

**RULE BOOK**

**CAPE YORK LAND COUNCIL  
ABORIGINAL CORPORATION**

**ICN: 1163**

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**1. Name**

The name of the corporation is Cape York Land Council Aboriginal Corporation.

**2. Interpretation**

See Schedule 1 for the meanings of terms and phrases used in this Rule Book.

**3. Objectives**

- 3.1 The principal object of the corporation is the relief of poverty, sickness, destitution, serious economic disadvantage, distress, suffering and misfortune of Aboriginal persons, communities and groups within the Representative Area.
- 3.2 Without limiting the generality of rule 3.1, and in recognition of the severe problems encountered by Aboriginal people and the disadvantaged circumstances in which they find themselves, the corporation will advance its principal object by:
- (a) facilitating return of traditional Aboriginal land and waters to Aboriginal persons, and obtaining secure title to that land and waters;
  - (b) ascertaining the wishes, aspirations and opinions of Aboriginal persons relating to the management, use and control of traditional Aboriginal land within the Representative Area, and promoting and providing assistance to give effect to those wishes, aspirations and opinions;
  - (c) advancing and propagating education and learning generally amongst Aboriginal persons;
  - (d) encouraging the continuation and preservation of traditional Aboriginal culture and language amongst Aboriginal persons, and the protection of members' intellectual property relating to traditional Aboriginal culture;
  - (e) providing for the general social welfare of Aboriginal persons;
  - (f) representing Aboriginal persons in all matters relating to land within, and human rights issues relating to, the Representative Area;
  - (g) assisting Aboriginal persons to protect sacred sites and sites of significance;
  - (h) assisting Aboriginal persons to return to their traditional lands; and

- (i) performing the functions of a native title representative body as provided for in Division 3 of Part 11 of the Native Title Act 1993 (Cth) (as amended).

3.3 The objects set out in rule 3 refer only to Aboriginal persons, communities or groups within or neighbouring the Representative Area.

**Note:** If you want to change the objectives, the corporation will need to comply with rule 20.

#### 4. ***Powers of the corporation***

Subject to the Act and these rules, the corporation has the power to do anything lawful to carry out the objectives, except the corporation cannot charge application fees for membership or annual membership fees.

**Note:** Rule 10.1 deals with powers of directors.

#### 5. ***Membership of the corporation***

##### 5.1. **Members on registration**

5.1.1. A person only becomes a member when the corporation is registered, as long as the registration complies with the Act.

5.1.2. Members' names must be entered on the register of members.

##### 5.2. **Members by application**

###### 5.2.1. **How to become a member after registration:**

Subject to rule 5.2.5, a person becomes a member if the:

- (a) person wants to become a member and applies to the corporation in writing in the form set out in Schedule 2 (including the family tree forming part of Schedule 2);
- (b) person is eligible for membership;
- (c) directors accept the application; and
- (d) person's name is entered on the register of members.

**5.2.2. Who can apply to become a member (eligibility for membership)?**

Any Aboriginal person who is over 18 years old, having traditional or historical interests in the Representative Area and who meets the following qualifications may apply to become a member of the corporation:

- (a) normally and permanently resident in the Representative Area
- (b) resident elsewhere, but the directors determines that it is proper for the person to be a member.

**5.2.3. Deciding membership applications**

- (a) The directors will consider and decide the membership applications.
- (b) Applications will be considered and decided in the order in which they are received by the corporation.
- (c) The directors will consider each application at the next directors' meeting immediately following the receipt of the application.
- (d) The directors must not accept an application for membership of the corporation unless the applicant:
  - (i) applies according to rule 5.2.1(a);
  - (ii) meets all the eligibility for membership requirements under rule 5.2.2.
- (e) The directors must not accept an application if it results in the majority of members being non-Indigenous.
- (f) The directors may refuse to accept a membership application even if the applicant has applied in writing and complies with all the eligibility requirements.
- (g) However, the directors must notify the applicant in writing of the decision and the reasons for it.

#### **5.2.4. Entry on the register of members**

- (a) If the directors accept a membership application, the applicant's name must be entered on the register of members within 14 days.
- (b) However, if:
  - (i) the applicant applies for membership after a notice has been given for holding of a general meeting; and
  - (ii) the meeting has not been held when the directors consider the application,

then the corporation must not enter the person on the register of members until after the general meeting has been held.

#### **5.2.5. Original members**

If they are eligible for membership under rule 5.2.2, the people who sign the application for incorporation become members when the corporation is incorporated. The names of these original members must be recorded in the register of members.

### **5.3. Membership fees**

The corporation must not impose fees for membership of the corporation.

### **5.4. Members rights and obligations**

#### **5.4.1. Members rights**

- (a) Each member has rights under the Act and these rules including the rights set out below. A member:
  - (i) can attend, speak and vote at a general meeting of the corporation;
  - (ii) can be elected or appointed as a director;
  - (iii) cannot be removed as a member unless the directors and the corporation have complied with rule 5.7;
  - (iv) can put forward resolutions to be voted on at a general meeting of the corporation in accordance with rule 7.6;

- (v) can ask the directors to call a general meeting of the corporation in accordance with rule 7.3.2;
  - (vi) can access the following books and records of the corporation:
    - (A) the register of members, under rule 6.5;
    - (B) the minutes book, under rule 14.9;
    - (C) the corporations rule book, under rule 14.11; and
    - (D) certain reports prepared by or for the directors and the corporation, in accordance with the Act;
  - (vii) can ask the directors to provide access to any other records or books of the corporation in accordance with rule 14.10; and
  - (viii) can have any disputes with another member or with the directors dealt with under the process in rule 17.
- (b) Members do not have the right to share in the profits of the corporation or take part in the distribution of the corporation's assets if it is wound up.
  - (c) If a member believes that his or her rights have been breached or ignored by the directors, the members can use the dispute resolution process in rule 17.

#### **5.4.2. Members' responsibilities**

Each member has the following responsibilities:

- (a) comply with the Act and these rules;
- (b) notify the corporation of any change of address within 28 days;
- (c) comply with any code of conduct adopted by the corporation;
- (d) treat other members and the directors with respect and dignity; and

- (e) not behave in a way that significantly interferes with the operation of the corporation or of corporation meetings.

#### **5.4.3. Liability of members**

- (a) The members are not liable to contribute to the property of the corporation on winding up.
- (b) If the application for registration of the corporation states that members and former members are:
  - (i) not to be liable to contribute towards the payment of debts and liabilities of the corporation, then they are not liable to contribute, or
  - (ii) to be liable to contribute towards the payment of the debts and liabilities of the corporation on a particular basis, then they are liable so to contribute on that basis.

### **5.5. How a person stops being a member**

#### **5.5.1. A person will stop being a member if the:**

- (a) person resigns as a member (see rule 5.6);
- (b) person dies; and
- (c) person's membership of the corporation is cancelled (see rules 5.7.1 to 5.7.5).

#### **5.5.2. When a person ceases to be a member**

A person ceases to be a member when the member's name is removed from the register of members as a current member of the corporation.

### **5.6. Resignation of member**

- (a) A member may resign by giving a resignation notice to the corporation.
- (b) A resignation notice must be in writing.
- (c) The corporation must remove the member's name from the register of current members of the corporation within 14 days after receiving the resignation notice.

## **5.7. Process for cancelling membership**

### **5.7.1. Cancelling membership if member is not or ceases to be eligible**

- (a) The directors may, by resolution, cancel the membership of a member if the member:
  - (i) is not eligible for membership; or
  - (ii) has ceased to be eligible for membership.
- (b) Before cancelling the membership, the directors must give the member notice in writing stating that:
  - (i) the directors intend to cancel the membership for the reasons specified in the notice;
  - (ii) the member has 14 days to object to the cancellation of the membership; and
  - (iii) the objection must be in writing.
- (c) If the member does not object, the directors must cancel the membership.
- (d) If the member does object as set out in rule 5.7.1(b)(iii):
  - (i) the directors must not cancel the membership; and
  - (ii) only the corporation by resolution in general meeting may cancel the membership.
- (e) If a membership is cancelled, the directors must give the member a copy of the resolution (being either the resolution of the directors or the resolution of the general meeting) as soon as possible after it has been passed.

### **5.7.2. Membership may be cancelled if member cannot be contacted**

- (a) A person's membership may be cancelled by special resolution in a general meeting if the corporation:
  - (i) has not been able to contact that member at his or her address entered on the register

of members for a continuous period of two years before the meeting; and

- (ii) has made two or more reasonable attempts to contact the member during that two year period but has been unable to.

- (b) If the corporation cancels the membership, the directors must send that person a copy of the resolution at his or her last known address, as soon as possible after the resolution has been passed.

