

Wildcare Tasmania Incorporated Constitution Amendments (TNCF Review)

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The constitution of Wildcare Tasmania Incorporated is amended as follows:

Amendments of the constitution of Wildcare Tasmania Incorporated

1 Subrule 2(1) (definition of *environmental objects*)

Omit the definition.

[This amendment is consequential on other amendments that omit references to “environmental objects” that were included to reflect the language of model clauses in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished.]

2 Subrule 2(1) (definition of *Grants Assessment Committee*)

Omit the definition.

[This amendment is consequential on other amendments that omit provisions for the Grants Assessment Committee.]

3 Subrule 2(1) (definition of *member*)

Omit “or 35”.

[This amendment is consequential on the amendment omitting rule 35 (a transitional provision that is no longer needed).]

4 Subrule 2(1) (definition of *TNCF*)

Omit “established”, substitute “maintained”.

[This amendment is consequential on the amendment of paragraph 4(a).]

5 Paragraph 3(3)(a)

Omit the paragraph, substitute:

- (a) to maintain the TNCF to support the purpose of the Association; and

[This amendment changes one of the additional objectives of the Association by omitting reference to establishing the TNCF and simplifying the language that was previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations. It is no longer necessary to provide for the establishment of the TNCF, as it will be converted from a public fund to a gift fund by transitional provisions below. The Guidelines are no longer relevant as the Register has been abolished.]

6 Paragraph 4(a)

Omit “establishment and maintenance of a public fund called the Tasmanian Nature Conservation Fund for the specific purpose of supporting the environmental objects”, substitute “maintenance of a gift fund called the Tasmanian Nature Conservation Fund to support the purpose”.

[This amendment relates to the change of requirement to have a public fund to a requirement to have a gift fund, and also simplifies some language that was

previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished. It is no longer necessary to provide for the establishment of the gift fund, as the TNCF will be converted from a public fund to a gift fund by transitional provisions below.]

7 Paragraph 4(i)

Omit “(except those received by the TNCF)”.

[This amendment removes the limitation on the Board investing the TNCF, which seems unnecessary given that the TNCF is no longer a public fund administered by the Grants Assessment Committee.]

8 Subrule 21(1)

Omit “and applied solely in promotion of its objects”, substitute “only to promote its purpose”.

[This amendment simplifies and clarifies language that was previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished.]

9 Subrule 21(2)

Omit “(by way of dividend, bonus, profit or otherwise) to members, directors, or trustees of the Association”, substitute “to members of the Association or Board members”.

[This amendment simplifies and clarifies language that was previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished.]

10 Subrule 21(4)

Omit “other persons or organisations will be made in accordance with the established purpose or objectives”, substitute “other organisations, bodies or persons will be made in accordance with the purpose”.

[This amendment simplifies and clarifies language that was previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations, and aligns the language more closely with that of subsection 30-55(1) of the Income Tax Assessment Act 1997 (about a “no conduit” policy). The Guidelines are no longer relevant as the Register has been abolished. However, it is worth keeping (the simplified version of) subrule 21(4) to demonstrate compliance with the requirement of subsection 30-55(1) of the Income Tax Assessment Act 1997.]

11 Rules 24, 25 and 26

Omit the rules, substitute:

24 TNCF operation

The Association must comply with section 30-130 of the *Income Tax Assessment Act 1997* (of the Commonwealth) in relation to the TNCF.

Note: That section deals with what must and must not be received by the TNCF and how the TNCF must be used.

[(1) The new version of rule 24 reflects provisions of the Income Tax Assessment Act 1997 that Wildcare must comply with to be a deductible gift recipient (and for makers of gifts to get tax deductions for them). Although it is not necessary for the constitution to reflect those provisions, their requirements are likely to be more prominent for people associated with Wildcare (and therefore more likely to be met) by reflecting them in the constitution. Rule 24 may need to be amended again in future if those provisions of that Act are amended.]

[(2) Rules 25 and 26 (and many provisions of the old version of rule 24) merely reflected language that was previously included to reflect model clauses in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished.]

12 Subparagraph 29(1)(a)(ii)

Omit the subparagraph.

[This amendment is consequential on the substitution of rule 24 so that it no longer provides for the Grants Assessment Committee.]

13 Rule 30

Omit “the Grants Assessment Committee”, substitute “a committee appointed by the Board”.

[This amendment is largely consequential on the substitution of rule 24 so that it no longer provides for the Grants Assessment Committee, but does extend the indemnity to a member of any committee appointed by the Board.]

14 Rule 32 (heading)

Omit the heading, substitute:

32 Winding up the Association or revoking its endorsement relating to the TNCF

[This amendment is consequential on the amendment affecting subrule 32(3).]

15 Subrule 32(3)

Omit the subrule, substitute:

- (3) As soon as the Association is wound up or its endorsement under Subdivision 30-BA of the *Income Tax Assessment Act 1997* relating to the TNCF is revoked, any surplus assets of the TNCF must be transferred to a fund, authority or institution gifts to which can be deducted under Division 30 of that Act.

[The old version of subrule 32(3) is omitted as it was included merely to reflect the model rules in the Guidelines for the Register of Environmental Organisations. The Guidelines are no longer relevant as the Register has been abolished. The provision substituted for the old version of the subrule is needed to comply with subsections 30-125(6) and (7) of the Income Tax Assessment Act 1997.]

16 Rule 35

Omit the rule.

[This amendment omits a transitional provision that is no longer needed. It related to constitutional changes made in 2022.]

17 Subrules 36(1) and (3)

Omit the subrules.

[This amendment omits transitional provisions that are no longer needed. They related to constitutional changes made in 2022.]

18 Rules 38, 39 and 40

Omit the rules, substitute:

38 Transitional provision for TNCF

The public fund that was the Tasmanian Nature Conservation Fund immediately before the amendments of rules 3 and 4 and the omission and substitution of rule 24 by special resolution passed in 2024 continues as a gift fund (still called the Tasmanian Nature Conservation Fund) maintained under rule 4 as amended.

[(1) This amendment is included because the old version of rule 38 is now redundant and it is desirable to remove any doubt about the continuation of the TNCF despite its change from a public fund to a gift fund. The new version of rule 38 does not continue the Grants Assessment Committee (that was created by the old version of rule 24). The Board will need to appoint a new Grants Committee under rule 14.

[(2) Rules 39 and 40 are transitional provisions that are no longer needed. They related to constitutional changes made in 2022.]