

Gumala Aboriginal Corporation
Indigenous Corporation Number 2744

Constitution

To be known as:

'The Rule Book of Gumala Aboriginal Corporation'

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1. NAME

The name of the Corporation is Gumala Aboriginal Corporation (Indigenous Corporation Number 2744).

2. INTERPRETATION

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

3. OBJECTIVES

3.1. The Objectives for which the Corporation is established are to provide direct relief from poverty, sickness, suffering, destitution, misfortune and homelessness to all Aboriginal people living in Australia who are members of the Bunjima, Innawonga and Niapaili language groups without discrimination and to include, but without limiting the generality of the above, the following:

3.1.1. to represent the interests of the Bunjima, Innawonga and Niapaili people in all matters relating to their traditional lands and culture;

3.1.2. to act as the manager of the General Gumala Foundation and the Trust Fund;

3.1.3. to develop a range of programs and services for members that are tailored where possible and as reasonably practicable to the needs of individual members;

3.1.4. to manage the delivery of programs and services for the benefit of members;

3.1.5. to give effect to the principles of self-management, economic independence and self-determination for Aboriginal people by:

(a) establishing, engaging in, owning, investing in, sponsoring, maintaining, managing, leasing and otherwise fostering business enterprises and commercial ventures, for and by the members, of any lawful kind;

(b) promoting, supporting and sponsoring the endeavours of Aboriginal organisations, groups, enterprises and individuals, especially members, towards social, cultural and economic development;

3.1.6. to maintain, protect, promote and advance the lore, culture, native title, traditions and customs of the members in accordance with Aboriginal Tradition, and to take steps to preserve and protect any Aboriginal sites of significance to members;

3.1.7. to promote, develop and advance the skills, capabilities, commercial and business achievements, and knowledge of members;

- 3.1.8. to promote and advance the members' economic and social progress and development and other interests including seeking to obtain economic independence;
- 3.1.9. to improve and advance the education and health of members;
- 3.1.10. to acquire, hold title or other interests in, encumber, deal in, develop and manage land, buildings, fixtures, chattels and other property for the benefit of the members;
- 3.1.11. to seek funds by means of obtaining government grants, non government grants, sponsorship, donations or engaging in any lawful activities or pursuits to be applied for the Objectives of the Corporation;
- 3.1.12. provide economic, environmental, social, health, educational and cultural benefits to the members of the Corporation; and
- 3.1.13. do all such acts and things as may be incidental to or necessary to attain all or any of the above Objectives.

4. POWERS OF THE CORPORATION

- 4.1. Subject to the Act and these rules, the Corporation has the power to do anything lawful to carry out the objectives.
- 4.2. The Corporation cannot charge application fees for membership or annual membership fees.

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

A person becomes a member if:

- (a) the person wants to become a member and applies in writing;
- (b) the person is eligible for membership;
- (c) the directors accept the application; and
- (d) the person's name is entered on the register of members.

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

A person who is eligible to apply for membership must:

- (a) be at least 18 years of age; and
- (b) be an Aboriginal person who is a Traditional Owner.

5.2.3. Membership application

- (a) A person (the applicant) who wants to become a member must apply to the Corporation.
- (b) The application must be in writing.

5.2.4. Deciding membership applications

- (a) The directors will consider and decide membership applications.
- (b) Applications will be considered and decided in the order in which they are received by the Corporation.
- (c) The directors must not accept an application for membership of the Corporation unless the applicant:
 - (i) applies according to rule 5.2.3; and
 - (ii) meets all the eligibility for membership requirements.
- (d) The directors must not accept an application if it results in a majority of members being non-Indigenous.
- (e) The directors may refuse to accept a membership application even if the applicant has applied in writing and complies with all the eligibility requirements.
- (f) If the directors decide not to accept a membership application, the Corporation:
 - (i) must notify the applicant of the decision and the reasons for it; and
 - (ii) may provide the notice in writing, by telephone or in person.
- (g) In determining whether an applicant is eligible for membership in accordance with rule 5.2.2, the directors, at their absolute discretion, may have regard to, among other things, the views of recognised elders in accordance with Aboriginal Tradition, any bona fide genealogical studies, anthropological studies, determination by the Native Title Tribunal or other court or other material as the directors think fit.

5.2.5. **Entry on the register of members**

If the directors accept a membership application, the applicant's name must be entered on the register of members within 14 days.

However, if:

- (i) the applicant applies for membership after a notice has been given for the 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.

5.3. **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 a 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 minute books, under rule 14.9;
 - (C) the Corporation's Rule Book, under rule 14.11;
 - (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 their rights have been breached or ignored by the directors, the member can use the dispute resolution process in rule 17.