#### **5.7.3. Membership may be cancelled if a member is not an Aboriginal person**

- (a) The corporation may, by special resolution in a general meeting, cancel the member's membership if the general meeting is satisfied that member is not an Aboriginal person.
- (b) If the corporation cancels a person's membership under this rule, the directors must give that person a copy of the resolution, as soon as possible after it has been passed.

#### **5.7.4. Membership may be cancelled if a member misbehaves**

- (a) The corporation may cancel the membership by special resolution if the general meeting is satisfied that member has behaved in a way that significantly interfered with the operation of the corporation or of corporation meetings.
- (b) If the corporation cancels a membership under this rule, the directors must give that person a copy of the resolution, as soon as possible after it has been passed.

#### **5.7.5. Amending register of members after a membership is cancelled**

Within 14 days of a member's membership being cancelled, the corporation must remove his or her name from the register of current members of the corporation.

### **5.8. Different classes of members**

The corporation does not have different classes of members.

## **5.9. Observers**

The corporation does not have observers.

## **6. *Register of members and former members***

### **6.1. Corporation to maintain a register of members**

The corporation must set up and maintain a register of members.

### **6.2. Information on the register of members**

#### **6.2.1. Information about individuals**

The register of members must contain the following information about individual members the:

- (a) member's name (given and family name) and address, the register may also contain any other name by which the member is or was known; and
- (b) date on which the member's name was entered on the register.

### **6.3. Corporation to maintain register of former members**

- (a) The corporation must set up and maintain a register of former members.
- (b) The corporation may maintain the register of former members in one document with the register of members.

### **6.4. Information on the register of former members**

#### **6.4.1. Information about individuals**

The register of former members must contain the following information about each individual who stopped being a member within the last seven years:

- (a) the member's name (given and family name) and address; and

- (b) the date on which the individual stopped being a member.

The register may also contain any other name by which the individual is or was known.

## **6.5. Location and inspection of registers of members and former members**

### **6.5.1. Location of registers**

The corporation must keep the register of members and the register of former members at the:

- (a) corporation's registered office if it is registered as a large corporation; or
- (b) corporation's document access address if it is registered as a small or medium corporation.

### **6.5.2. Right to inspect registers**

- (a) The register of members and the register of former members must be open for inspection by any person, and any person has the right to inspect the registers.
- (b) If a register is kept on a computer, the corporation must allow the person to inspect a hard copy of the information on the register (unless the person and the corporation agree that the person can access the information by computer).

### **6.5.3. Inspection fees**

- (a) A member may inspect the register without charge.
- (b) A person who is not a member may inspect the registers only on payment of any fee required by the corporation.

### **6.5.4. Right to get copies**

The corporation must give a person a copy of the registers (or a part of either register) within 7 days (or such longer period as the Registrar may allow) if the person:

- (a) asks for the copy; and

- (b) pays any fee (up to the prescribed amount) required by the corporation.

#### **6.6. Making register of members available at AGM**

The corporation must:

- 6.6.1. make the register of members available for inspection (without charge) by members at the AGM; and
- 6.6.2. ask each member attending the AGM to check and update their entry.

#### **6.7. Provision of registers to Registrar**

If the Registrar requests a copy of the register of members, or the register of former members, it must be provided within 14 days or such longer period as the Registrar specifies.

### **7. *Annual general meetings (AGMs) and general meetings***

#### **7.1. AGMs**

##### **7.1.1. Holding AGMs**

- (a) The corporation must hold an AGM within 5 months after the end of its financial year.
- (b) If the corporation has only one member, it is not required to hold an AGM.

##### **7.1.2. Extension of time for holding AGMs**

- (a) The corporation may apply to the Register to extend the period within which the corporation must hold an AGM, provided the application is made before the end of that period.
- (b) If the Registrar grants an extension, the corporation must hold its AGM within the extended period specified by the Registrar.

### **7.1.3. Business of AGM**

The business of an AGM may include any of the following, even if not referred to in the notice of meeting:

- (a) confirmation of the minutes of the previous meeting, except at the first AGM;
- (b) the consideration of the reports that under Chapter 7 of the Act are required to be presented at the AGM;
- (c) the election of directors;
- (d) the appointment and remuneration of the auditor (if any);
- (e) checking of details on the register of members (see rule 6.6.2); and
- (f) asking questions about management of the corporation and asking questions of the corporation's auditor (if any) (see rule 7.15).

## **7.2. General Meetings**

The corporation must hold its first general meeting within three months after the corporation is registered.

### **7.2.1. Purpose of general meeting**

A general meeting must be held for a proper purpose.

### **7.2.2. Time and place of general meeting**

- (a) A general meeting must be held at a reasonable time and place.
- (b) If the directors change the place of a general meeting, notice of the change must be given to each person who is entitled to receive it.

### **7.2.3. Business of general meeting**

The business at each general meeting must include:

- (a) confirmation of the minutes of the previous general meeting; and

- (b) all matters set out in the notice of the general meeting.

### **7.3. Calling general meetings**

#### **7.3.1. Director may call meetings**

A director may call a general meeting of the corporation.

#### **7.3.2. Members may ask directors to call general meetings**

- (a) The directors must call and arrange to hold a general meeting on the request of at least the required number of members specified under this rule:
  - (i) the number of members prescribed by the Regulations and applicable to the corporation or, if none is prescribed, 5 members; or
  - (ii) the percentage of members prescribed by the Regulations and applicable to the corporation, or, if none is prescribed, 10% of the members.
- (b) A request under rule 7.3.2(a) must:
  - (i) be in writing;
  - (ii) state any resolution to be proposed at the meeting;
  - (iii) be signed by the members making the request;
  - (iv) nominate a member to be the contact member on behalf of the members making the request; and
  - (v) be given to the corporation.
- (c) Separate copies of a document setting out a request under rule 7.3.2(a) may be used for signing by members if the wording of the request is identical in each copy.

#### **7.3.3. Directors may apply to deny a members' request to call a general meeting**

- (a) If the directors resolve that:
  - (i) a request under rule 7.3.2 is frivolous or unreasonable; or

- (ii) complying with a request under rule 7.3.2 would be contrary to the interest of the members as a whole,  
a director, on behalf of all of the directors, may apply to the Registrar for permission to deny the request.
- (b) An application to the Registrar under rule 7.3.3 must:
  - (i) be in writing;
  - (ii) set out the ground(s) on which the application is made; and
  - (iii) be made within 21 days after the request was made.
- (c) The directors must, as soon as possible after making an application, give the contact member (see rule 7.3.2(b)(iv)) notice that an application has been made.

#### **7.3.4. Timing for a requested general meeting**

- (a) Subject to rule 7.3.4(b), the directors must call the general meeting within 60 days after the request was sent to them.
- (b) If:
  - (i) a director has applied to deny a request; and
  - (ii) the Registrar refuses that request,the directors must call the meeting within 21 days after being notified of the Registrar's decision.

### **7.4. Requirements for notice of a general meeting**

#### **7.4.1. Notice for general meeting**

- (a) At least 21 days notice must be given of a general meeting.
- (b) The corporation:
  - (i) may call an AGM on shorter notice, if all the members agree beforehand; and

- (ii) may call any other general meeting on shorter notice, if at least 95% of the members agree beforehand.
- (c) At least 21 days notice must be given of a general meeting at which a resolution will be moved to:
  - (i) remove a director;
  - (ii) appoint a director in place of a director removed; or
  - (iii) remove an auditor.

Shorter notice cannot be given for these kinds of meetings.

**7.4.2. Requirement to give notice of general meeting to members, officers and observers**

- (a) The corporation must give written notice of a general meeting to the following people:
  - (i) each member entitled to vote at the meeting;
  - (ii) each director;
  - (iii) the secretary (if any); and
  - (iv) the contact officer (if any).
- (b) A notice to joint members must be given to the joint member named first in the register of members.
- (c) The corporation may give the notice of meeting to a member personally or by sending it by post, fax or other electronic means nominated by the member.
- (d) A notice of meeting:
  - (i) sent by post is taken to be received 3 days after it is posted; and
  - (ii) sent by fax, or other electronic means, is taken to be received on the business day after it is sent.

#### **7.4.3. Requirement to give notice of general meeting and other communications to auditor**

The corporation must give its auditor (if any):

- (a) notice of a general meeting in the same way that a member is entitled to receive notice; and
- (b) any other communications relating to the general meeting that a member is entitled to receive.

#### **7.4.4. Contents of notice of general meeting**

- (a) A notice of a general meeting must:
  - (i) set out 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 do this);
  - (ii) state the general nature of the meeting's business;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose it and state what it is;
  - (iv) if a member is entitled to appoint a proxy, contain a statement setting out:
    - (A) that the member has a right to appoint a proxy; and
    - (B) whether or not the proxy needs to be a member of the corporation.
- (b) The information included in a notice of a general meeting must be worded and presented clearly and concisely.

