



HERBERT
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Board charter

Gardens for Wildlife Victoria

Adopted by the board on: 17 November 2020



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Board charter

1 Purpose of this charter

The board of Gardens for Wildlife Victoria Ltd acting as trustee of a trust called Gardens for Wildlife Victoria Trust (together referred to as **Gardens for Wildlife Victoria**) has adopted this charter to outline the manner in which it will exercise its powers and responsibilities.

This charter ensures compliance with principles of good governance, the Australian Charities and Not-for-profits Commission (**ACNC**) Governance Standards and applicable laws.

This charter includes an overview of:

- (a) Gardens for Wildlife Victoria's entity type, purpose and activities;
- (b) the role, responsibilities and duties of the board;
- (c) accountability to stakeholders; and
- (d) the roles of the chair, secretary and CEO.

This charter and the charters adopted by the board for its committees have been prepared and adopted on the basis that strong corporate governance enhances the performance of the charity and builds confidence in the community.

2 Entity type, charity and tax status

2.1 Entity type and ABN

Gardens for Wildlife Victoria Ltd (ABN 69 642 771 542) is a company limited by guarantee and is trustee of Gardens for Wildlife Victoria Trust (ABN [547-150-65-913]) (**Trust**).

2.2 ACNC

Gardens for Wildlife Victoria Ltd and the Trust are both in the process of applying to the ACNC to register as a charity under the sub-type of 'environmental organisation'. This section to be update when registration is successful.

2.3 ATO

Gardens for Wildlife is endorsed by the ATO as:

- *Gardens for Wildlife Victoria Ltd and the Trust are both endorsed by the ATO with income tax exemption, GST concessions and FBT rebate.*
- *The Trust is also on the Register of Environmental Organisations (**REO**) and endorsed by the ATO for the operation of the public fund known as Gardens for Wildlife Victoria Public Fund (**Public Fund**) which is an item 1 deductible gift recipient (**DGR**).*



3 Regulators and key compliance documents

3.1 Regulators

Gardens for Wildlife Victoria's regulators are REO (which is operated by the Commonwealth Department of Agriculture, Water and Environment), the ACNC and the ATO.

All changes in directors, address and constitution go to the ACNC through its online charity portal and must also be notified to REO. As a registered charity, Gardens for Wildlife Victoria must submit annual information statements to the ACNC.

REO also requires statistical information about the Public Fund to be submitted annually including the balance of the fund, donations and expenditure and environmental outcomes.

The government has announced reform which will see REO being changed so that the ACNC rather than the Department of Agriculture, Water and Environment will be the regulator and some of the requirements will be simplified. However, this was expected to happen in 2019, and then 2020 but is yet to occur.

3.2 Key compliance documents

- Constitution.
- Trust Deed dated 8 September 2020
- Board policies: Conflict of Interest Policy (Schedule 2), Board Composition Policy (Schedule 3), Delegation Policy (Schedule 6), Privacy Policy (Schedule 7), Social Media Content Guidelines (Schedule 8)
- Checklists: Decision Checklist for material board decisions (Schedule 4), Compliance Checklist (Schedule 5), Governance Handbook (Schedule 9)
- Strategic plan dated 17 November 2020.
- Annual reports.
- REO guidelines.

4 Purpose and activities of Gardens for Wildlife Victoria

4.1 Purpose

The primary role of the board of Gardens for Wildlife Victoria Ltd is to ensure it carries out its purposes as expressed in the constitution, which are *'to protect and enhance the natural environment and provide education and conduct research about the natural environment by acting as trustee of one or more charitable trusts with consistent purposes.'*

The purposes of the Trust as expressed in the Trust Deed are:

- (a) *The Trustee must pay or apply the Trust Fund for purposes which are public charitable purposes and which:*
 - (1) *protect and enhance the natural environment or a significant aspect of the natural environment; or*



- (2) *provide information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.*

by, without limitation, educating and supporting individuals and communities to understand, protect and enhance the natural environment in order to:

- (3) *improve biodiversity across landscapes on public and private land through wildlife gardening;*
- (4) *understand the importance of creating and improving habitat for locally native flora and fauna;*
- (5) *build a network of environmental stewards and champions;*
- (6) *research, improve and communicate the impact of wildlife gardening on the natural environment.*

4.2 Background

The loss of biodiversity and the associated crisis with species extinction is well known and accepted by all levels of Government. To put this into context 60% of Victoria's landmass is privately owned with the remaining 40% in the public domain.¹ Gardens for Wildlife Victoria attempts to improve biodiversity across landscapes on public and private land.