5.4.2. **Members' responsibilities**

Each member has the following responsibilities:

(a) to comply with the Act and these rules;

(b) to notify the Corporation of any change in their address within 28 days;

(c) to comply with any code of conduct adopted by the Corporation;

(d) to treat other members and the directors with respect and dignity; and

(e) to 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 the 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:

(a) the person resigns as a member (see rule 5.6);

- (b) the person dies;
- (c) the person's membership of the Corporation is cancelled (see rules 5.7.1 to 5.7.4); or
- (d) the member is a body corporate and it ceases to exist.

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

5.6.1. A member may resign by giving a resignation notice to the Corporation.

5.6.2. A resignation notice must be in writing.

5.6.3. 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 of the Corporation if the member either:
 - (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 at a 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) The membership may be cancelled by special resolution in a general meeting if the Corporation:

(i) has not been able to contact that member at their address entered on the register of members for a continuous period of 2 years before the meeting; and

(ii) has made two or more reasonable attempts to contact the member during that 2 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 their 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 and Torres Strait Islander person

(a) If rule 5.2.2 includes an eligibility requirement that an individual be an Aboriginal and Torres Strait Islander person, membership may be cancelled if member is not an Aboriginal and Torres Strait Islander person.

(b) The Corporation, by special resolution in a general meeting, may cancel the member's membership if the general meeting is satisfied that member is not an Aboriginal or Torres Strait Islander person.

(c) 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 in a general meeting 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 their 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. REGISTERS OF MEMBERS AND FORMER MEMBERS

6.1. Corporation to maintain 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

- (a) The register of members must contain the following information about individual members.
- (b) The 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.
- (c) The date on which the member's name was entered on the register.

6.2.2. Information about bodies corporate

- (a) The register of members must contain the following information about body corporate members.
- (b) The member's name and address.
- (c) The date on which the member's name was entered on the register.

6.3. Corporation to maintain register of former members

6.3.1. The Corporation must set up and maintain a register of former members.

6.3.2. 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 7 years:

- (a) the member's name (given and family name) and address; and
- (b) the date on which the individual stopped being a member.

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

6.4.2. Information about bodies corporate

The register of former members must contain the following information about each body corporate that stopped being a member within the last 7 years:

- (a) the member's name and address; and
- (b) the date on which the body stopped being a member.

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:

- (a) the Corporation's registered office if it is registered as a large Corporation; or
- (b) the 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 register of former members must be open for inspection by any person, and any person has a 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 registers 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.
- 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 1 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 Registrar 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 general 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 7.16).

7.2. **General meetings**

The Corporation must hold its first General meeting within 3 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, the directors must use best endeavours to give notice of the change 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**

Three directors or more may call a general meeting of the Corporation provided that the directors calling the meeting include at

least one director elected from each of the Banyjima, Innawonga and Niapaili peoples.

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 rule 7.3.2:
 - (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:
 - (i) that a request under rule 7.3.2 is frivolous or unreasonable; or
 - (ii) that complying with a request under rule 7.3.2 would be contrary to the interests of the members as a whole;

then a director, on behalf of all of the directors, may apply to the Registrar for permission to deny the request.

- (b) An application must:
 - (i) be in writing;
 - (ii) set out the ground 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 7.3.2(b)(iv)) notice that an application has been made.

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

(a) The directors must call the meeting within 21 days after the request was sent to them;

(b) If:

(i) a director has applied to deny a request; and

(ii) the Registrar refused that request

the directors must call the meeting within 21 days after being notified of the Registrar's decision.

7.4. **Requirement for notice of 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; or

(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.

Note: 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).
 - (iv) the contact officer (if any); and
 - (v) any Observer entitled to attend the meeting.
- (b) 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.
- (c) A notice of meeting:
- (i) sent by post is taken to be received 3 days after it is posted;
 - (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 2 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; and
 - (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:

7.5.1. the notice of the general meeting has accidentally not been sent; or

7.5.2. 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 the giving of such a notice, or, if none is prescribed, 5 members; or
 - (ii) the percentage of members prescribed by the Regulations and applicable to the Corporation for the purposes of the giving of 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 all 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 statement 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;
 - (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 requested number of members for the Corporation is the greater of:
 - (i) the number of members prescribed by the Regulations and applicable to the Corporation for the purposes of making such a request, or, if none is prescribed, 5 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 the lesser of:
 - (i) 10 members; or
 - (ii) The greater of:
 - (A) The number of members holding 10% of the voting rights; or
 - (B) 2 members.
- (b) If the Corporation has 10 members or less, the quorum for a meeting of the Corporation's members is 2 members.
- (c) If the Corporation has 1 member, the quorum for a meeting is 1.

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 or body corporate representatives will be counted as follows:
 - (i) if a member has appointed more than 1 proxy or representative, only 1 of them will be counted; and
 - (ii) of an individual is attending both as a member and as a proxy or body corporate representative, 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 1 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 1 hour after the time for the meeting, the meeting is dissolved.

