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## Preliminary

### 1. Name of the company

The name of the **company** is Nuclear Free WA Ltd, (the **company**), also known as Nuclear Free WA.

### 2. Type of company

The **company** is a not-for-profit public **company** limited by guarantee which is established to be, and to continue as, a charity.

### 3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

### 4. The guarantee

Each member must contribute an amount not more than \$1 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the member stopped being a member, or
- (b) costs of winding up.

### 5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 74 and 76.

## Charitable purposes and powers

### 6. Objects

The **company's** objects are to pursue the following charitable purposes:

- (a) To advance the protection of the environment from nuclear threats including threats arising from uranium mining and processing; management, storage and transport of uranium; nuclear waste; nuclear power; nuclear weapons; nuclear submarines and other military uses of nuclear energy; and
- (b) To establish and maintain a **public fund** to be called the Nuclear Free WA Public Fund for the specific purpose of supporting the environmental object of the **company**. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account, and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997.

### 7. Powers

7.1 Subject to clause 8, the **company** has the following powers, which may only be used to carry out its objects set out in clause 6:

- (a) the powers of an individual, and

- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.
- 7.2 The company shall also have the power to campaign publicly to prevent nuclear proliferation by means including but not limited to:
- (a) making submissions;
  - (b) organising public events and rallies;
  - (c) making public statements;
  - (d) working in conjunction with other state, national and international anti-nuclear organisations and alliances; and
  - (e) entering into negotiations and consultations as a peak anti-nuclear organisation with other parties to achieve the **company's** objectives.

## 8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 71.
- 8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:
- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
  - (b) making a payment to a member in carrying out the **company's** charitable purpose(s).

## 9. Amending the constitution

- 9.1 Subject to clause 9.2, the members may amend this constitution by passing a **special resolution**.
- 9.2 The members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

## Members

### 10. Membership and register of members

- 10.1 The members of the **company** are:
- (a) **initial members**, and
  - (b) any other person that the members allow to be a member, in accordance with this constitution.
- 10.2 The **company** must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:
- (a) for each current member:
    - i. name
    - ii. address
    - iii. any alternative address nominated by the member for the service of notices, and
    - iv. date the member was entered on to the register.
  - (b) for each person who stopped being a member in the last 7 years:
    - i. name
    - ii. address
    - iii. any alternative address nominated by the member for the service of notices, and

- iv. dates the membership started and ended.
- 10.3 The **company** must give current members access to the register of members.
- 10.4 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

#### **11. Who can be a member**

- 11.1 A person who supports the purposes of the **company** is eligible to apply to be a member of the **company** under clause 12.
- 11.2 In this clause, 'person' means an individual or incorporated body.

#### **12. How to apply to become a member**

A person (as defined in clause 11.2) may apply to become a member of the **company** by writing to the secretary stating that they:

- (a) want to become a member
- (b) support the purpose(s) of the **company**, and
- (c) agree to comply with the **company's** constitution, including paying the guarantee under clause 4 if required.

#### **13. Members at a general meeting decide whether to approve or reject membership**

- 13.1 The committee members must decide whether to recommend that an application for membership is accepted or rejected within a reasonable time after the secretary receives the application.
- 13.2 Once the committee members recommend an application, that application must be presented at the next general meeting for approval or rejection by the members.
- 13.3 If the members approve an application, the secretary must as soon as possible:
  - (a) enter the new member on the register of members, and
  - (b) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 14).
- 13.4 If the members reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 13.5 For the avoidance of doubt, the members may approve an application even if the application does not state the matters listed in clauses 12(a), 12(b) or 12(c). In that case, by applying to be a member, the applicant agrees to those three matters.

#### **14. When a person becomes a member**

Other than **initial members**, an applicant will become a member when they are entered on the register of members.

#### **15. When a person stops being a member**

A person immediately stops being a member if they:

- (a) die
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated member)
- (c) resign, by writing to the secretary
- (d) are expelled under clause 17, or
- (e) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member.