Gardens for Wildlife is a network of community volunteers and staff in government agencies or departments (primarily local government) that support each other to increase awareness and knowledge in the community about the importance of creating and improving habitat for locally native flora and fauna, and to involve them in doing so. We assist the development of community-agency partnerships in Local Government Areas across Victoria to co-design and co-manage programs that engage local residents, schools and businesses to value, connect with, support and improve biodiversity on their land, to support its persistence across the landscape, known as 'wildlife gardening'. Gardens for Wildlife also advocates for and educates the community about wildlife gardening. The network was launched as a pilot program in 2016, following a review of biodiversity conservation in Victoria.²

The importance of wildlife gardening to biodiversity conservation is highlighted in Australia's latest biodiversity conservation strategy.³ Victoria's Department of Environment, Land, Water and Planning also advocates for wildlife gardening as an important biodiversity conservation practice.⁴

4.3 Vision

'Caring for nature together one land parcel at a time – for humans as well as indigenous plants and animals to thrive.'

¹ DELWP. (2020). <https://www.propertyandlandtitles.vic.gov.au/government-land>.

² Mackay, M., Colliver, R., Wallis, P. J., Ison, R., Davidson, S., & Allan, C. (2020). *Opportunities for Improving NRM Governance in Victoria, ILWS Report No. 138*. Albury.

³ Commonwealth of Australia. (2019). *Australia's Strategy for Nature 2019-2030*, p.25

⁴ DELWP. (2020). *How Victorians can Act for Nature*. <https://www.ari.vic.gov.au/research/people-and-nature/how-victorians-can-act-for-nature>.



4.4 Mission

'Create empowered networks of communities connecting with, improving and caring for nature through engagement, education and research.'

4.5 Not-for-profit

The board must ensure the not-for-profit nature of Gardens for Wildlife Victoria is maintained by not providing any profit, distribution or benefits to members or board members other than in carrying out the purposes.

4.6 Activities

The main activities of Gardens for Wildlife Victoria are:

- educating stakeholders on the principles and practices of wildlife gardening through workshops and training sessions;
- embedding the Gardens for Wildlife Victoria ethic and practice into government strategies, policies and priorities through advocacy;
- training and empowering volunteer garden guides to visit residents in their gardens and provide them with site specific information on caring for indigenous flora and fauna;
- supporting research and evaluation on the impact of wildlife gardening.

4.7 Stakeholders

The key stakeholders are:

- donors;
- local community;
- local council;
- government;
- public;
- researchers

4.8 Committees

Board can establish committees to:

- (a) share the board's workload, freeing up the board's time for most critical matters under consideration; or
- (b) co-opt the skills or experience of particular individuals. This permits a particular issue or topic to be explored in greater detail than may be possible among the board members alone.

The following committee and working group are approved by the Board:

- Finance and Governance Committee
- Communication Working Group



5 Role, responsibilities and duties

5.1 Role

The role of the board is to govern Gardens for Wildlife Victoria in such a way that it is able to pursue its purposes successfully and ensure it is compliant with the constitution and relevant law.

The board is responsible for and has the authority to determine all matters relating to the policies, practices, administration and operations of Gardens for Wildlife Victoria. This includes ensuring good corporate governance, determining and approving strategies and providing guidance and oversight to management.

5.2 DGR and the Gardens for Wildlife Victoria Public Fund

The board must ensure gifts are recorded in the public fund known as Gardens for Wildlife Victoria Public Fund and only applied for the environmental purposes of Gardens for Wildlife Victoria.

The board must ensure the Public Fund is operated by the board or a sub-committee with a majority of members meeting the Responsible Person requirements of REO, and that all other compliance requirements of REO are met. See Compliance Checklist attached at Schedule 5.