7.8. Chairing general meeting

- 7.8.1. The directors may elect any person to chair general meetings.
- 7.8.2. 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.

7.8.3. The members at a general meeting must elect a member present to chair the meeting (or apart of it) if:

- (a) the directors have not already elected a chair; or
- (b) a previously elected chair is not available, or does not want to chair the meeting.

7.8.4. The chair must adjourn a general meeting if the majority of members present agree or direct that he chair to 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 meeting

7.10.1. If the Corporation has an auditor, the auditor is entitled to attend any general meeting of the Corporation.

7.10.2. 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 their professional capacity.

7.10.3. The auditor is entitled to be heard even if:

- (a) the auditor retires at that meeting; or
- (b) that meeting passes a resolution to remove the auditor from office.

7.10.4. 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 1 vote, each on a show of hands, a poll or a division and count.
- (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 the 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 division and a count or a poll is demanded.
- (b) A division and count may be called at the chair's discretion or at the demand of at least 10 members at the meeting entitled to vote on the resolution.
- (c) 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.
- (d) 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 except for the election of the chair of a meeting or the adjournment of a meeting.
- (b) A demand for a poll may be withdrawn.

7.11.5. How members can demand a poll

- (a) At a general meeting, a poll may be demanded by:
 - (i) at least 5 members entitled to vote on the 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 or divisions must be taken

At a general meeting:

- (a) a poll may not be demanded on the election of a chair or on the question of an adjournment;

- (b) a demand for a poll may be withdrawn; and
- (c) a division and a count must be carried out when and in the manner the chair directs and the decision of the chair in relation to the count will be final.

7.12. Resolutions without a general meeting

- 7.12.1. 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.
- 7.12.2. Auditors cannot be removed by a resolution without a general meeting.
- 7.12.3. Separate copies of a document under rule 7.12.1 may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 7.12.4. A resolution under rule 7.12.1 is passed when the last member signs.
- 7.12.5. The Corporation in passing a resolution under this rule without holding a meeting satisfies any requirement in the Act:
 - (a) to give members information or a document relating to the resolution by giving members that information or document with the document to be signed;
 - (b) 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
 - (c) 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 7.12.5(a).
- 7.12.6. 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.
- 7.12.7. 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 1 member

- 7.13.1. If the Corporation has only 1 member, the Corporation may pass a resolution by the member recording it 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 any 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 or a division and count.
- (b) A proxy's authority so speak and vote for a member at a meeting is not suspended if the member is present at the meeting.
- (c) A person must not exercise proxies for more than 3 members.

Note 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; and
 - (iv) the meetings 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 2 or more 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(c) 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 appointor's Attorney, the authority or a certified copy of the authority.
- (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. **Body corporate representative**

- 7.15.1. A body corporate may appoint an individual to represent it and that person has all the powers of membership:

- (a) at meetings of the Corporation's members;
- (b) a meetings of creditors;
- (c) relating to resolutions to be passed without meetings;
- (d) in the capacity of a member's proxy;
- (e) the appointment may be a standing one.

7.15.2. An appointment may set out restrictions on the representative's powers. If the appointment applies to a particular position within the body corporate, the appointment must identify that position.

7.15.3. A body corporate may appoint more than 1 representative but only 1 representative may exercise the body's powers at any one time.

7.16. Questions at AGMs

7.16.1. 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.

7.16.2. Questions by members of auditors at AGM

If the Corporation's auditor or the auditor's representatives 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:

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

7.17. Adjourned meetings

7.17.1. 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.

7.17.2. Business at adjourned meetings

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

7.17.3. 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 the members, directors and the secretary and contact person of the day, time and place of when the general meeting will be resumed.

8. DIRECTORS OF THE CORPORATION

8.1. Numbers of directors

8.1.1. Minimum number of directors

If the Corporation has:

- (a) 1 member, the Corporation must have at least 1 director;
- (b) 2 members, the Corporation must have at least 2 directors; or
- (c) more than 2 members, the Corporation must have at least 3 directors.

8.1.2. Maximum number of directors

- (a) The Corporation must not have more than 12 directors.

8.2. Eligibility to be a director

8.2.1. A person is eligible to be elected as a director if the person is:

- (a) a member; and
- (b) at least 21 years of age.

8.2.2. A person who is disqualified from managing Aboriginal and Torres Strait Islander Corporations under Part 65 of the Act may only be appointed as a director of the Corporation if the appointment is made:

- (a) with permission granted by the Registrar; or
- (b) with leave granted by the court.

8.2.3. Composition of board of directors

- (a) The board of directors must comprise a minimum of 9 elected directors who shall be elected at the AGM of the Corporation in accordance with this rule 8.2.3.
- (b) The board of directors must to the extent reasonably practicable include an equal number of Bunjima, Innawonga and Niapaili people. By way of example, if there are 3 Bunjima people on the board, there shall to the extent reasonably practicable in addition be 3 Innawonga and 3

Niapaili people on the Board. A maximum of 3 directors shall be elected to represent Bunjima people.