#### **7.5. Failure to give notice**

A general meeting, or any proceeding at a general meeting, will not be invalid just because:

- (a) the notice of the general meeting has accidentally not been sent; or
- (b) a person has not received the notice.

## **7.6. Member's resolutions**

### **7.6.1. Notice of members resolutions**

- (a) If a member or members wish to move a resolution at a general meeting, a notice of that resolution must be given to the corporation by at least the required number of members under rule 7.6.1(d).
- (b) A notice of a members' resolution must:
  - (i) be in writing;
  - (ii) set out the wording of the proposed resolution; and
  - (iii) be signed by the members proposing to move the resolution.
- (c) Separate copies of a document setting out the notice may be used for signing by members if the wording of the notice is identical in each copy.
- (d) For the purposes of rule 7.6.1(a), the required number of members is the greater of:
  - (i) the number of members prescribed by the Regulations and applicable to the corporation for the purposes of giving such a notice or, if none is prescribed, five members; or
  - (ii) the percentage of members prescribed by the Regulations and applicable to the corporation for the purposes of giving such a notice or, if none is prescribed, 10% of the members.

### **7.6.2. Consideration of members' resolutions**

- (a) If the corporation has been given notice of a members' resolution it must be considered at the next general meeting that occurs more than 28 days after the notice is given.
- (b) The corporation must give its members notice of that resolution at the same time or as soon as possible afterwards, and in the same way, as it gives notice of a general meeting.

- (c) The corporation does not have to give notice of a resolution if it is defamatory.

### **7.6.3. Members statements to be distributed**

- (a) Members may ask the corporation to give all its members a written statement provided by the members making the request about:
  - (i) a resolution that is proposed to be moved at the general meeting; or
  - (ii) any other matter that may be considered at that general meeting.
- (b) This request must be:
  - (i) made by at least the required number of members under rule 7.6.3(f);
  - (ii) in writing;
  - (iii) signed by the members making the request; and
  - (iv) given to the corporation.
- (c) Separate copies of a document setting out the request may be used for signing by members if the wording of the request is identical in each copy.
- (d) After receiving a request, the corporation must distribute a copy of the statement to all its members at the same time or as soon as possible afterwards, and in the same way, as it gives notice of the relevant general meeting.
- (e) The corporation does not have to comply with a request to distribute a statement if it is defamatory.
- (f) For the purposes of rule 7.6.3(a), the required number of members for the corporation is the greater of:
  - (i) the number of members prescribed by Regulations and applicable to the corporation for the purposes of making such a request or, if none is prescribed, five members; or
  - (ii) the percentage of members prescribed by the regulations and applicable

to the corporation for the purposes of making such a request or, if none is prescribed, 10% of the members.

## **7.7. Quorum for general meeting**

### **7.7.1. Quorum**

- (a) If the corporation has 11 or more members the quorum for a meeting of the corporation's members is ten members.
- (b) If the corporation has ten members or less the quorum for a meeting of the corporation's members is two members.

### **7.7.2. Quorum to be present**

- (a) The quorum must be present at all times during the meeting.
- (b) In determining whether a quorum is present, individuals attending as proxies will be counted as follows:
  - (i) if a member has appointed more than one proxy or representative, only one of them will be counted; and
  - (ii) if an individual is attending both as a member and as a proxy, counting that individual only once.

### **7.7.3. Adjourned meeting where no quorum**

- (a) A meeting of the corporation's members that does not have a quorum present within one hour after the time for the meeting set out in the notice is adjourned to the same time of the same day in the next week, and to the same place, unless the directors specify otherwise.
- (b) If no quorum is present at the resumed meeting within one hour after the time for the meeting, the meeting is dissolved.

## **7.8. Chairing general meeting**

- (a) The directors may elect an individual to chair general meetings.

- (b) If a chair has not been elected or the chair is not available or does not want to chair the meeting, the directors must elect an individual present to chair it.
- (c) The members at a general meeting must elect a member present to chair the meeting (or part of it) if:
  - (i) the directors have not already elected a chair; or
  - (ii) a previously elected chair is not available, or does not want to chair the meeting.
- (d) The chair must adjourn a general meeting if the majority of members present agree or direct that the chair do so.

### **7.9. Use of technology for general meeting**

The corporation may hold a general meeting at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

### **7.10. Auditor's right to be heard at general meetings**

- (a) If the corporation has an auditor, the auditor is entitled to attend any general meeting of the corporation.
- (b) The auditor is entitled to be heard at a general meeting on any part of the business of that meeting that concerns the auditor in his or her professional capacity.
- (c) The auditor is entitled to be heard even if:
  - (i) the auditor retires at that meeting; or
  - (ii) that meeting passes a resolution to remove the auditor from office.
- (d) The auditor may authorise a person in writing as the auditor's representative for the purpose of attending and speaking at any general meeting.

### **7.11. Voting at general meetings**

#### **7.11.1. Entitlement to vote**

- (a) At a general meeting, each member has one vote, both on a show of hands and a poll.

- (b) The chair has a casting vote, and also, if he or she is a member, any vote he or she has as a member.

#### **7.11.2. Objections to right to vote**

A challenge to a right to vote at a general meeting:

- (a) may only be made at a meeting; and
- (b) must be determined by the chair, whose decision is final.

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

- (a) A resolution put to the vote at a general meeting must be decided by simple majority on a show of hands unless a poll is demanded.
- (b) Before a vote is taken the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chair is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need to state the number or proportion of the votes recorded for or against.

#### **7.11.4. Matters on which members can demand a poll**

- (a) At a general meeting, a poll may be demanded on any resolution.
- (b) A demand for a poll may be withdrawn.

#### **7.11.5. When members can demand a poll**

- (a) At a general meeting, a poll may be demanded by:
  - (i) at least five members entitled to vote on a resolution;
  - (ii) members with at least 5% of the votes that may be cast on the resolution on a poll; or
  - (iii) the chair.

- (b) The poll may be demanded:
  - (i) before a vote is taken;
  - (ii) before the voting results on a show of hands are declared; or
  - (iii) immediately after the voting results on a show of hands are declared.

#### **7.11.6. When and how polls must be taken**

- (a) At a general meeting, a poll on the election of a chair or on the question of an adjournment must be taken immediately.
- (b) At a general meeting, a poll demanded on other matters must be taken when and in the manner the chair directs.

#### **7.12. Resolutions without a general meeting**

- (a) The corporation may pass a resolution without a general meeting being held if all the members entitled to vote on the resolution sign a document stating that they are in favour of it. Each member of a joint membership must sign.
- (b) Auditors cannot be removed by a resolution without a general meeting.
- (c) Separate copies of a document under rule 7.12(a) may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- (d) A resolution under rule 7.12(a) is passed when the last member signs.
- (e) The corporation in passing a resolution under this rule without holding a meeting satisfies any requirement in the Act:
  - (i) to give members information or a document relating to the resolution by giving members that information or document with the document to be signed;
  - (ii) to lodge with the Registrar a copy of a notice of meeting to consider the resolution by lodging a copy of the document to be signed by members; and

- (iii) to lodge a copy of a document that accompanies a notice of meeting to consider the resolution by lodging a copy of the information or documents referred to in rule 7.12(e)(i).
- (f) The passage of the resolution satisfies any requirement in the Act, or the corporation's rules, that the resolution be passed at a general meeting.
- (g) This rule does not affect any rule of law relating to the assent of members not given at a general meeting.

### **7.13. Resolutions if corporation has only one member**

If the corporation has only one member, the corporation may pass a resolution by the member recording and signing the record.

### **7.14. Proxies**

#### **7.14.1. Who may appoint a proxy**

- (a) A member who is entitled to attend and cast a vote at a general meeting may appoint a person as proxy to attend and vote for them at the meeting.
- (b) The person appointed as a member's proxy may be an individual or a body corporate.
- (c) The appointment may specify the proportion or number of votes that the proxy may exercise if the person appointing the proxy has more than one vote.

#### **7.14.2. Rights of proxies**

- (a) Subject to this rule, a proxy appointed to attend and vote for a member has the same rights as the member:
  - (i) to speak at the meeting;
  - (ii) to vote (but only to the extent allowed by the appointment); and
  - (iii) join in a demand for a poll.
- (b) A proxy's authority to speak and vote for a member at a meeting is suspended if the member is present at the meeting.

- (c) A person must not exercise proxies for more than three members:

However, a contravention of this rule 7.14.2(c) does not affect the validity of the votes cast.