5.3 Key responsibilities

- (a) The key responsibilities of the board are:
- (1) set strategies, plans and policies for Gardens for Wildlife Victoria carrying out the purposes including an investment policy;
 - (2) approve operating budgets and sources of funding;
 - (3) implement, monitor and review systems of risk management and ethical and legal compliance;
 - (4) ensure that Gardens for Wildlife Victoria keeps written and operational records;
 - (5) monitor and review the performance of the board;
 - (6) ensure that Gardens for Wildlife Victoria is accountable to its stakeholders;
 - (7) monitor and evaluate performance or impact against the purposes, strategies and plans;
 - (8) select and appoint a CEO and evaluate from time to time the CEO's performance;
 - (9) ensure there are adequate staff and resources within the strategy and budget;
 - (10) approve major capital expenditure, acquisitions and divestitures, and monitor capital management; and
 - (11) monitor and review management processes aimed at ensuring the integrity of financial and other reporting.
- (b) Board members will consider the attached decision checklist for material board decisions (Schedule 4).



- (c) Board members must treat all board meetings, board discussions and information obtained in the course of performing their duties as a board member as confidential, and not disclose information or share board papers outside of the board, without the chair's permission.

5.4 Governance Standards

- (a) Board members will:
- (1) exercise their powers and discharge their duties with the degree of care and diligence of a reasonable person in their position;
 - (2) act in good faith, in the best interests of Gardens for Wildlife **Victoria** and to further its purposes;
 - (3) not misuse their position e.g. not use the position as board member to gain an advantage for themselves or someone else or to the detriment of Gardens for Wildlife Victoria;
 - (4) not misuse information obtained in the performance of being a board member e.g. only use this information to further the charity's purposes in its interests and not for the benefit of the board member or someone else, nor for the detriment of Gardens for Wildlife Victoria;
 - (5) disclose perceived, potential and actual conflicts of interest in accordance with the policy and procedures and not vote or participate in board discussions unless permitted;
 - (6) ensure Gardens for Wildlife Victoria's financial affairs are managed responsibly; and
 - (7) not allow Gardens for Wildlife **Victoria** to operate while insolvent. The board members must adequately understand the finances and ensure there are sufficient resources to pay debts as and when they are due.

5.5 Reliance on others

Board members may rely on information, in good faith, when making decisions if:

- (a) the board member makes an independent assessment of the information;
- (b) the information is given by:
- (1) an employee that the board member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (2) a professional adviser or expert on matters the board member believes on reasonable grounds to be within their competence;
 - (3) another board member or committee in relation to matters within their authority or area of responsibility.

6 Accountability

6.1 Members

The members of Gardens for Wildlife Victoria are its board members. The members acknowledge that as board members they have full access to governance information and the opportunity to ask questions at any time.



6.2 The public

The board will ensure Gardens for Wildlife Victoria makes available the following documents to the public by lodging them with the ACNC for the ACNC public register:

- (a) constitution;
- (b) annual reports;
- (c) annual financial statements; and
- (d) annual information statements.

7 CEO

- (a) The CEO leads Gardens for Wildlife **Victoria** and is ultimately responsible and accountable to the board for its operational management.
- (b) The board sets the role and performance expectations of the CEO and monitors the performance of the CEO.
- (c) The CEO is responsible for:
 - (1) developing strategic and business plans for approval by the board;
 - (2) implementing strategic and business plans;
 - (3) being the public face and speaking for Gardens for Wildlife Victoria;
 - (4) maintaining an effective organisational structure that clearly assigns responsibility and reporting relationships;
 - (5) developing and implementing appropriate risk management strategies;
 - (6) development of staff capacity, measurement of performance and setting of other staff remuneration levels; and
 - (7) providing regular and reliable reports to the board which allow it to monitor performance and management of Gardens for Wildlife Victoria.

8 Chair

- (a) The board will appoint one of its members to be chair each year or for a set term in accordance with the constitution.
- (b) The chair is responsible for:
 - (1) providing leadership and promoting cohesive, effective teamwork by the board;
 - (2) ensuring the board is meeting its functions, duties and responsibilities;
 - (3) setting the board meeting agendas, with the CEO;
 - (4) leading board meetings;
 - (5) ensuring the minutes correctly reflect the meetings;
 - (6) guiding, supporting and mentoring the CEO;



- (7) ensuring the board maintains an effective relationship with the CEO.