Thereafter, a like number will be elected by the members who are Innawonga people and thereafter a like number will be elected by the members who are Niapaili people.

8.2.4. Majority of director requirements

- (a) A majority of the directors of the Corporation must be individuals who are Aboriginal and Torres Strait Islander persons.
- (b) A majority of the directors must ordinarily reside in Australia.
- (c) A majority of the directors must be members.
- (d) A majority of the directors must not be employees of the Corporation.
- (e) The chief executive officer:
 - (i) may be a director but cannot chair the directors' meetings; and
 - (ii) counts as an employee for the purposes of rule 8.2.4(d).

8.2.5. 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 the person has given consent.

8.4. Becoming a director by appointment

8.4.1. The directors may appoint a director

- (a) The board of directors of the Corporation may appoint a person as a director by resolution.
- (b) The term of appointment for a director appointed in accordance with this rule 8.4.1 is:
 - (i) until the day that is thirty (30) days after the next AGM of the Corporation;
 - (ii) for a period of twelve (12) months; or

- (iii) if the director is an employee of the Corporation, then upon cessation of that employment;

whichever is the earlier.

- (c) A maximum of 3 directors may be appointed by the board of directors under this rule 8.4.1.
- (d) No more than 1 director from each of the Bunjima, Innawonga and Niapaili people may be appointed by the board of directors.
- (e) To be eligible to be appointed as a director by the board of directors, a person must be a member and at least 21 years of age.

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 can be appointed under rule 8.4.2(a) to make up a quorum for a directors' meeting.
- (c) If a person is appointed under rule 8.4.2(a), the Corporation must confirm the appointment by resolution at the Corporation's next AGM. If the appointment is not confirmed, the person ceases to be a director of the Corporation at the end of the AGM.

8.5. Term of appointment

- 8.5.1. If the application for registration of the Corporation identifies an elected director who is to be appointed for only one year, that appointment ends at the first AGM that occurs more than one year after the date of the Corporation's registration.
- 8.5.2. A director who is elected to office in accordance with rule 8.2 shall normally hold office for two years.
- 8.5.3. A director who is appointed to office in accordance with rule 8.4 shall normally hold office for one year.
- 8.5.4. Subject to rule 8.5.6, a director may not be appointed for more than 2 years.
- 8.5.5. A director is eligible for reappointment.
- 8.5.6. 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. Process for election of directors and rotation of elected directors

8.6.1. The process of electing directors will:

- (a) be by separate elections conducted by each of the Bunjima, Innawonga and Niapaili peoples using secret ballot to elect respectively each of the Bunjima, Innawonga and Niapaili directors; and
- (b) adopt the 'first past the post' voting system (or simple majority) in which the person with the highest number of formal votes is elected.

8.6.2. The chair of the meeting will make a final decision on any dispute which may arise in relation to the process of electing the directors.

8.6.3. To the extent reasonably practicable, four of the first elected directors of the Corporation, that is, the persons who are the elected directors of the Corporation on registration of the Corporation, shall hold office for a term of 2 years and five of the first elected directors shall hold office for a term of 1 year. At each AGM following registration of the Corporation, elections will be held to replace retiring directors, who shall be eligible for re-election. All members elected to be directors at these AGMs will normally hold office for 2 years.

8.7. Alternate directors

8.7.1. With the unanimous approval of the other directors, a director (appointing director) may appoint an alternate to exercise some or all of the director's powers for a specified period.

8.7.2. If the appointing director asks the Corporation to give the alternate director notice of directors' meetings, the Corporation must do so.

8.7.3. The appointing director may terminate the alternate's appointment at any time.

8.7.4. An appointment of an alternate or its termination must be in writing. A copy must be given to the Corporation.

8.8. How a person ceases to be a director

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

- (a) the person dies;
- (b) the person resigns as a director as provided for in rule 8.9;
- (c) the term of the person's appointment as a director expires;
- (d) the person is removed as a director by the members as provided for in rule 8.10.1;

- (e) the person is removed as a director by the other directors as provided for in rule 8.10.2; or
- (f) the person becomes disqualified from managing Aboriginal and Torres Strait Islander Corporations under Part 65 of the Act.

8.9. Resignation of director

8.9.1. A director may resign as director by giving notice of resignation to the Corporation.

8.9.2. A director may give notice of resignation to the Corporation either:

- (a) in writing; or
- (b) orally at a meeting of the directors or at a general meeting of the members and the notice must be recorded in the minutes of the meeting.

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 constitution;
 - (ii) an agreement between the Corporation and the director concerned; or
 - (iii) an agreement between any or all members 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)); and
 - (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;
 - (iii) 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 3 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 constitution;
 - (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 3 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;
 - (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 director on the day when the replaced director was last appointed a director.