### **7.14.3. Appointing a proxy**

- (a) An appointment of a proxy is valid if it is signed, or otherwise authenticated as prescribed by the Regulations, by the member making the appointment and contains the following information:
  - (i) the member's name and address;
  - (ii) the corporation's name;
  - (iii) the proxy's name or the name of the office held by the proxy if the proxy is an officer of the corporation; and
  - (iv) the meeting(s) at which the appointment may be used.
- (b) An undated appointment is taken to have been dated on the day it is given to the corporation.
- (c) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
  - (i) the proxy need not vote on a show of hands;
  - (ii) if the proxy has two or three appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
  - (iii) if the proxy is the chair, the proxy must vote by poll, and must vote as directed;
  - (iv) if the proxy is not the chair, the proxy need not vote by poll; and
  - (v) if a proxy is also a member, this rule 7.14.3 does not affect how the person casts any votes they hold as a member.
- (d) A person who contravenes this rule commits an offence under the Act, but only if the person's appointment

as a proxy resulted from the corporation sending to members:

- (i) a list of persons willing to act as proxies; or
  - (ii) a proxy appointment form holding the person out as being willing to act as a proxy.
- (e) An appointment of a proxy does not have to be witnessed.
- (f) A later appointment of a proxy revokes an earlier one if both appointments could not be validly exercised at the meeting.

#### **7.14.4. Receipt of proxy documents**

- (a) For an appointment of a proxy for a meeting of members to be effective, the following documents must be received by the corporation at least 48 hours before the meeting:
- (i) the proxy's appointment; and
  - (ii) if the appointment is signed by the appointer's attorney, the authority or a certified copy of the power of attorney.
- (b) If a meeting has been adjourned an appointment and any authority received by the corporation at least 48 hours beforehand is still valid when the meeting resumes.
- (c) The period of notice for appointing proxies may be reduced.

### **7.15. Questions at AGMs**

#### **7.15.1. Questions and comments by members on corporation management at AGM**

The chair of an AGM must give members a reasonable opportunity to ask questions about or make comments on the management of the corporation.

### **7.15.2. Questions by members of auditors at AGM**

If the corporation's auditor or auditor's representative is at an AGM, the chair of the meeting must give members a reasonable opportunity to ask the auditor or the auditor's representative questions relevant to the:

- (a) conduct of the audit;
- (b) preparation and content of the auditor's report;
- (c) accounting policies adopted by the corporation in the preparation of the financial statements; and
- (d) independence of the auditor in relation to the conduct of the audit.

## **7.16. Adjourned meetings**

### **7.16.1. When resolution passed after adjournment of meeting**

A resolution passed at a general meeting resumed after an adjournment is passed on the day it was passed.

### **7.16.2. Business at adjourned meetings**

Only unfinished business is to be transacted at a general meeting resumed after an adjournment.

### **7.16.3. Re-notification of adjourned meeting**

If a general meeting is adjourned for 30 days or more, at least 21 days' notice must be given to members, directors and the secretary or contact person of the day, time and place when the general meeting will be resumed.

## **8. *Directors of the corporation***

### **8.1. Number of directors**

#### **8.1.1. Minimum number of directors**

If the corporation has:

- (a) one member, the corporation must have at least one director;

- (b) two members, the corporation must have at least two directors; or
- (c) more than two members, the corporation must have at least three directors.

**8.1.2. Maximum number of directors**

The corporation must not have more than 17 directors.

**8.1.3. Directors are to be elected by their Community**

Each Community will elect one director who is a member of the corporation to represent that Community in accordance with rule 8.6.

**8.1.4. Alternate directors are to be elected by their Community**

Each Community will also elect an alternate director who is a member of the corporation to represent that Community at the same time as they elect a director in accordance with rule 8.6.

**8.1.5. Alternate directors**

The alternate director takes the position of the director representing a given Community if that director is unable or unwilling to act, either in a given instance or generally.

**8.2. Eligibility to be a director**

**8.2.1. Eligibility for appointment as a director**

- (a) An individual is eligible for appointment as a director if he or she is an individual who is a member of the corporation, having satisfied the membership eligibility requirement in rule 5.2.2.
- (b) An individual who is disqualified from managing Aboriginal and/or Torres Strait Islander corporations under Part 6-5 of the Act may only be appointed as a director of the corporation if the appointment is made:
  - (i) with permission granted by the Registrar; or
  - (ii) with leave granted by the court.

### **8.2.2. Directors as employees of the corporation**

Directors must not be employees of the corporation, except that a director of the corporation may be a casual employee of the corporation for discrete, operational tasks.

### **8.2.3. Consent to act as director**

- (a) Before a person may be appointed as a director, that person must give the corporation a signed consent to act as a director of the corporation.
- (b) The corporation must keep the consent.

## **8.3. Directors on registration**

A person becomes a director, secretary or contact person of the corporation on registration of the corporation if the person is specified in the application for incorporation and they have given their consent.

## **8.4. Becoming a director by appointment**

### **8.4.1. The corporation may appoint a director**

The corporation may appoint a person as a director by resolution passed in general meeting.

### **8.4.2. Directors may appoint other directors to make up a quorum**

- (a) As long as the maximum number of directors is not exceeded, the directors of the corporation may appoint a person as a director to make up a quorum.
- (b) If the total number of directors does not make up a quorum, a person may be appointed under rule 8.4.2(a) to make up a quorum for a directors' meeting.
- (c) A director appointed under clauses 8.4.2(a) and/or 8.4.2(b) will remain as a director for the duration of the directors' meeting in respect of which he or she was appointed to make up a quorum.

**8.4.3. Community may appoint a director where vacancy occurs during the term of a director**

- (a) If at any time there is a vacancy in the directors (including the director or alternate director) representing a particular Community, the members of the Community from which the vacancy arose may fill that vacancy by appointing a director or alternate director in accordance with rule 8.6.
- (b) A director or alternate director appointed under rule 8.4.3(a) by a Community to fill a vacancy will hold office from the conclusion of the Community meeting at which he or she was elected.
- (c) Where a director or alternate director is appointed under rule 8.4.3(a) by a Community to fill a vacancy the director or alternate director's retirement date must be worked out as if they had become a director on the day when the replaced director was last appointed.

**8.5. Term of appointment**

- (a) Subject to rule 8.5(f), a director must not be appointed for more than four years.
- (b) Directors and alternate directors will be elected for a four year term and will:
  - (i) take office at the conclusion of the AGM next following their election at a Community meeting held pursuant to rule 8.6;
  - (ii) hold office until the conclusion of the fourth AGM following their election at a Community meeting held pursuant to rule 8.6; and
  - (iii) be eligible for re-appointment.
- (c) Between 1 July and the AGM in every fourth year in which directors and alternate directors are to be elected, the corporation will cause to be held in each Community at its specified meeting place (or one of its specified meeting places) a meeting of that Community for the purpose of that Community electing its director and alternate director. Such meeting will be held in accordance with rule 8.6.

- (d) The newly elected directors and alternate directors will not take office until the conclusion of the AGM next following the Community meeting at which they were elected. The current directors and alternate directors will continue to act as directors and alternate directors in accordance with these rules until their term of office expires.
- (e) Where an alternate director acts generally to replace a director the alternate director's retirement date must be worked out as if they had become a director on the day when the replaced director was last appointed.
- (f) If the terms of appointment of all of the directors of the corporation expire so that there are no directors at a particular time, the terms are extended until the next general meeting that occurs after the last director's appointment has expired.

#### **8.6. Community Meetings to Elect Directors and Alternate Directors**

The following procedures will apply in respect of the calling and holding of the Community meetings referred to in rules 8.1.3, 8.1.4 and where applicable rule 8.4.3:

- (a) The corporation will give to each relevant Community seven (7) days prior written notice of the:
  - (i) date of the proposed meeting;
  - (ii) time when the proposed meeting is to be held;
  - (iii) place or venue where the proposed meeting is to be held in the Community; and
  - (iv) purpose of the proposed meeting.
- (b) No Community meeting will proceed to business unless an officer or employee of the corporation is present.
- (c) Before the meeting proceeds, the members present will select a person, who may be an officer or employee of the corporation, to act as Chairperson of the meeting, and that person will then call for nominations of candidates from the Community for a director and alternate director to represent that Community.