## Dispute resolution and disciplinary procedures

### 16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or committee member and:
- (a) one or more members
  - (b) one or more committee members, or
  - (c) the **company**.
- 16.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.
- 16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days:
- (a) tell the committee members about the dispute in writing
  - (b) agree or request that a mediator be appointed, and
  - (c) attempt in good faith to settle the dispute by mediation.
- 16.5 The mediator must:
- (a) be chosen by agreement of those involved, or
  - (b) where those involved do not agree:
    - i. for disputes between members, a person chosen by the committee members, or
    - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the **company** has its registered office.
- 16.6 A mediator chosen by the committee members under clause 16.5(b)(i):
- (a) may be a member or former member of the **company**
  - (b) must not have a personal interest in the dispute, and
  - (c) must not be biased towards or against anyone involved in the dispute.
- 16.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard
  - (b) allow those involved a reasonable chance to review any written statements
  - (c) ensure that those involved are given natural justice, and
  - (d) not make a decision on the dispute.

### 17. Disciplining members

- 17.1 In accordance with this clause, the committee members may resolve to warn, suspend or expel a member from the **company** if the committee members consider that:
- (a) the member has breached this constitution, or
  - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 17.2 At least 14 days before the committee members' meeting at which a resolution under clause 17.1 will be considered, the secretary must notify the member in writing:

- (a) that the committee members are considering a resolution to warn, suspend or expel the member
  - (b) that this resolution will be considered at a committee members' meeting and the date of that meeting
  - (c) what the member is said to have done or not done
  - (d) the nature of the resolution that has been proposed, and
  - (e) that the member may provide an explanation to the committee members, and details of how to do so.
- 17.3 Before the committee members pass any resolution under clause 17.1, the member must be given a chance to explain or defend themselves by:
- (a) sending the committee members a written explanation before that committee members' meeting, and/or
  - (b) speaking at the meeting.
- 17.4 After considering any explanation under clause 17.3, the committee members may:
- (a) take no further action
  - (b) warn the member
  - (c) suspend the member's rights as a member for a period of no more than 12 months
  - (d) expel the member
  - (e) refer the decision to an unbiased, independent person on conditions that the committee members consider appropriate (however, the person can only make a decision that the committee members could have made under this clause), or
  - (f) require the matter to be determined at a **general meeting**.
- 17.5 The secretary must give written notice to the member of the decision under clause 17.4 as soon as possible.
- 17.6 The committee members cannot fine a member.
- 17.7 A member suspended, or expelled under clause 17.4 may appeal against that decision by giving notice to the secretary in writing within 21 days.
- 17.8 When notice is given under clause 17.7,
- (a) the **company** in a **general meeting** shall either confirm or set aside the decision of the committee members to suspend or expel the member, after having afforded the member who gave notice under clause 17.5, a reasonable opportunity to be heard by, or to make representations in writing to the **company** in the **general meeting**; and
  - (b) the member who gave notice under clause 17.5 is not suspended or does not cease to be a member unless and until the decision of the committee members to suspend or expel it, her, him or they, is confirmed under this rule.
- 17.9 Disciplinary procedures must be completed as soon as reasonably practical.
- 17.10 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

## General meetings of members

### 18. General meetings called by committee members

- 18.1 The committee members may call a **general meeting**.

- 18.2 If members with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **company** for a **general meeting** to be held, the committee members must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**, and
  - (b) hold the **general meeting** within 2 months of the members' request.
- 18.3 The percentage of votes that members have (in clause 18.2) is to be worked out as at midnight before the members request the meeting.
- 18.4 The members who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
  - (b) sign the request, and
  - (c) give the request to the **company**.
- 18.5 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

### 19. General meetings called by members

- 19.1 If the committee members do not call the meeting within 21 days of being requested under clause 18.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 19.2 To call and hold a meeting under clause 19.1 the members must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
  - (b) call the meeting using the list of members on the **company's** member register, which the **company** must provide to the members making the request at no cost, and
  - (c) hold the **general meeting** within three months after the request was given to the **company**.
- 19.3 The **company** must pay the members who request the **general meeting** any reasonable expenses they incur because the committee members did not call and hold the meeting.

### 20. Annual general meeting

- 20.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) within 18 months after registration of the **company**, and
  - (b) after the first annual **general meeting**, at least once in every calendar year.
- 20.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
- (a) a review of the **company's** activities
  - (b) a review of the **company's** finances
  - (c) any auditor's report
  - (d) the election of committee members, and
  - (e) the appointment and payment of auditors, if any.
- 20.3 Before or at the annual **general meeting**, the committee members must give information to the members on the **company's** activities and finances during the period since the last annual **general meeting**.