8.11. Committees of directors

- 8.11.1. The board of directors may delegate any of their powers to committee's consisting of such director or directors as the board thinks fit and may from time to time revoke such delegation. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the board of directors. The chair of the board of directors shall be an ex officio member of all committees. The committee may determine the quorum necessary for the transaction of business and may meet and adjourn or otherwise regulate its meeting as it thinks proper. Questions arising at any meeting of a committee shall be determined by a majority of votes and the chair of the meeting shall in the case of an equality of votes have a second or casting vote except when two directors only are present.
- 8.11.2. Any committee appointed pursuant to rule 8.11.1 ceases to exist or have any powers on the happening of the first of the following events:
 - (a) the expiry of or realisation of any time or purpose fixed by the board of directors at the time of appointing the committee;
 - (b) the revocation of the delegation by the board of directors of their powers to the committee;
 - (c) the board of directors by resolution so directing;
 - (d) the Corporation by resolution so directing; or
 - (e) the date of the Corporation's AGM following the appointment of the committee.

9. GENERAL DUTIES

9.1. General duties

9.2. 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:

9.2.1. a duty of care and diligence;

9.2.2. a duty of good faith;

9.2.3. a duty of disclosure of material personal interests (see rule 10.2);

9.2.4. a duty not to improperly use position or information;

9.2.5. a duty to prevent insolvent trading.

9.3. 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

10.1.1. The business of the Corporation is to be managed by or under the direction of the directors.

10.1.2. The directors may exercise all the powers of the Corporation except any that the Act or the Corporation's constitution requires the Corporation to exercise in general meeting.

10.2. Duty of director to disclose material personal interests

10.2.1. 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 10.2.2 says otherwise.

10.2.2. A director does not need to give notice of an interest under rule 10.2.1 if:

(a) the interest:

(i) arises because the director is a member and is held in common with the other members;

(ii) arises in relation to the director's remuneration as a director; or

(iii) relates to a contract the Corporation is proposing to enter into that is subject to approval by the members and will not impose any obligation on the Corporation if it is not approved by the members.

- (b) all the following conditions are satisfied:
 - (i) 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 10.2.1;
 - (ii) if a person who was not a director when the notice under rule 10.2.1 was given is appointed as a director, the notice is given to that person; and
 - (iii) the nature or extent of the interest has not materially increased above that disclosed in the notice; or
- (c) the director has given a standing notice of the nature and extent of the interest and that notice is still effective.

10.2.3. The notice required by rule 10.2.1 must:

- (a) give details of:
 - (i) the nature and extent of the interest; and
 - (ii) the relation of the interest to the affairs of the Corporation;
- (b) be given at a directors' meeting as soon as possible after the director becomes aware of their interest in the matter;
- (c) the details must be recorded in the minutes of the meeting.

10.2.4. A contravention of this rule 10 by a director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

10.2.5. This rule 10.2 does not apply to the Corporation if the Corporation has only 1 director.

10.3. Remuneration

10.3.1. The directors may be paid remuneration for acting in the role of a director except that a director who is an employee of the Corporation may not receive any remuneration for acting in the role of a director.

10.3.2. Rule 10.3.1 does not prevent:

- (a) a director who is an employee of the Corporation from receiving remuneration as an employee of the Corporation; or
- (b) 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.

10.3.3. The Corporation may pay the directors' travelling and other expenses that the directors incur:

- (a) in attending directors' meetings or any other meetings of committees of directors;
- (b) in attending any general meetings of the Corporation;
- (c) in connection with the Corporation's business.

10.4. **Negotiable instruments**

10.4.1. Any two directors, or one director and one officer of the Corporation, may sign, draw, accept, endorse or otherwise execute a Negotiable Instrument.

10.4.2. The directors may determine that a Negotiable Instrument may be signed, drawn, accepted endorsed or otherwise executed in a different way.

10.5. **Delegation**

10.5.1. The directors may by resolution delegate any of their powers to:

- (a) a committee of directors;
- (b) a director;
- (c) an employee of the Corporation; or
- (d) any other person.

10.5.2. A delegate must exercise the powers delegated in accordance with any directions of the directors.

10.5.3. The exercise of a power by a delegate is an effective as if the directors had exercised it.

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

10.6.1. For the Corporation, or an entity that the Corporation controls, to give a financial benefit to a related party of the Corporation:

- (a) the Corporation or entity must:
 - (i) obtain the approval of the members in the way set out in Division 290 of the Act; and
 - (ii) give the benefit within 15 months after the approval; or
- (b) the giving of the benefit must fall within an exception to the requirement for member approval set out in Division 287 of the Act.

10.6.2. If:

- (a) the giving of the benefit is required by a contract;
- (b) the making of the contact was approved in accordance with rule 10.6.1(a)(i); and
- (c) the contract was made:
 - (i) within 15 months after that approval; or
 - (ii) before that approval, if the contract was conditional on the approval being obtained;

then 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 2 months.