- (d) A candidate for director and alternate director for a Community must:
  - (i) be a member of the corporation;
  - (ii) ordinarily and permanently reside in one of the Communities noted in Schedule 1 (for clarity, a candidate for director or alternate director may reside in **any** Community in Schedule 1; and does not have to ordinarily and permanently reside in the Community for which they are nominated).
- (e) Community members will vote on which of the nominated candidates is best suited to represent their Community. The Chairperson of the meeting will, if a member of the corporation, have a casting or deciding vote.
- (f) Community members must only exercise one vote to elect a director and alternate director for the Community in which the member ordinarily and permanently resides as at the date of the election.
- (g) Voting for nominated candidates will (subject to rule 8.6(h)) be done in accordance with rule 7.11, but an officer or employee of the corporation will decide whether voting will occur by a show of hands or by a poll.
- (h) No proxies will be allowed at the Community meetings called in accordance with rule 8.6.
- (i) After the Community has cast its votes to elect its director and alternate director, the Chairperson of the meeting will notify the Chief Executive Officer of the names of the director and alternate director from each Community.
- (j) For clarity, each Community elects its director and alternate director to take office and represent the relevant Community. There is no requirement for the corporation to confirm that election.

## **8.7. (RESERVED)**

## **8.8. How a person ceases to be a director**

### **8.8.1. A person ceases to be a director if the:**

- (a) person dies;
- (b) person resigns as a director as provided for in rule 8.9;
- (c) term of the person's appointment as a director expires;
- (d) person is removed as a director by the members as provided for in rule 8.10.1;
- (e) person is removed as a director by the other directors as provided for in rule 8.10.2;
- (f) person becomes disqualified from managing Aboriginal and/or Torres Strait Islander corporations under Part 6-5 of the Act; or
- (g) person ceases to be a member.

## **8.9. Resignation of director**

- (a) A director may resign as a director by giving notice of resignation in writing to the corporation.
- (b) Such resignation will take effect on its receipt by the corporation.

## **8.10. Process for removing a director**

### **8.10.1. Removal by members**

- (a) The corporation may, by resolution in general meeting, remove a director from office despite anything in:
  - (i) the corporation's rule book;
  - (ii) an agreement between the corporation and the director concerned; or
  - (iii) an agreement between any or all members of the corporation of the corporation and the director concerned.
- (b) A notice of intention to move a resolution to remove a director must be given to the corporation at least

21 days before the meeting is to be held. However, if the corporation calls a meeting after the notice of intention is given, the meeting may pass the resolution even though the meeting is held less than 21 days after the notice is given.

- (c) The corporation must give the director concerned a copy of the notice as soon as possible after it is received.
- (d) The director concerned is entitled to put his or her case to members by:
  - (i) giving the corporation a written statement for circulation to members (see rules 8.10.1(e) and (f)); or
  - (ii) speaking to the motion at the meeting (whether or not the director concerned is a member).
- (e) The corporation is to circulate the written statement given under rule 8.10.1(d)(i) to members by:
  - (i) sending a copy to everyone to whom notice of the meeting is sent if there is time to do so; or
  - (ii) if there is not time to comply with rule 8.10.1(e)(i), having the statement distributed to members attending the meeting and read out at the meeting before the resolution is voted on.
- (f) The written statement given under rule 8.10.1(d)(i) does not have to be circulated to members if it is defamatory.
- (g) If a person is appointed to replace a director removed under this rule, the time at which:
  - (i) the replacement director; or
  - (ii) any other director,is to retire is to be worked out as if the replacement director had become a director on the day on which the replaced director was last appointed a director.

### **8.10.2. Removal by other directors**

- (a) The only ground on which the directors may remove a director from office is that they fail without reasonable excuse to attend three or more consecutive directors' meetings. The directors may remove a director by resolution.
- (b) Rule 8.10.2(a) operates despite anything in:
  - (i) the corporation's rule book,
  - (ii) an agreement between the corporation and the director concerned; or
  - (iii) an agreement between any or all members and the director concerned.
- (c) Before removing the director concerned, the directors must give the director concerned notice in writing:
  - (i) stating that the directors intend to remove the director concerned from office because they have failed without reasonable excuse to attend three or more consecutive directors' meetings; and
  - (ii) stating that the director concerned has 14 days to object in writing to the removal.
- (d) If the director concerned does not object, the directors must remove the director concerned.
- (e) If the director concerned does object:
  - (i) the directors cannot remove the director concerned; and
  - (ii) the corporation, by resolution in general meeting, may remove the director in accordance with rule 8.10.1.
- (f) If the director concerned is removed, the corporation must give them a copy of the resolution as soon as possible after the resolution has been passed.

(g) If a person is appointed to replace a director removed under this rule, the time at which:

- (i) the replacement director; or
- (ii) any other director,

is to retire is to be worked out as if the replacement director had become a director on the day when the replaced director was last appointed a director.

## **9. *General duties***

### **9.1. *General duties***

- (a) The directors, secretary, other officers and employees must comply with the duties imposed on them by the Act and the general law. These may include, for example:
  - (i) a duty of care and diligence;
  - (ii) a duty of good faith;
  - (iii) a duty of disclosure of material personal interests (see rule 10.2);
  - (iv) a duty not to improperly use position or information; and
  - (v) a duty to prevent insolvent trading.
- (b) The directors will be liable for debts and other obligations incurred by the corporation while acting, or purporting to act, as trustee.

## **10. *Functions, powers and duties of directors***

### **10.1. *Powers of directors***

- (a) The business of the corporation is to be managed by or under the direction of the directors.
- (b) The directors may exercise all the powers of the corporation except any that the Act or the corporation's rule book requires the corporation to exercise in general meeting.

## 10.2. Duty of director to disclose material personal interests

- (a) A director who has a material personal interest in a matter that relates to the affairs of the corporation must give the other directors notice of the interest unless rule 10.2(b) says otherwise.
- (b) A director does not need to give notice of an interest under rule 10.2(a) if:
  - (i) the interest:
    - (A) arises because the director is a member and is held in common with the other members;
    - (B) arises in relation to the director's remuneration as a director; or
    - (C) relates to a contract the corporation is proposing to enter into that is subject to approval by members and will not impose any obligation on the corporation if it is not approved by the members;
  - (ii) all the following conditions are satisfied:
    - (A) the director has already given notice of the nature and extent of the interest and its relation to the affairs of the corporation under rule 10.2(a);
    - (B) if a person who was not a director when the notice under rule 10.2(a) was given is appointed as a director, the notice is given to that person; and
    - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice; or
  - (iii) the director has given a standing notice of the nature and extent of the interest and that notice is still effective.
- (c) The notice required by rule 10.2(a) must:
  - (i) give details of the:
    - (A) nature and extent of the interest; and
    - (B) relation of the interest to the affairs of the corporation; and

- (ii) be given at a directors' meeting as soon as possible after the director becomes aware of his or her interest in the matter.
- (d) The details of the notice in rule 10.2(c) must be recorded in the minutes of the directors' meeting.
- (e) A contravention of this rule 10.2 by a director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.
- (f) This rule 10.2 does not apply to the corporation if the corporation has only one director.

### **10.3. Remuneration**

- (a) Directors may be paid provided the remuneration is agreed to by the corporation by resolution in general meeting.
- (b) Rule 10.3(a) does not prevent:
  - (i) a director who is an employee of the corporation from receiving remuneration as an employee of the corporation; or
  - (ii) reasonable payments (having regard to the market costs of obtaining similar goods or services) to the director for a contract for goods or services, provided that rule 10.2 has been complied with.
- (c) The corporation may pay the directors' travelling and other expenses that the directors incur:
  - (i) in attending director's meetings or any meetings of committees of directors;
  - (ii) in attending any general meetings of the corporation; and
  - (iii) in connection with the corporation's business.

### **10.4. Banking and Negotiable Instruments**

- (a) Within seven days after incorporation of the corporation or as soon as possible thereafter, the corporation's fund will be established.

- (b) Official receipts will be issued for all moneys received by the corporation.
- (c) All funds of the corporation will be deposited in a bank account of the corporation no later than the first working day following the day of receipt or as soon as possible thereafter.
- (d) All cheques and electronic transfers are to be authorised by a 'first' and 'second' signatory. Unless and until resolved from time to time to the contrary by the directors the 'first signatory' will be either the Chief Executive Officer or the Chief Financial Officer and the 'second' signatory will be either the Principal Legal Officer or the Human Resources Officer. The corporation's bank must be informed in writing by the directors when and if there is any change to the names of those people who are authorised to sign cheques, electronic transfers and withdrawal forms.

#### **10.5. Delegation**

- (a) The directors may by resolution delegate any of their powers to:
  - (i) a committee of directors;
  - (ii) a director;
  - (iii) an employee of the corporation; or
  - (iv) any other person.
- (b) A delegate must exercise the powers delegated in accordance with any directions of the directors.
- (c) The exercise of a power by a delegate is as effective as if the directors had exercised it.