- 20.4 The convenor of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

## 21. Notice of general meetings

- 21.1 Notice of a **general meeting** must be given to:
- (a) each member entitled to vote at the meeting
  - (b) each committee member, and
  - (c) the auditor (if any).
- 21.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 21.3 Subject to clause 21.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand, or
  - (b) for any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 21.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a committee member
  - (b) appoint a committee member to replace a committee member who was removed, or
  - (c) remove an auditor.
- 21.5 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
  - (b) the general nature of the meeting's business
  - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
  - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
    - i. the proxy does not need to be a member of the **company**
    - ii. the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.
- 21.6 If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

## 22. Quorum at general meetings

- 22.1 For a **general meeting** to be held, at least five members (a quorum), at least one being either convenor, treasurer, or secretary, must be present in person for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
- 22.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 22.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and

place that the convenor specifies. If the convenor does not specify one or more of those things, the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week
- (b) if the time is not specified – the same time, and
- (c) if the place is not specified – the same place.

22.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

### 23. Auditor's right to attend meetings

23.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

23.2 The **company** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

### 24. Representatives of members

24.1 An incorporated member may appoint as a representative:

- (a) one individual to represent the member at meetings and to sign circular resolutions under clause 31, and
- (b) the same individual or another individual for the purpose of being appointed or elected as a committee member.

24.2 The appointment of a representative by a member must:

- (a) be in writing
- (b) include the name of the representative
- (c) be signed on behalf of the member, and
- (d) be given to the **company** or, for representation at a meeting, be given to the convenor before the meeting starts.

24.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.

24.4 The appointment may be standing (ongoing).

### 25. Using technology to hold meetings

25.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.

25.2 Anyone using this technology is taken to be present in person at the meeting.

### 26. Convenor for general meetings

26.1 The **elected convenor** is entitled to preside over **general meetings**.

26.2 The members present and entitled to vote at a **general meeting** may choose a committee member or member to be the convenor for that meeting if:

- (a) there is no **elected convenor**, or
- (b) the **elected convenor** is not present within 30 minutes after the starting time set for the meeting, or
- (c) the **elected convenor** is present but says they do not wish to act as convenor of the meeting.

### 27. Role of the convenor

- 27.1 The convenor is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 27.2 The convenor does not have a casting vote.

### 28. Adjournment of meetings

- 28.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the convenor to adjourn it.
- 28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## Members' resolutions and statements

### 29. Members' resolutions and statements

- 29.1 Members with at least 5% of the votes that may be cast on a resolution may give:
  - (a) written notice to the **company** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
  - (b) a written request to the **company** that the **company** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).
- 29.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 29.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 29.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 29.5 The percentage of votes that members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 29.6 If the **company** has been given notice of a members' resolution under clause 29.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 29.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

### 30. Company must give notice of proposed resolution or distribute statement

- 30.1 If the **company** has been given a notice or request under clause 29:
  - (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **company's** cost, or
  - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **company** will pay these expenses.
- 30.2 The **company** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:

- (a) it is more than 1 000 words long
- (b) the committee members consider it may be defamatory
- (c) clause 30.1(b) applies, and the members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
- (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

### **31. Circular resolutions of members**

- 31.1 Subject to clause 31.3, the committee members may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).
- 31.2 The committee members must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 31.3 Circular resolutions cannot be used:
  - (a) for a resolution to remove an auditor, appoint a committee member or remove a committee member
  - (b) for passing a **special resolution**, or
  - (c) where the **Corporations Act** or this constitution requires a meeting to be held.
- 31.4 A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 31.5 or clause 31.6.
- 31.5 Members may sign:
  - (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording is the same in each copy.
- 31.6 The **company** may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

## **Voting at general meetings**

### **32. How many votes a member has**

Each member has one vote.

### **33. Challenge to member's right to vote**

- 33.1 A member or the convenor may only challenge a person's right to vote at a **general meeting** at that meeting.
- 33.2 If a challenge is made under clause 33.1, the convenor must decide whether or not the person may vote. The convenor's decision is final.