11.2. Calling and giving notice of directors' meetings

11.2.1. The directors will normally determine the date, time and place of each directors' meeting at the previous meeting.

11.2.2. A directors' meeting may be called by a director giving reasonable notice individually to every other director.

11.2.3. The date, time and place for a directors' meeting must not unreasonably prevent a director attending.

11.2.4. Reasonable notice of each directors' meeting must be given to each director. The notice must state:

- (a) the date, time and place of the meeting;
- (b) the general nature of the business to be conducted at the meeting; and
- (c) any proposed resolutions.

11.2.5. 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 11.2.4 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

- 11.4.1. 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.
- 11.4.2. The directors must elect a director present to chair a meeting, or part of it, if:
- (a) a director has not already been elected to chair the meeting;
or
 - (b) 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) Subject to the provisions of this constitution, a resolution of 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 they have as a director.

11.6.2. Circulating resolutions if the Corporation has more than 1 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 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.

11.6.3. Resolutions and declarations of 1 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 directors' meeting.

12. SECRETARY AND CONTACT PERSON

12.1. Requirements for 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 Torres Strait Islander Corporation under Part 6-6 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 contact person on registration

12.2.1. A person becomes a secretary or a contact person of the Corporation, if the person is specified in the application with his or her consent as a proposed secretary or a contact person of the Corporation.

12.2.2. If:

- (a) the Corporation is registered as a small or medium Corporation; and
- (b) the 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.

12.2.3. If:

- (a) a person is specified in the application for registration of the Corporation as the contact person for the Corporation;
- (b) that person is specified without his or her consent; and
- (c) before registration, the Registrar becomes aware of that fact; and
- (d) 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;

then 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 a 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 Torres Strait Islander Corporation 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 Torres Strait Islander Corporations as the secretary, a person appointed with his

or her consent to be the secretary must pass onto 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 the secretary is effective even if their appointment is invalid because the Corporation or secretary did not comply with the Corporation's constitution 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.

13. EXECUTION OF DOCUMENT AND THE COMMON SEAL OF THE CORPORATION

13.1. Corporation may have common seal

13.1.1. The Corporation may have a common seal.

13.1.2. If the Corporation has a common seal:

- (a) the Corporation must set out on it the Corporation's name and ICN;
- (b) the common seal must be kept by a person nominated by the directors; and
- (c) 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) 2 directors;

- (ii) a director and a secretary (if any); or
 - (iii) if the Corporation has only 1 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) 2 directors;
 - (ii) a director and a secretary; or
 - (iii) if the Corporation has only 1 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 13.3.3(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

14.1.1. Subject to the Act and the Corporation's constitution, 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.

14.1.2. Subject to the Act and the Corporation's constitution, no portion of the funds and property of the Corporation may be paid or distributed to any member of the Corporation.

- (a) Nothing in rule 14.1.2 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 qualifications, 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. Obligation to keep minutes

The Corporation must keep minute books in which it records within 1 month:

- (a) proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of directors' meetings (including meetings of a committee of directors);
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by directors without a meeting; and
- (e) if the Corporation has only 1 director, the making of declarations by the director.

14.2.2. The minutes of the meeting may be kept:

- (a) in writing; or
- (b) by means of an audio, or audio-visual, recording.

14.2.3. 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:

- (a) each person attending the meeting states their name; and
- (b) if a person attending the meeting holds a proxy, the person states the name of the person for whom the person is acting as proxy.

14.2.4. If the minutes of the meeting are kept in writing, the Corporation must ensure that either:

- (a) the chair of the meeting, or
- (b) the chair of the next meeting

signs those minutes within a reasonable time after the first meeting.

14.2.5. If the minutes of the meeting are kept by means of an audio, or audio visual, recording, the Corporation must ensure that either:

- (a) the chair of the meeting, or
- (b) the chair of the next meeting

signs a declaration under rule 14.2.6 within a reasonable time after the first meeting.

14.2.6. The declaration under this rule 14.2.6 must:

- (a) identify the audio, or audio-visual, recording; and
- (b) if the recording is not a recording of the whole of the meeting, identify the part of the meeting that is recorded; and

declare that the recording constitutes the minutes of the meeting or that part of the meeting.

14.2.7. 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.

14.2.8. If the Corporation has only 1 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.

14.2.9. The Corporation must keep its minute books at:

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

14.2.10. A minute that is recorded and signed in accordance with this rule 14.2. is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

14.3. **Constitution and records about officers, contact person, etc.**

The Corporation must keep:

14.3.1. An up-to-date copy of its constitution (incorporating any changes to the constitution made in accordance with the Act and the terms of the constitution).