#### **10.6. Member approval needed for related party benefit**

- (a) For the corporation, or an entity that the corporation controls, to give a financial benefit to a related party of the corporation the:
  - (i) corporation or entity must:
    - (A) obtain the approval of the members in the way set out in Division 290 of the Act, and

- (B) give the benefit within 15 months after the approval, or
  - (ii) giving of the benefit must fall within an exception to the requirement for member approval set out in Division 287 of the Act.
- (b) If the:
  - (i) giving of the benefit is required by a contract;
  - (ii) making of the contract was approved in accordance with rule 10.6(a)(i)(A); and
  - (iii) contract was made:
    - (A) within 15 months after that approval; or
    - (B) before that approval, if the contract was conditional on the approval being obtained,

member approval for the giving of the benefit is taken to have been given and the benefit need not be given within the 15 months.

## 11. *Directors' meetings*

### 11.1. **Frequency of directors' meetings**

The directors will meet as often as the directors consider necessary for the good functioning of the corporation, but must meet at least once every three months.

### 11.2. **Calling and giving notice of directors' meetings**

- (a) The directors will normally determine the date, time and place of each directors' meeting at the previous meeting.
- (b) A directors' meeting may be called by a director or the Chief Executive Officer.
- (c) The date, time and place for a directors' meeting must not unreasonably prevent a director attending.
- (d) Reasonable notice of each directors' meeting must be given to each director. The notice must state:
  - (i) the date, time and place of the meeting;

- (ii) the general nature of the business to be conducted at the meeting; and
  - (iii) any proposed resolutions.
- (e) A resolution passed at a directors' meeting will not be invalid only because of an unintentional omission or mistake in giving notice of the directors' meeting under rule 11.2(d) or in giving notice of any changes to the item, date or place of the directors' meeting.

### **11.3. Quorum at directors' meetings**

The quorum for a directors' meeting is a majority of the directors and the quorum must be present at all times during the meeting.

### **11.4. Chairing directors' meetings**

- (a) The directors may elect a director to chair their meetings. The directors may determine the period for which that director is to be the chair.
- (b) The directors must elect a director present to chair a meeting, or part of it, if:
  - (i) a director has not already been elected to chair the meeting; or
  - (ii) a previously elected chair is not available, or declines to act, for the meeting or the part of the meeting.

### **11.5. Use of technology**

A directors' meeting may be called or held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw his or her consent within a reasonable period before the meeting.

### **11.6. Resolutions at directors' meetings**

#### **11.6.1. Passing of directors' resolutions**

- (a) A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- (b) The chair has a casting vote if necessary in addition to any vote the chair has as a director.

### **11.6.2. Circulating resolutions if the corporation has more than one director**

- (a) The directors may pass a resolution without a directors' meeting being held, if all the directors entitled to vote on the resolution sign and return to the corporation a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document under rule 11.6.2(a) may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) A resolution under rule 11.6.2(a) is passed when the last director signs and returns the document containing the statement to the corporation.

### **11.6.3. Resolutions and declarations of one director corporation**

- (a) the director may pass a resolution by recording it and signing the record.
- (b) the director may make a declaration by recording it and signing the record. This satisfies any requirement in the Act that the declaration be made at a director's meeting.

## **12. *Secretary, contact person and Chief Executive Officer***

### **12.1. Requirements for a secretary or contact person**

#### **12.1.1. Who may be a secretary or contact person**

- (a) Only an individual who is at least 18 years of age may be appointed as a secretary or contact person of the corporation.
- (b) A person who is disqualified from managing an Aboriginal and/or Torres Strait Islander corporation under Part 6-5 of the Act may only be appointed

as a secretary or contact person if the appointment is made with:

- (i) the Registrar's permission under section 279-30(7) of the Act; or
- (ii) the leave of the court under section 279-35 of the Act.

#### **12.1.2. Consent to act as secretary or contact person**

- (a) The corporation must receive a signed consent from a person to act as secretary or contact person of the corporation, before that person is appointed as secretary or contact person of the corporation.
- (b) The corporation must keep each consent received under rule 12.1.2(a).

#### **12.2. Becoming a secretary or a contact person on registration**

- (a) A person becomes a secretary or a contact person of the corporation on registration of the corporation, if the person is specified in the application with his or her consent as a proposed secretary or contact person of the corporation.
- (b) If the:
  - (i) corporation is registered as a small or medium corporation; and
  - (ii) application for registration does not specify a person to be the contact person for the corporation,the applicant becomes the contact person for the corporation on registration.
- (c) If:
  - (i) a person is specified on the application for registration of the corporation as the contact person for the corporation;
  - (ii) that person is specified without his or her consent;
  - (iii) before registration, the Registrar becomes aware of that fact; and

- (iv) the Registrar determines, by notice in writing given to the applicant, that the applicant for registration is the contact person for the corporation on registration, the applicant becomes the contact person for the corporation on registration.

### **12.3. How a secretary or contact person is appointed**

The directors appoint a secretary or contact person.

### **12.4. Terms and conditions of office**

#### **12.4.1. Terms and conditions of office for secretaries**

A secretary holds office on the terms and conditions (including remuneration) that the directors determine.

#### **12.4.2. Terms and conditions of contact person's appointment**

A contact person's appointment is subject to the terms and conditions (including remuneration) that the directors determine.

### **12.5. Duties of secretary and contact person**

#### **12.5.1. Contact person must pass on communications received**

While entered on the Register of Aboriginal and/or Torres Strait Islander Corporations as the contact person, a person:

- (a) appointed with his or her consent as the contact person;  
or
- (b) determined to be the contact person,

must pass on to at least one of the directors each communication received by that person for the corporation within 14 days after receiving it.

#### **12.5.2. Secretary must pass on communications received**

While entered on the Register of Aboriginal and/or Torres Strait Islander Corporations as the secretary, a person appointed with his or her consent to be the secretary must pass on to at least

one of the directors each communication received by that person for the corporation within 14 days after receiving it.

### **12.5.3. Effectiveness of acts by secretaries**

- (a) An act done by a secretary is effective even if his or her appointment is invalid because the corporation or secretary did not comply with the corporation's rule book or the Act.
- (b) Rule 12.5.3(a) does not deal with the question whether an effective act by a secretary:
  - (i) binds the corporation in its dealings with other people; or
  - (ii) makes the corporation liable to another person.

## **12.6. Chief Executive Officer**

**12.6.1.** Without limiting the generality of rule 4, the directors will at all times employ a suitably qualified person as Chief Executive Officer. That person will be responsible for the day to day operations of the corporation including:

- (a) all matters related to the employment of other staff;
- (b) the day to day control of finances of the corporation; and
- (c) representing the corporation in all matters affecting the corporation.

**12.6.2.** The Chief Executive Officer will be entitled to attend and participate in directors' meetings, unless otherwise determined by those present at a meeting, but will have no right to vote at those meetings.

## **13. *Execution of document and the common seal of the Corporation***

### **13.1. Corporation may have a common seal**

- (a) The corporation may have a common seal.

- (b) If the corporation has a common seal:
  - (i) the corporation must set out on it the corporation's name and ICN;
  - (ii) the common seal must be kept by a person nominated by the directors; and
  - (iii) the corporation may have a duplicate common seal. The duplicate must be a copy of the common seal with the words 'duplicate seal' added.

## **13.2. Execution of documents**

### **13.2.1. Agent exercising corporation's power to make contracts etc.**

The corporation's power to make, vary, ratify or discharge a contract may be exercised by an individual acting with the corporation's express or implied authority and on behalf of the corporation. The power may be exercised without using a common seal.

### **13.2.2. Execution of documents (including deeds) by the corporation**

- (a) The corporation may execute a document without using a common seal if the document is signed by:
  - (i) two directors;
  - (ii) a director and a secretary (if any); or
  - (iii) if the corporation has only one director, that director.
- (b) If the corporation has a common seal, the corporation may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
  - (i) two directors;
  - (ii) a director and a secretary; or
  - (iii) if the corporation has only one director, that director.
- (c) The corporation may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with rules 13.2.2(a) or 13.2.2(b).

- (d) This rule 13.2.2 does not limit the ways in which the corporation may execute a document (including a deed).

## **14. Finances and record keeping**

### **14.1. Application of funds and property**

- (a) Subject to the Act and the corporation's rule book, all funds or property of the corporation, not subject to any special trust, can be used at the discretion of the directors to carry out the corporation's objectives.
- (b) Subject to the Act and the corporation's rule book, no portion of the funds and property of the corporation may be paid or distributed to any member of the corporation.
- (c) Nothing in rule 14.1(b) is intended to prevent:
  - (i) the payment in good faith of reasonable wages to a member who is an employee of the corporation (having regard to the circumstances of the corporation and the qualification, role and responsibilities of the member as an employee); or
  - (ii) reasonable payment in good faith to a member for a contract for goods or services provided by that member (having regard to the market costs for obtaining similar goods or services in the area where the goods or services are to be provided).