### **34. How voting is carried out**

- 34.1 Voting must be conducted and decided by:

- (a) a show of hands
  - (b) a vote in writing, or
  - (c) another method chosen by the convenor that is fair and reasonable in the circumstances.
- 34.2 Before a vote is taken, the convenor must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 34.3 On a show of hands, the convenor's decision is conclusive evidence of the result of the vote.
- 34.4 The convenor and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

### **35. When and how a vote in writing must be held**

- 35.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five **members present**
  - (b) **members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
  - (c) the convenor.
- 35.2 A vote in writing must be taken when and how the convenor directs, unless clause 35.3 applies.
- 35.3 A vote in writing must be held immediately if it is demanded under clause 35.1:
- (a) for the election of a convenor under clause 26.2, or
  - (b) to decide whether to adjourn the meeting.
- 35.4 A demand for a vote in writing may be withdrawn.

### **36. Appointment of proxy**

- 36.1 A member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 36.2 A proxy does not need to be a member.
- 36.3 A proxy appointed to attend and vote for a member has the same rights as the member to:
- (a) speak at the meeting
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - (c) join in to demand a vote in writing under clause 35.1.
- 36.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- (a) the member's name and address
  - (b) the **company's** name
  - (c) the proxy's name or the name of the office held by the proxy, and
  - (d) the meeting(s) at which the appointment may be used.
- 36.5 A proxy appointment may be standing (ongoing).
- 36.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 21.5(d) or at the **company's** registered address at least 48 hours before a meeting.
- 36.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

- 36.8 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) dies
  - (b) is mentally incapacitated
  - (c) revokes the proxy's appointment, or
  - (d) revokes the authority of a representative or agent who appointed the proxy.
- 36.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

### 37. Voting by proxy

- 37.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 37.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
  - (b) if the way they must vote is specified on the proxy form, must vote that way, and
  - (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

## Committee members

### 38. Number of committee members

The **company** must have at least four and no more than nine committee members.

### 39. Election and appointment of committee members

- 39.1 The initial committee members are the people who have agreed to act as committee members and who are named as proposed committee members in the application for registration of the **company**.
- 39.2 Apart from the initial committee members and committee members appointed under clause 39.5, the members may elect a committee member by a resolution passed in a **general meeting**.
- 39.3 Each of the committee members must be appointed by a separate resolution, unless:
- (a) the members present have first passed a resolution that the appointments may be voted on together, and
  - (b) no votes were cast against that resolution.
- 39.4 A person is eligible for election as a committee member of the **company** if they:
- (a) are a member of the **company**, or a representative of a member of the **company** (appointed under clause 24)
  - (b) are nominated by two members or representatives of members entitled to vote (unless the person was previously elected as a committee member at a **general meeting** and has been a committee member since that meeting),
  - (c) give the **company** their signed consent to act as a committee member of the **company**, and
  - (d) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.

- 39.5 If a committee member stops being a committee member in accordance with clause 42, the other committee members may appoint a person as a committee member to fill the resulting casual vacancy only if that person:
- (a) is a member of the **company**, or a representative of a member of the **company** (appointed under clause 24)
  - (b) gives the **company** their signed consent to act as a committee member of the **company**, and
  - (c) is not ineligible to be a committee member under the **Corporations Act** or the **ACNC Act**.
- 39.6 If the number of committee members is reduced to fewer than three or is less than the number required for a quorum, the continuing committee members may act for the purpose of increasing the number of committee members to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

#### **40. Election of treasurer**

The committee members must elect a committee member as the **company's elected treasurer** for a period of 12 months.

#### **41. Term of office**

- 41.1 At each annual **general meeting**:
- (a) any committee member appointed by the committee members to fill a casual vacancy must retire, and
  - (b) at least one-third of the remaining committee members must retire.
- 41.2 The committee members who must retire at each annual **general meeting** under clause 41.1(b) will be the committee members who have been longest in office since last being elected. Where committee members were elected on the same day, the committee member(s) to retire will be decided by lot unless they agree otherwise.
- 41.3 Other than a committee member appointed under clause 39.5, a committee member's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.
- 41.4 Each committee member must retire at least once every three years.
- 41.5 A committee member who retires under clause 41.1 may nominate for election or re-election, subject to clause 41.6.
- 41.6 A committee member who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a **special resolution**

#### **42. When a committee member stops being a committee member**

A committee member stops being a committee member if they:

- (a) give written notice of resignation as a committee member to the **company**
- (b) die
- (c) are removed as a committee member by a resolution of the members
- (d) stop being a member of the **company**
- (e) are a representative of a member, and that member stops being a member
- (f) are a representative of a member, and the member notifies the **company** that the representative is no longer a representative

- (g) are absent for 3 consecutive committee members' meetings without approval from the committee members, or
- (h) become ineligible to be a committee member of the **company** under the **Corporations Act** or the **ACNC Act**.