14.3.2. Written records relating to:

- (a) the names and addresses of the Corporation's current officers and secretary or contact person (as the case may be);
- (b) the Corporation's registered office (if any); and
- (c) the 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 financial reports to be prepared and audited.

Note: 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 7 years after the transactions covered by the records are completed.

14.5. Physical format

14.5.1. 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

14.6.1. If the Corporation is registered as:

- (a) a large Corporation, then 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, then 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

14.7.1. A director may inspect the books of the Corporation (other than its financial records) for the purposes of a legal proceeding:

- (a) to which that person is a party;
- (b) which that person proposes in good faith to bring; or
- (c) which that person has reason to believe will be brought against him or her.

14.7.2. 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:

- (a) to which that person is a party;
- (b) which that person proposes in good faith to bring; or
- (c) which that person has reason to believe will be brought against him or her; and
- (d) this right continues for 7 years after the person ceased to be a director.

- 14.7.3. 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.
- 14.7.4. 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.
- 14.7.5. 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

- 14.8.1. 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.
- 14.8.2. 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.
- 14.8.3. A person authorised to inspect records under rule 14.8.2 may make copies of the records unless the court orders otherwise.

14.9. Members' access to minutes

- 14.9.1. 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 10:00 am to 12:00 noon and from at least 2:00 pm to 4:00 pm.
- 14.9.2. 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 meeting of its members and for resolutions of members passed without meetings. The books must be made available within 7 days of a member's written request for inspection.
- 14.9.3. The Corporation must make minutes available free of charge.
- 14.9.4. A member may ask the Corporation in writing for a copy of:
 - (a) any minutes of a meeting of the Corporation's members or an extract of the minutes; or
 - (b) 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.

14.9.5. If the Corporation does not require the member to pay for the copy, the Corporation must send it:

- (a) within 14 days after the member asks for it; or
- (b) within any longer period that the Registrar approves.

14.9.6. If the Corporation requires payment for the copy, the Corporation must send it:

- (a) within 14 days after the Corporation receives the payment; or
- (b) within any longer period that the Registrar approves.

14.9.7. 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 10:00 am to 12:00 noon and from at least 2:00 pm to 4:00 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 7 days of a member's or officer's written request for inspection.

14.11.4. General provisions regarding access to rules

The Rule Book of the Corporation includes:

- (a) the Corporation's constitution;

- (b) any replaceable rules that apply to the Corporation; and
- (c) any other material concerning the internal governance of the Corporation that is prescribed.

15. AUDITOR

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

16. ANNUAL REPORTING

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

17. DISPUTE RESOLUTION PROCESS

17.1. General

17.1.1. 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 constitution applies, which arises between:

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

17.2. Informal negotiations

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

17.3. Giving of dispute notice

17.3.1. If the dispute is not resolved in accordance with rule 17.2 within 15 business days, any party to the dispute may give a dispute notice to the other parties.

17.3.2. A dispute notice must be in writing, and must say what the dispute is about.

17.3.3. A copy of the notice must be given to the Corporation.

17.4. Seeking assistance from the Registrar about the meaning of the Act or the Corporation's Rule Book

17.4.1. 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 party to the dispute may seek an opinion from the Registrar about the correct meaning of the relevant provision.

17.4.2. The Registrar's opinion will not be binding on the parties to a dispute.

17.5. Referring dispute to the directors

17.5.1. The directors must make a reasonable effort to help the parties resolve the dispute within 30 business days after the Corporation receives the dispute notice.

18. NOTICES

18.1. General

18.1.1. Unless the Act or these rules otherwise requires, notices must be given in writing (including by fax).

18.1.2. Notices of directors' meetings given under rule 11.2.2 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

18.2.1. 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 member's current fax number for notices (if the member has nominated one); or
- (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

18.3.1. 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 3 days after posting;
- (b) is given by fax, it is taken to have been given on the business day after it is sent;
- (c) is given:
 - (i) after 5:00 pm in the place of receipt; or
 - (ii) on a day which is a 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 public holiday in that place.

Note: It is taken as having been given at 9:00 am on the next day which is not a Saturday, Sunday or public holiday in that place.

19. WINDING UP

19.1. Resolution to distribute surplus assets

Subject to rule 19.2, where the Corporation is wound up, after all debts and liabilities have been taken care of, and costs of winding up have been paid, if surplus assets of the Corporation exist the members may pass a special resolution relating to the distribution of the surplus assets of the Corporation.

19.2. No distribution of surplus asset 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 CONSTITUTION

20.1. Corporation wants to change this constitution

- 20.1.1. For the Corporation to change its constitution, the following steps must be complied with:
 - (a) The Corporation must pass a special resolution effecting the change.
 - (b) If, under the Corporation's constitution, 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.
 - (d) The Registrar must make certain decisions in respect of the change and, if appropriate, must register the change.