9 Secretary

- (a) The board must appoint at least one secretary.
- (b) The secretary is accountable to the board.
- (c) The secretary is responsible for:
- (1) carrying out the administrative functions of Gardens for Wildlife Victoria, including coordinating all board business and ensuring compliance with reporting and reporting obligations;
 - (2) preparing, compiling and distributing agendas and board papers;
 - (3) maintaining minutes of board meetings and following up on action items;
 - (4) ensuring the necessary paperwork and resolutions are effective for change in the composition of the board, change to auditors and any changes required to be submitted to the members;
 - (5) maintaining member registers or other registers as required;
 - (6) communication with regulatory bodies and all statutory, financial and other necessary filing;
 - (7) ensuring compliance with legislation and reporting requirements, as applicable; and
 - (8) undertaking any other roles clearly delegated to the secretary or required by the board.



Schedule 1

Board member's acknowledgment of board charter

I [insert name of board member] board member of Gardens for Wildlife Victoria have read the board charter of Gardens for Wildlife Victoria, adopted by the board on [date].

I am aware that I am subject to the requirements and duties as a board member at law and those set out in the board charter. I will comply with these requirements and duties.

I will resign as a board member of Gardens for Wildlife Victoria if I have been:

- (a) disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*; or
- (b) disqualified by the ACNC Commissioner.

Signed by

sign here



print name

date



Schedule 2

Conflict of interest policy

1 High standards

Gardens for Wildlife Victoria wishes to adopt a high standard of conduct to ensure all perceived, actual and potential conflicts of interest are disclosed. This will avoid not only real conflicts of interest affecting the responsible decision making of the board but also avoid any perception of conflicts of interest in relation to the decision making.

2 What is a conflict of interest for this policy?

- (a) A conflict of interest exists where loyalties of board members are divided. This policy covers:
 - (1) if a board member's interests or other duties may affect her or his decision making or may be seen to possibly affect her or his decision making as a board member; or
 - (2) if a board member's interests or other duties may be affected by a decision of Gardens for Wildlife Victoria.
- (b) Conflicts of interest cover any real or sensible conflicts the board members may have with other duties owed, such as being a board member or trustee of another company or trust, and conflicts with a personal interest, such as the interests of an associate or relative. For example, offering the services to Gardens for Wildlife Victoria of a business the board member or family member is involved in.
- (c) Board members representing a stakeholder group, e.g. users of the services of Gardens for Wildlife Victoria, must ensure that they are acting in the interests of the purposes of Gardens for Wildlife Victoria and not just in the interests of the stakeholder group.
- (d) The conflicting interest may arise as a result of the board member's employment, consultancy or personal interests, often, but not limited to, financial investment.
- (e) A board member can have a potential conflict of interest if any decision they make as a board member may provide an improper gain or benefit to themselves or an associate.
- (f) Board members perform their functions subject to many influences and loyalties but this conflict of interest code of conduct applies to those types of interests and duties which have the possibility or the perception that they could influence the board members when making judgements relating to Gardens for Wildlife Victoria.
- (g) The issue normally arises only in relation to pecuniary interest but it does extend to all influences, loyalties, interest or duties which may affect or be seen



as likely to affect the board member in his or her decision making for Gardens for Wildlife Victoria.

3 What must a director do?

3.1 Disclosure

- (a) Board members must disclose to the board, through the secretary, their employment, their connection to any stakeholder group and other board memberships, as well as any actual potential or perceived conflict of interest.
- (b) The secretary will keep a list of disclosures to be provided to any board member on request and to new board members for their information.
- (c) Board members must disclose any actual, potential or perceived conflicts of interest to the chair prior to a board meeting where the conflict may be relevant or to the board members at a board meeting prior to discussions.
- (d) Board members must ensure any change in circumstances relevant to the disclosure of interest is advised to the chair, secretary or all board members at a board meeting considering a matter that gives rise to or may give rise to that board member having an actual, potential or perceived conflict of interest.
- (e) If the board member wishes to keep the matter giving rise to the possible conflict confidential he or she may just advise board members that he or she has a conflict with the matter under discussion and that the protocol will apply.