## Powers of committee members

### 43. Powers of committee members

- 43.1 The committee members are responsible for managing and directing the activities of the **company** to achieve the purposes set out in clause 6.
- 43.2 The committee members may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 43.3 The committee members must decide on the responsible financial management of the **company** including:
  - (a) any suitable written delegations of power under clause 44, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 43.4 The committee members cannot remove a committee member or auditor. Committee members and auditors may only be removed by a members' resolution at a **general meeting**.

### 44. Delegation of committee members' powers

- 44.1 The committee members may delegate any of their powers and functions to a committee, a committee member, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- 44.2 The delegation must be recorded in the **company's** minute book.

### 45. Payments to committee members

- 45.1 The **company** must not pay fees to a committee member for acting as a committee member.
- 45.2 The **company** may:
  - (a) pay a committee member for work they do for the **company**, other than as a committee member, if the amount is no more than a reasonable fee for the work done, or
  - (b) reimburse a committee member for expenses properly incurred by the committee member in connection with the affairs of the **company**.
- 45.3 Any payment made under clause 45.2 must be approved by the committee members.
- 45.4 The **company** may pay premiums for insurance indemnifying committee members, as allowed for by law (including the **Corporations Act**) and this constitution.

### 46. Execution of documents

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



- (a) two committee members of the **company**, or
- (b) a committee member and the secretary.

## Duties of committee members

### 47. Duties of committee members

The committee members must comply with their duties as committee members under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a committee member of the **company**
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause 6
- (c) not to misuse their position as a committee member
- (d) not to misuse information they gain in their role as a committee member
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 48
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) not to allow the **company** to operate while it is insolvent.

### 48. Conflicts of interest

- 48.1 A committee member must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of committee members (or that is proposed in a circular resolution):
- (a) to the other committee members, or
  - (b) if all of the committee members have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 48.2 The disclosure of a conflict of interest by a committee member must be recorded in the minutes of the meeting.
- 48.3 Each committee member who has a material personal interest in a matter that is being considered at a meeting of committee members (or that is proposed in a circular resolution) must not, except as provided under clauses 48.4:
- (a) be present at the meeting while the matter is being discussed, or
  - (b) vote on the matter.
- 48.4 A committee member may still be present and vote if:
- (a) their interest arises because they are a member of the **company**, and the other members have the same interest
  - (b) their interest relates to an insurance contract that insures, or would insure, the committee member against liabilities that the committee member incurs as a committee member of the **company** (see clause 68)

- (c) their interest relates to a payment by the **company** under clause 67 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
- (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the committee member to vote on the matter, or
- (e) the committee members who do not have a material personal interest in the matter pass a resolution that:
  - (i) identifies the committee member, the nature and extent of the committee member's interest in the matter and how it relates to the affairs of the **company**, and
  - (ii) says that those committee members are satisfied that the interest should not stop the committee member from voting or being present.

## Committee members' meetings

### 49. When the committee members meet

- 49.1 The committee members must meet not less than six times each year and may decide where and when they meet.
- 49.2 The Convenor, or at least half the members of the Committee, may at any time convene a meeting of the Committee within 7 days, unless abridged by four or more committee members.

### 50. Calling committee members' meetings

- 50.1 A committee member may call a committee members' meeting by giving reasonable notice to all of the other committee members.
- 50.2 A committee member may give notice in writing or by any other means of communication that has previously been agreed to by all of the committee members.

### 51. Convenor for committee members' meetings

- 51.1 The **elected convenor** is entitled to chair committee members' meetings.
- 51.2 The committee members at a committee members' meeting may choose a committee member to be the convenor for that meeting if the **elected convenor** is:
  - (a) not present within 30 minutes after the starting time set for the meeting, or
  - (b) present but does not want to act as convenor of the meeting.