### **14.2. Minutes of meetings**

#### **14.2.1. Obligations to keep minutes**

- (a) The corporation must keep minute books in which it records within one month:
  - (i) proceedings and resolutions of general meetings;
  - (ii) proceedings and resolutions of directors' meetings (including meetings of a committee of directors);
  - (iii) resolutions passed by members without a meeting;
  - (iv) resolutions passed by directors without a meeting; and

- (v) if the corporation has only one director, the making of declarations by the director.
- (b) The minutes of the meeting may be kept:
  - (i) in writing; or
  - (ii) by means of audio, or audio-visual, recording.
- (c) If the minutes of the meeting are kept by means of an audio, or audio-visual recording of the meeting, the corporation must ensure that, on the recording:
  - (i) each person attending the meeting states their name; and
  - (ii) if a person attending a meeting holds a proxy, the person states the name of the person for whom the person is acting as proxy.
- (d) If the minutes of the meeting are kept in writing, the corporation must ensure that either:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next meeting, signs those minutes within a reasonable time after the first meeting.
- (e) If the minutes of the meeting are kept by means of an audio, or audio visual recording, the corporation must ensure that either:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next meeting, signs a declaration under rule 14.2.1(f) within a reasonable time frame after the first meeting.
- (f) The declaration under this rule 14.2.1(f) must:
  - (i) identify the audio, or audio-visual, recording;
  - (ii) if the recording is not a recording of the whole if the meeting, identify the part of the meeting that is recorded; and
  - (iii) declare that the recording constitutes the minutes of the meeting or that part of the meeting.

- (g) The corporation must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.
- (h) If the corporation has only one director, that director must sign the minutes of the making of a declaration by that director within a reasonable time after the declaration is made.
- (i) The corporation must keep its minute books at:
  - (i) its registered office if it is registered as a large corporation; or
  - (ii) its document access address if it is registered as a small or medium corporation.
- (j) A minute that is recorded and signed in accordance with this rule 14.2.1 is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

### **14.3. Rule book and records about officers, contact person, etc**

The corporation must keep:

- (a) an up-to-date copy of its rule book (incorporating any changes to the rule book made in accordance with the Act and terms of the rule book);
- (b) written records relating to the:
  - (i) names and addresses of the corporation's current officers and secretary or contact person (as the case may be);
  - (ii) corporation's registered office (if any); and
  - (iii) corporation's document access address (if any).

### **14.4. Financial records**

#### **14.4.1. Obligation to keep financial records**

The corporation must keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and

- (b) would enable true and fair reports to be prepared and audited.

This obligation extends to transactions undertaken as trustee.

#### **14.4.2. Period for which financial records must be retained**

The financial records must be retained for seven years after the transactions covered by the records are completed.

#### **14.5. Physical format**

If the records that the corporation is required to keep under rules 14.3 and 14.4 are kept in electronic form:

- (a) the records must be convertible into hard copy; and
- (b) that hard copy must be made available, within a reasonable time, to a person who is entitled to inspect the records.

#### **14.6. Place where records are kept**

If the corporation is registered as:

- (a) a large corporation, the records that the corporation is required to keep under rules 14.3 and 14.4 must be kept at the corporation's registered office; or
- (b) a small or medium corporation, the records that the corporation is required to keep under rules 14.3 and 14.4 must be kept at the corporation's document access address.

#### **14.7. Right of access to corporation books by director or past director**

- (a) A director may inspect the books of a corporation (other than its financial records) for the purposes of a legal proceeding:
  - (i) to which that person is a party;
  - (ii) which that person proposes in good faith to bring; or
  - (iii) which that person has reason to believe will be brought against him or her.

- (b) A person who has ceased to be a director may inspect the books of the corporation (including its financial records) for the purposes of a legal proceeding:
  - (i) to which that person is a party;
  - (ii) which that person proposes in good faith to bring; or
  - (iii) which that person has reason to believe will be brought against him or her.
- (c) The rights of access in this rule 14.7 continue for seven years after the person ceased to be a director.
- (d) A person authorised to inspect books under this rule 14.7 for the purposes of a legal proceeding may make copies of the books for the purposes of those proceedings.
- (e) The corporation must allow a person to exercise the person's rights to inspect or take copies of the books under this rule 14.7.
- (f) This rule 14.7 does not limit any right of access to corporation books that a person has apart from this rule 14.7.

#### **14.8. Access to financial records by directors**

- (a) A director has a right of access to the records that the corporation is required to keep under rule 14.3 or rule 14.4.
- (b) On application by a director, the court may authorise a person to inspect on the director's behalf the records that the corporation is required to keep under rule 14.3 or rule 14.4 subject to any other orders the court considers appropriate.
- (c) A person authorised to inspect records under rule 14.8(b) may make copies of the records unless the court orders otherwise.

#### **14.9. Members' access to minutes**

- (a) If the corporation is registered as a large corporation, the corporation must make available for inspection by members, at its registered office, the minute books for the meetings of its members and for resolutions of members passed without meetings. The books must be made available for inspection each business day from at least 10 am to 12 noon and from at least 2 pm to 4 pm.

- (b) If the corporation is registered as a small or medium corporation, the corporation must make available for inspection by members, at its document access address, the minute books for the meetings of its members and for resolutions of members passed without meetings. The books must be made available within seven days of a member's written request for inspection.
- (c) The corporation must make minutes available free of charge.
- (d) A member may ask the corporation in writing for a copy of:
  - (i) any minutes of a meeting of the corporation's members or an extract of the minutes; or
  - (ii) any minutes of a resolution passed by members without a meeting.

**Note:** The member may ask the corporation for an English translation under ss.376-5(3) of the Act if the minutes are not in the English language.

- (e) If the corporation does not require the member to pay for a copy, the corporation must send it within:
  - (i) 14 days after the member asks for it; or
  - (ii) any longer period that the Registrar approves.
- (f) If the corporation requires payment for the copy, the corporation must send it within:
  - (i) 14 days after the corporation receives payment; or
  - (ii) any longer period that the Registrar approves.
- (g) The amount of any payment the corporation requires cannot exceed 50 cents per page.

#### **14.10. Inspection of books by members**

The directors, or the corporation by a resolution passed at a general meeting, may authorise a member to inspect the books of the corporation.

## **14.11. Access to governance material**

### **14.11.1. Corporation to provide member with rules if requested**

If a member asks for a copy of the corporation's rule book, the corporation must provide it:

- (a) free of charge; and
- (b) within 7 days.

### **14.11.2. Registered office**

If the corporation is registered as a large corporation, the corporation must make available for inspection by members and officers at its registered office, its rule book. This rule book must be available for inspection each business day from at least 10 am to 12 noon and from at least 2 pm to 4 pm.

### **14.11.3. Document access address**

If the corporation is registered as a small or medium corporation, the corporation must make available for inspection by members and officers at its document access address, its rule book. This rule book must be made available for inspection within seven days of a member's or officer's written request for inspection.

### **14.11.4. General provisions regarding access rules**

The rule book of the corporation includes:

- (i) the corporation's rule book;
- (ii) any replaceable rules that apply to the corporation; and
- (iii) any other material concerning the internal governance of the corporation that is prescribed.

## **15. Auditor**

The corporation must comply with any requirements set out in the Act relating to the examination or auditing of its financial records.

## **16. Annual reporting**

The corporation must comply with the annual reporting requirements set out in the Act.

## **17. Dispute resolution process**

This rule sets out the steps which must be taken to try to resolve any disagreement or dispute about the affairs of the corporation or how the Act or the corporation's rule book applies, which arises between:

- (a) members
- (b) members and directors, or
- (c) directors.

### **17.1 Dispute resolution**

If a dispute arises, the parties must first try to resolve it themselves on an informal basis.

### **17.2. Giving of dispute notice**

- (a) If the dispute is not resolved in accordance with rule 17.1 within ten business days, any party to the dispute may give a dispute notice to the other parties.
- (b) A dispute notice must be in writing, and must say what the dispute is about.
- (c) A copy of the notice must be given to the corporation.

### **17.3. Seeking assistance from the Registrar about the meaning of the Act or the corporation's rule book**

- (a) If a dispute or any part of a dispute relates to an issue arising out of the meaning of any provision of the Act or the corporation's rule book, the directors or any other party to the dispute may seek an opinion from the Registrar about the correct meaning of the relevant provision.
- (b) The Registrar's opinion will not be binding on the parties to a dispute.

#### **17.4. Referring dispute to the directors**

The directors must make a reasonable effort to help the parties resolve the dispute within 20 business days after the corporation receives the dispute notice.