3.2 Protocol

If there is a conflict of interest, or the board members or chair have decided there is sufficient potential for a perceived or actual material conflict to arise so as to apply the protocol, then the board member:

- (a) will not receive the papers on the matter, but will be advised that certain papers have been excluded;
- (b) cannot be present (by phone or in person) when the matter is considered unless permitted by law and the other board members resolve that the board member in question can stay; and
- (c) cannot vote on the matter.

3.3 Open discussion

- (a) When any matter is being discussed at board level, any board member may query another board member as to whether they consider they have a possible conflict of interest with the matter under discussion.
- (b) This matter should then be discussed and considered by the board and if the board (other than the board member who is being queried) considers that there may be a possibility of a perceived or actual material conflict of interest, then disclosure must be made and the protocol must apply.
- (c) If a board member is uncertain as to whether he or she has or may have a perceived or actual material conflict of interest, he or she must disclose this at the board meeting discussing the matter or with the chair.



3.4 Records

Any discussions, disclosures, resolutions and the application of the protocol relating to a conflict of interest should be recorded in the board member's minutes.

3.5 Confidentiality

- (a) Board members must remember that board papers and matters discussed at board meetings are confidential as each board member has a duty to maintain the confidentiality of information he or she learns by virtue of his or her position as board member.
- (b) If there is a need or desire by a board member to disclose or report on resolutions or matters discussed at board meetings, or information gained as a result of the being a board member, to third parties, then the disclosure or reporting can only be made with the consent of the board members at the meeting or by the chair.

3.6 Chair's role

- (a) The chair will be available to discuss with any board member the application of this procedure to particular circumstances and provide guidance as to whether he or she should be making a disclosure or whether the protocol should apply.
- (b) The chair shall also seek to remind the board members from time to time of their obligations and commitments under this policy and this policy will be given to any new board members.



Schedule 3

Board composition policy

1 Board composition and size

1.1 General

- (a) The Corporations Act requires the board to comprise a minimum of 3 members. However, it is intended that the board should comprise between 5-9 board members with a broad range of skills, expertise and experience from a diverse range of backgrounds.
- (b) The board may decide to have executive positions on the board including the CEO as a managing director.
- (c) The board is cognisant of the need for diversity, including a balance of age and sexes.
- (d) The board, as a whole, should ideally have the following skills:
 - (1) experience or knowledge specific to ecology, biodiversity planning, management and conservation, research, wildlife gardening, nature/land stewardship, natural resource management;
 - (2) experience or knowledge in government funding, philanthropic funding and fundraising;
 - (3) experience or knowledge in health and wellbeing, community engagement and relationship building;
 - (4) experience on governance issues and practices;
 - (5) accounting or auditing skills;
 - (6) strategic planning experience;
 - (7) legal experience in relevant fields; and
- (d) The board will annually review the skills represented by the board members and determine whether the composition and mix of those skills remain appropriate for Gardens for Wildlife Victoria's strategy, subject to the limits imposed by the constitution.

1.2 Responsible Person requirements

- (a) The Trust Deed requires that a majority of the board Gardens for Wildlife Victoria are Responsible Persons as defined in the Trust Deed, which means an individual who:
 - (1) performs a significant public function;
 - (2) is a member of a professional body having a code of ethics or rules of conduct;



- (3) is officially charged with spiritual functions by a religious institution;
 - (4) is a director of a company whose shares are listed on the Australian Securities Exchange;
 - (5) has received formal recognition from government for services to the community;
 - (6) is an individual before whom a statutory declaration may be made;
 - (7) is otherwise accepted by REO as having the requisite degree of responsibility to the wider Australian community; or
 - (8) is approved as a Responsible Person by the Tax Commissioner.
- (b) REO provides a list of responsible persons in their guidelines:
https://www.environment.gov.au/system/files/pages/53ca6702-48ad-414a-bf24-60e253d5ad0d/files/reo-guide-2003_0.pdf.
- (c) If the majority of the board do not meet these requirements, the board must either appoint additional members of the board or must establish a sub-committee to manage the Gardens for Wildlife Victoria Public Fund, as set out in the Trust Deed.

2 Suitability of board members

Board members must:

- (a) not be disqualified from acting as a director under the Corporations Act;
- (b) not be disqualified from acting as a responsible entity under the ACNC Act;
- (c) not have been convicted of fraud;
- (d) not have been bankrupt.

