 (a) A notice may be given by the Company to any member either by serving on the member personally or by sending it by post to the member at his or her Registered Address.
- (b) Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- 25.2 (a) Notice of every general meeting must be given in any manner authorised by these regulations or the Law to:
- (i) every member except those members who have not supplied to the Company an address for the giving of notices to them;
 - (ii) the Auditor or Auditors for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.

26. INDEMNITY AND INSURANCE OF OFFICERS

26.1 Indemnity

- (a) Subject to regulation 26.2 and 26.4 the Company indemnifies every person who is or has been an officer of the Company against all liabilities of every kind incurred as an officer of the Company except to the extent that any liability is:
- (i) owed to the Company or a related body corporate;
 - (ii) for a pecuniary penalty order under s.1317G or a compensation order under s.1317H of the *Corporations Act*;
 - (iii) owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith; or
 - (iv) otherwise a liability against which, under the *Corporations Act*, the Company must not indemnify a person
- (b) This regulation does not apply to a liability for legal costs.

26.2 Indemnity for Legal Costs

- (a) The Company indemnifies every person who is or has been an officer of the Company against all legal costs incurred as an officer of the Company except to the extent that they are legal costs incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under s.199A(2) of the *Corporations Act*;
 - (ii) in defending or resisting criminal proceedings in which the person is found guilty; or
 - (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established;
 - (iv) in connection with proceedings for relief to the person under the *Corporations Act* in which the court denies the relief; or
 - (v) otherwise in circumstances under which, under the *Corporations Act*, the Company must not indemnify a person.
- (b) Regulation 26.2(a)(iii) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.
- (c) For the purposes of regulation 26.2(a), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

26.3 Power to Insure

To the extent permitted by law the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an officer of the Company or of a subsidiary of the Company against a liability incurred by that person except against a liability (other than one for legal costs) arising out of:

- (a) conduct involving a wilful breach of duty in relation to the Company;
- (b) a contravention of s.182 or s.183 of the *Corporations Act*, or
- (c) other circumstances under which, under the *Corporations Act*, the Company must not pay or agree to pay a premium.

26.4 Optional Employee Indemnity

No indemnity is given by the Company pursuant to regulation 26.1 or 26.2 to any person who is or has been engaged in the full time employment of the Company against any liability incurred by that person in that person's capacity as a full time employee of the Company in any case where the Board determines that such indemnity should not be given.

26.5 Definitions

In this regulation 26:

- (a) "proceedings" has the same meaning as that term when it is used in the *Corporations Act*;

- (b) "officer" means any person who is an officer within the meaning of the *Corporations Act*; and
- (c) "ASIC" means Australian Securities and Investments Commission or its successor from time to time.

27. SPECIAL REQUIREMENTS RELATING TO THE PUBLIC FUND (NATURAL CAPITAL FUND)

- 27.1 The Company will establish and maintain a Public Fund to be called the NATURAL CAPITAL FUND (and in these regulations referred to as "the Trust Fund") for the specific purpose of supporting the environmental objects of the Company set out in regulation 2. The Trust 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 Trust Fund must not receive any other money or property into its account and it must comply with Subdivision 30E of the Income Tax Assessment Act 1937.
- 27.2 A separate bank account is to be opened to deposit money donated to the Trust Fund including interest accruing thereon and gifts to it are to be kept separate from other funds of the Company.
- 27.3 Members of the public are to be invited to make gifts of money or property to the Trust Fund for the environmental purposes set out in regulation 2.
- 27.4 Receipts are to be issued in the name of the Trust Fund and proper accounting records and procedures are to be kept and used for the Trust Fund.
- 27.5 The Trust Fund will be operated on a not-for-profit basis.
- 27.6 A committee of management of no fewer than three persons will administer the Trust Fund. The committee will be appointed by the Company. A majority of the members of the committee are required to be "responsible persons" as defined by the Guidelines to the Register of Environmental Organisations. Nothing in these regulations shall prohibit all of the Directors of the Company from constituting the Management Committee of the Trust Fund.
- 27.7 The Company must inform the Department of the Environment and Heritage or other relevant Department responsible for the environment as soon as possible if:-
 - (a) it changes its name or the name of the Public Fund; or
 - (b) there is any change to the membership of the Management Committee of the Public Fund; or
 - (c) there has been a departure from any Model Rules which may be prescribed for Public Funds.
- 27.9 In relation to the Trust Fund the Company must comply with any Rules that the (Assistant) Treasurer and the Environment Minister make to ensure that gifts made to the Trust Fund are used only for the principal purpose of the Trust Fund and must accept any Rule the Ministers make to ensure that gifts made to Public Funds will only be used for environmental purposes.
- 27.10 Any allocation of funds or property to other persons or organisations from the Company and the Trust Fund will be made in accordance with the established purposes of the Company and must not be influenced by the preference of the Donor.

- 27.11 In case of the winding up of the Trust Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.
- 27.12 Statistical information requested by the Department responsible for the environment on donations to the Trust Fund must be made within 4 months of the end of the financial year. An audited financial statement for the Company and the Trust Fund must be supplied with the annual statistical return. The statement must provide information on the expenditure of Trust Fund monies and the management of the Trust Fund assets.