#### **17.5. Referring dispute to a general meeting**

- (a) If the directors cannot resolve the dispute within 20 business days after receiving the dispute notice, the directors must hold a general meeting of the corporation and put the matter to the members to resolve. The general meeting must be held within three months after the corporation received the dispute notice.
- (b) When passing any resolution about a dispute, the members in the general meeting are subject to the Act and these rules.

### **18. Notices**

#### **18.1. General**

- (a) Unless the Act or these rules otherwise requires, notices must be given in writing (including by fax).
- (b) Notices of directors' meetings given under rule 11.2 can be given in writing, by email, by telephone or orally, if all the directors agree to notice being given in that way.

#### **18.2. How a notice to a member may be given**

Unless the Act or these rules require otherwise, a notice or communication may be given:

- (a) personally;
- (b) left at a member's address as recorded in the register of members;
- (c) sent by pre-paid ordinary mail to the member's address as recorded in the register of members;
- (d) sent by fax to the members current fax number for notices (if the member has nominated one); and
- (e) sent by email to the member's current email address (if the member has nominated one).

### **18.3. When notice taken as being given**

Unless the Act or these rules require otherwise, if a notice or communication:

- (a) is given by post, it is taken to have been given three days after posting;
- (b) is given by fax, it is taken to have been given on the business day after it is sent; and
- (c) is given:
  - (i) after 5:00 pm in the place of receipt or
  - (ii) on a day which is Saturday, Sunday or bank or public holiday in the place of receipt,it is taken as having been given at 9:00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

## **19. *Winding up***

### **19.1. Provision for distribution of surplus assets**

In the event the corporation is wound up or dissolved any surplus assets remaining after payment of the corporation's debt and liabilities must not be paid to or distributed among the Members but must be given or transferred to a charitable institution in Australia which is a public benevolent institution for the purposes of any Commonwealth taxation Act, with preference given to such an organization as provides services to Aboriginal People in the Representative Area.

### **19.2. No distribution of surplus assets to members**

The distribution of surplus assets must not be made to any member or to any person to be held on trust for any member.

## **20. Amendment of the rule book**

### **20.1. Corporation wants to change this rule book**

For the corporation to change its rule book, the following steps must be complied with:

- (a) The corporation must pass a special resolution effecting the change.
- (b) If, under the corporation's rule book, there are further steps that must also be complied with to make a change, those steps must be complied with.
- (c) The corporation must lodge certain documents under rule 20.2.

### **20.2. Corporation to lodge copy of changes**

- (a) If there is no extra requirement, within 28 days after the special resolution is passed, the corporation must lodge with the Registrar:
  - (i) a copy of the special resolution;
  - (ii) a copy of those parts of the minutes of the meeting that relate to the passing of the special resolution;
  - (iii) a directors' statement signed by:
    - (A) two directors; or
    - (B) if there is only one director, that director,to the effect that the special resolution was passed in accordance with the Act and the corporation's rule book; and
  - (iv) a copy of the change to the rule book.
- (b) If a change is not to have effect until an extra requirement has been complied with, the corporation must lodge:
  - (i) the documents referred to in rule 20.2(a); and
  - (ii) proof that the extra requirement has been met, within 28 days after it has been met.

- (c) If the Registrar directs the corporation to lodge a consolidated copy of the corporation's rule book, as it would be if the Registrar registered the change, it must do so.

### **20.3. Date of effect of change**

A rule book change under this rule 20 takes effect on the day the change is registered by the Registrar.

## **21. *Relationship with replaceable rules***

For the avoidance of doubt, the intention of this rule book is to displace the replaceable rules under the Act, except that if there is a gap in the rules in this rule book, an applicable replaceable rule will apply to fill that gap, provided the applicable of that replaceable rule is not inconsistent with other rules in the rule book.

## **Schedule 1 - Interpretation**

### **1. Dictionary**

In these rules:

**Aboriginal** means a person who is a member of the Aboriginal race of Australia.

**Act** means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

**Annual General Meeting (AGM)** means a general meeting of the corporation held in accordance with **rule 7.1**.

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the place concerned.

**common seal** means the common seal of the corporation referred to in **rule 13**.

**Community** means all members of the corporation who ordinarily and permanently reside in one of the Locations listed in Column 1 below, which locations include affiliated outstations, and in respect of which the place where the meeting required to elect a director and alternate director to represent that location in accordance with these rules is to be held is the place set out opposite such location in Column 2 namely: -

<b><u>Column 1</u></b>	<b><u>Column 2</u></b>
<b>Location</b>	<b>Meeting Place</b>
Aurukun	Aurukun
Cairns	Cairns
Coen	Coen
Cooktown	Cooktown
Hopevale	Hopevale
Injinoo	Injinoo
Kowanyama	Kowanyama
Laura	Laura
Lockhart River	Lockhart River
Mossman	Mossman
Napranum	Napranum
New Mapoon	New Mapoon
Mapoon	Mapoon
Pormpuraaw	Pormpuraaw
Port Stewart	Coen/Port Stewart
Umagico	Umagico

**corporation** means the Aboriginal and Torres Strait Islander corporation referred to in rule 1.

**directors** means the directors of the corporation.

**general meeting** means a general meeting of the members of the corporation called and held in accordance with rule 7.

**member** means a member of the corporation, whose name appears on the Register of members.

**membership** means membership of the corporation.

**objectives** means the objectives set out in the application for incorporation and in rule 3. These are called ‘the objects’ in the Act.

**poll** means voting at a general meeting by the members voting signing a paper headed ‘for’ or ‘against’ a motion or resolution, as the case may be (as opposed to voting by a show of hands). A poll can include a secret ballot.

**proxy form** means the form included in schedule 3.

**proxy** means a person who has been appointed to attend, speak and vote at a general meeting on behalf of a member, in accordance with rule 0.

**Register of members** means the register of members kept in accordance with rule 5.2.4.

**Regulations** means all regulations made under the Act.

**representative area** means that area in respect of which the Commonwealth Minister, by legislative instrument, for the time being recognises the corporation as the representative body in accordance with Section 203AD of the Native Title Act 1993 (Cth) (as amended).

**special resolution** means a resolution of which 21 days notice has been given; and that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution.

**surplus assets** has the meaning given in rule 19.1.

**Torres Strait Islander** means a descendant of an indigenous inhabitant of the Torres Strait Islands.

## 2. Interpretation

In these rules:

1. words in the singular include the plural and vice versa
2. the words ‘including’, ‘include’ and ‘includes’ are to be read without limitation
3. a reference to legislation is to be read as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being
4. headings and notes are used for convenience only and are not intended to affect the interpretation of these rules
5. a word or expression defined in the Act and used, but not defined, in these rules has the same meaning given to it in the Act when used in these rules
6. any inconsistency with the Act is to be resolved in favour of the Act
7. a reference to “land” includes a reference to the airspace over and subsoil under, land
8. a reference to “waters” includes reference to seas, rivers, lakes, tidal inlets, bays, estuaries, harbours or subterranean waters and to the bed or subsoil under, and airspace over those waters.



**Schedule 2 - Application for membership form continued - family tree form**

Please complete every box of the Family Tree below.

Apical Ancestor:
------------------

**MOTHERS FAMILY TREE**

**FATHERS FAMILY TREE**

Grandfathers Name	Grandmothers Name
Traditional Owner Group	Traditional Owner Group

Grandfathers Name	Grandmothers Name
Traditional Owner Group	Traditional Owner Group

Mothers Name
Traditional Owner Group

Fathers Name
Traditional Owner Group

Applicants Name
Traditional Owner Group

Applicants Partner
Traditional Owner Group

Additional information/comments:

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**Schedule 3 - Proxy form**

**APPOINTMENT OF PROXY**

*Corporations (Aboriginal and Torres Strait Islander) Act 2006*

I, \_\_\_\_\_  
(First of given name) (Surname)

Note: corporation's rules may permit corporate applicants.

Of

\_\_\_\_\_  
(address of member)

Being a member of CAPE YORK LAND COUNCIL ABORIGINAL CORPORATION

(Name of corporation)

Hereby appoint

\_\_\_\_\_  
(Full name of proxy - can be an individual or a body corporate)

Of

\_\_\_\_\_  
(address of proxy)

as my proxy to vote for me on my behalf at the general meeting of the corporation (annual general meeting or other general meeting, as the case may be) to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ and at any adjournment of that meeting.

\_\_\_\_\_  
*(Optional - if member wishes to specify the way the proxy is to vote on a particular resolution, include additional information here)*

Signed:

\_\_\_\_\_  
(Signature of member appointing proxy)

Date: \_\_\_\_\_

NOTE: A person must not exercise proxies for more than three members.

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