### 52. Quorum at committee members' meetings

- 52.1 Unless the committee members determine otherwise, the quorum for a committee members' meeting is at least four committee members, including at least one of the secretary, treasurer or convenor.
- 52.2 A quorum must be present for the whole committee members' meeting.

### 53. Using technology to hold committee members' meetings

- 53.1 The committee members may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the committee members.
- 53.2 The committee members' agreement may be a standing (ongoing) one.

- 53.3 A committee member may only withdraw their consent within a reasonable period before the meeting.

**54. Passing committee members' resolutions**

- 54.1 The basic organising principle of the Association is collaboration and, except where otherwise provided in this constitution, all decisions by committee members and subcommittee meetings shall be made by consensus. If consensus cannot be reached and the matter is considered to be sufficiently urgent then a vote may be taken. If the matter is not considered to be urgent then the matter will be deferred to the next general meeting when if again consensus cannot be reached, a decision may be taken by a vote of the members.
- 54.2 If required by law, a committee members' resolution must be passed by a majority of the votes cast by committee members present and entitled to vote on the resolution.
- 54.3 If there no majority, the person presiding at the meeting of the committee members will have a casting vote in addition to his or her own vote.

**55. Circular resolutions of committee members**

- 55.1 The committee members may pass a circular resolution without a committee members' meeting being held.
- 55.2 A circular resolution is passed if all the committee members entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 55.3 or clause 55.4.
- 55.3 Each committee member may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
  - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 55.4 The **company** may send a circular resolution by email to the committee members and the committee members may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 55.5 A circular resolution is passed when the last committee member signs or otherwise agrees to the resolution in the manner set out in clause 55.3 or clause 55.4.

**56. Subcommittees**

- 56.1 The Committee may appoint subcommittees for specific purposes. These shall report to and be subject to the committee.

## Convenor

**57. Appointment and role of convenor**

- 57.1 A convenor must be appointed by the committee members and may be removed by the committee members.
- 57.2 The convenor shall be the only nominated spokesperson for the company, unless an additional spokesperson is nominated and elected to be a spokesperson by the committee members.
- 57.3 When there are co-convenors they will decide between themselves the allocation of duties.

- 57.4 Co-convenors shall exercise the convenor's single vote or blocking power by agreement and failing agreement shall not vote or block consensus.
- 57.5 Subject to this rule, the convenor shall preside at all general meetings and committee member meetings.
- 57.6 The convenor may nominate a facilitator or facilitators to carry out some or all of these duties.
- 57.7 In the event of the absence of the convenor from a general meeting, a member's representative elected by the other member representatives present at the general Meeting shall preside.
- 57.8 The convenor shall support and encourage the members to achieve the objectives of the **company**.
- 57.9 The convenor shall ensure that meetings, as required under this constitution, are, as far as is practicable, held at a time and place suitable to members.

## Secretary

### 58. Appointment and role of secretary

- 58.1 The **company** must have at least one secretary, who may also be a committee member.
- 58.2 A secretary must be appointed by the committee members (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the committee members.
- 58.3 The committee members must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 58.4 The role of the secretary includes:
  - (a) maintaining a register of the **company's** members, and
  - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), committee members' meetings and circular resolutions.

## Minutes and records

### 59. Minutes and records

- 59.1 The **company** must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of **general meetings**
  - (b) minutes of circular resolutions of members
  - (c) a copy of a notice of each **general meeting**, and
  - (d) a copy of a members' statement distributed to members under clause 30.
- 59.2 The **company** must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of committee members' meetings (including meetings of any committees), and
  - (b) minutes of circular resolutions of committee members.
- 59.3 To allow members to inspect the **company's** records:
  - (a) the **company** must give a member access to the records set out in clause 59.1, and
  - (b) the committee members may authorise a member to inspect other records of the **company**, including records referred to in clause 59.2 and clause 60.1.

- 59.4 The committee members must ensure that minutes of a **general meeting** or a committee members' meeting are signed within a reasonable time after the meeting by:
- (a) the convenor of the meeting, or
  - (b) the convenor of the next meeting.
- 59.5 The committee members must ensure that minutes of the passing of a circular resolution (of members or committee members) are signed by a committee member within a reasonable time after the resolution is passed.