3 Selection and appointment of board members

- (a) Board members (other than the managing director and any other executive positions) will be selected for their individual skills, experience and expertise which they can bring to the board, and their suitability.
- (b) The board will review the nomination of a potential board member candidate.
- (c) Factors to be considered when reviewing a potential candidate include, without limitation:
 - (1) the skills, experience, expertise and personal qualities that will best complement board effectiveness;
 - (2) the capability of the candidate to devote necessary time and commitment to the role;
 - (3) potential conflicts of interest; and
 - (4) the suitability requirements in this board charter.



4 Retirement, term or re-appointment

- (a) Board members should review their appointment after 3 years with the assistance of the chair to ensure they are still adding value to the board, and if so, put themselves forward to the board for re-appointment.
- (b) The secretary will keep a schedule of appointments and re-appointments and will note the period of service of each board member to determine if any board member is up for review.

5 Board review

The board will annually consider the following to ensure the role of the board can be carried out:

- (a) the size and composition of the board;
- (b) the board succession plan;
- (c) the necessary and desirable competencies and skills of the board members;
- (d) the number and type of sub-committees and their size and composition;
- (e) the appointment of board members and consideration of candidates for appointment to the board;
- (f) the performance evaluation of the board, board committees and individual board members, and the development and implementation of plans for identifying, assessing and enhancing board member competencies;
- (g) the suitability of board members, including satisfying itself that the board members:
 - (1) are not disqualified from managing a corporation, within the meaning of the Corporations Act 2001; and
 - (2) are not disqualified by the ACNC Commissioner nor have been disqualified by the ACNC Commissioner at any time during the preceding 12 months;
- (h) any amendments required to this board charter; and
- (i) any remuneration issues.



Schedule 4

Decision checklist

- Is the proposal in furtherance of the Gardens for Wildlife Victoria's purposes, or incidental to the Gardens for Wildlife Victoria's purposes, and is the reason for the proposal for a proper purpose?
- Do you or any other board members have a conflict of interest or perceived conflict of interest related to the proposal?
- Does the proposal comply with the constitution and the not-for-profit nature?
- Does the proposal comply with the tax status?
- Is the proposal consistent with the strategic plan and within budget?
- Does the board have authority to make the decision or should it be referred to the members?
- Does the decision comply with applicable laws, e.g. fund raising, local government approvals, copyright, privacy, OH&S, etc.?
- Are the risks adequately identified and considered, e.g. financial, reputational, personal injury, property damage?
- Have you considered the effect on all the stakeholders e.g. clients, funders, donors, local community, members, employees, volunteers, public?
- Is the proposal in the best interests of the charity as a whole, i.e. you are not favouring any one group of stakeholders over another?
- If there is a chance things could go wrong, is there a plan to reduce the effects of things going wrong?
- Does the board need to amend or develop any budgets or policies with respect to the proposal?
- Is there a plan to communicate the outcome of this proposal to any stakeholders (members, government agencies, communities, media. etc.)?
- Does the proposal contain a system for monitoring how the decision will be actioned and/or the impact of the decision?
- If the proposal is controversial, do you have more than one source of information and/or a source of independent advice?
- Are you satisfied that you have been fully informed on the topic?
- Would your common sense lead you to accept or reject this proposal?



Schedule 5

Compliance checklist

	Ongoing	Annual	To be actioned by
Notify ACNC and REO of any change to the constitution (changes to policies or charters do not need to be notified)	√		
Notify ACNC of the appointment and removal of any directors, including changes in role (e.g. if a director becomes a chair)	√		
Notify REO of the appointment and removal of any directors or subcommittee members (as applicable) for the Gardens for Wildlife Victoria Public Fund by submitting a public fund management committee member nomination form	√		
Notify ASIC of any change to legal name of the company and then the ABR	√		
Notify REO of any change to legal name of the Trust or Gardens for Wildlife Victoria Public Fund and then the ABR	√		
Notify ACNC of any change to address for service	√		
Notify ABR of any change in the contact person	√		
Prepare audited financial statements		√	
Lodge financial statements with ACNC		√	
Lodge AIS with ACNC		√	
Lodge statistical information for the Gardens for Wildlife Victoria Public Fund with REO		√	