#### **60. Financial and related records**

- 60.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be audited.
- 60.2 The **company** must also keep written records that correctly record its operations.
- 60.3 The **company** must retain its records for at least 7 years.
- 60.4 The committee members must take reasonable steps to ensure that the **company's** records are kept safe.

### **By-laws**

#### **61. By-laws**

- 61.1 The committee members may pass a resolution to make by-laws to give effect to this constitution.
- 61.2 Members and committee members must comply with by-laws as if they were part of this constitution.

### **Notice**

#### **62. What is notice**

- 62.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 63 to 65, unless specified otherwise.
- 62.2 Clauses 63 to 65 do not apply to a notice of proxy under clause 36.6.

#### **63. Notice to the company**

Written notice or any communication under this constitution may be given to the **company**, the committee members or the secretary by:

- (a) delivering it to the **company's** registered office
- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided
- (c) sending it to an email address or other electronic address notified by the **company** to the members as the **company's** email address or other electronic address, or
- (d) sending it to the fax number notified by the **company** to the members as the **company's** fax number.

#### **64. Notice to members**

- 64.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person
  - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
  - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)
  - (d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or
  - (e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- 64.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

#### 65. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 62.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

## Financial year

#### 66. Company's financial year

The **company's** financial year is from 1 July to 30 June, unless the committee members pass a resolution to change the financial year.

## Indemnity, insurance and access

#### 67. Indemnity

- 67.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 67.2 In this clause, 'officer' means a committee member or secretary and includes a committee member or secretary after they have ceased to hold that office.
- 67.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
  - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

- 67.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

#### 68. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the committee members consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

#### 69. Committee members' access to documents

- 69.1 A committee member has a right of access to the financial records of the **company** at all reasonable times.
- 69.2 If the committee members agree, the **company** must give a committee member or former committee member access to:
- (a) certain documents, including documents provided for or available to the committee members, and
  - (b) any other documents referred to in those documents.

## Winding up

#### 70. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity described in clause 71.1.

#### 71. Distribution of surplus assets

- 71.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and
  - (b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**.
- 71.2 The decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

## Nuclear Free WA Public Fund

#### 72. Requirements of the public fund

- 72.1 The **company** will inform the department responsible for the environment as soon as possible:
- (a) It changes its name or the name of its public fund;
  - (b) there is any change to the membership of the management committee of the public fund (which differs in meaning from the **management committee**);

- (c) there has been any departure from the model rules for public funds located in the Guidelines of the Register of Environmental Organisations.
- 72.2 The organisation agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.
- 72.3 The income and property of the organisation shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors, or trustees of the organisation.
- 72.4 Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the organisation and not be influenced by the preference of the donor.
- 72.5 In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.
- 72.6 Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year.
- 72.7 An audited financial statement for the organisation and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

### **73. Rules of the public fund**

- 73.1 Members of the public are to be invited to make gifts of money or property to the fund for the environmental purposes of the organisation.
- 73.2 Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the fund.
- 73.3 A separate bank account is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the organisation.
- 73.4 Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- 73.5 The fund will be operated on a not-for-profit basis.
- 73.6 A committee of management of no fewer than three persons will administer the fund. The committee will be appointed by the organisation. 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.

## **Definitions and interpretation**

### **74. Definitions**

In this constitution:

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)



**company** means the **company** referred to in clause 1  
**committee member** has the same meaning as a director as defined by the *Corporations Act 2001 (Cth)* s9.

**Corporations Act** means the *Corporations Act 2001 (Cth)*

**elected convenor** means a person elected by the committee members to be the **company's** convenor under clause 40

**general meeting** means a meeting of members and includes the annual **general meeting**, under clause 20.1

**initial member** means a person who is named in the application for registration of the **company**, with their consent, as a proposed member of the **company**

**member present** means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting

**public fund** means the public fund referred to in clause 72.

**registered charity** means a charity that is registered under the **ACNC Act**

**special resolution** means a resolution:

- i. of which notice has been given under clause 21.5(c), and
- ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution, and

**surplus assets** means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

## 75. Reading this constitution with the Corporations Act

- 75.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 75.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- 75.3 If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 75.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

## 76. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).