20.2. Corporation to lodge copy of changes

20.2.1. If there is no extra requirement, within 28 days after the special resolution is passed, the Corporation must lodge with the Registrar:

- (a) a copy of the special resolution;
- (b) a copy of those parts of the minutes of the meeting that relate to the passing of the special resolution; and
- (c) a directors' statement signed by:
 - (i) 2 directors; or
 - (ii) If there is only 1 director, that directorto the effect that the special resolution was passed in accordance with the Act and the Corporation's constitution; and

(d) a copy of the constitutional change.

20.2.2. If a change is not to have effect until an extra requirement has been complied with, the Corporation must lodge:

- (a) the documents referred to in rule 20.2.1; and
 - (b) proof that the extra requirement has been met;
- within 28 days after it has been met.

20.3. If the Registrar directs the Corporation to lodge a consolidated copy of the Corporation's constitution as it would be if the Registrar registered the change, it must do so.

21. BY-LAWS

21.1. The Corporation shall have the power from time to time to make, amend and repeal by-laws with regard to the management of the affairs of the Corporation but so that no such by-laws shall contravene any of the provisions of this constitution or be ultra vires the Objectives of the Corporation.

Schedule 1 – Dictionary and Interpretation

Dictionary

In these rules, the following terms shall, unless the context otherwise requires, bear the following meanings:

‘Aboriginal person’ means a person of the Aboriginal race of Australia;

‘Aboriginal and Torres Strait Islander person’ means the following:

- (a) an Aboriginal person;
- (b) a Torres Strait Islander;
- (c) an Aboriginal and Torres Strait Islander person;
- (d) a Torres Strait Islander and Aboriginal person;
- (e) an Aboriginal and Torres Strait Islander Corporation;
- (f) a body corporate prescribed by name in the regulations made under the Act;
- (g) A body corporate in which a controlling interests is held by any, or all, of the following persons:
 - (i) Aboriginal persons;
 - (ii) Torres Strait Islanders;
 - (iii) Aboriginal and Torres Strait Islander persons;
 - (iv) Torres Strait Islander and Aboriginal persons;

‘Aboriginal tradition’ means the bodies of traditions, observances, customs and beliefs of Aborigines or of a community or group of Aborigines and include those traditions, observances, customs and beliefs as applied in relation to particular persons, sites, areas of land, things or relationships;

‘Act’ means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* as amended from time to time and any regulations made under it;

‘alternate director’ means a person appointed according to rule 8.7;

‘annual general meeting’ or ‘AGM’ means a general meeting held in accordance with rule 7.1;

‘applicant’ means a person who is eligible to become a member of the Corporation and has applied to become a member according to rule 5.2;

‘board of directors’ means the people elected or appointed according to rule 8 to manage the affairs of the Corporation in accordance with the Act and these rules;

'board of directors' minute book' means the books and records in which the minutes of all directors' meetings (made under rule 14.2.1) and copies of any written resolutions passed without a directors' meeting (under rule 11.6.2) are kept;

'books' include a register, any record of information, financial reports or records, or documents of a Corporation however compiled, recorded or stored;

'Bunjima' means the people who are from time to time members of the Aboriginal peoples known as the Bunjima being the persons who are by Aboriginal Tradition entitled to the use or occupation of the Bunjima Lands irrespective of whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission and includes those persons, if any, having native title thereto under common law, in accordance with the views of persons who are recognised Bunjima elders under Aboriginal Tradition;

'Bunjima Lands' means those lands outlined in the red in the plan contained in Schedule 2;

'Business day' means day which is not a Saturday, Sunday or bank or public holiday in the place concerned;

'circulating resolution' means a resolution of the board of directors passed according to rule 11.6.2;

'common seal' means the common seal of the Corporation referred to in rule 13;

'constitution' means the set of special rules that govern the activities of a particular Corporation or its members including Corporation rules, recommended rules that have been either adopted or hanged, replaceable rules that have been changed, rules that the Corporation has added, and set laws that have been changed;

'contact person' means a person elected or appointed according to rule 12;

'Corporation' means the corporation referred to at rule 1;

'director' means a person who holds office as a member of the board of directors held according to rule 11;

'dispute' has the meaning given in rule 17;

'dispute resolution process' means the process set out in rule 17;

'General Gumala Foundation' means the General Gumala Foundation established by the Trust Deed;

'general meeting' refers to both special general meetings and annual general meetings of the members of the Corporation called and held according to rule 7;

'general meeting minute book' means the books and records in which the minutes of all general meetings (made under rule 14.2.1) and copies of any written resolutions passed without a general meeting (under rule 7.12) are kept;

'Innawonga' means the people who are from time to time members of the Aboriginal peoples known as the Innawonga being the persons who are by Aboriginal Tradition

entitled to the use or occupation of the Innawonga Lands irrespective of whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission and includes those persons, if any, having native title thereto under common law, in accordance with the views of persons who are recognised Innawonga elders under Aboriginal Tradition;

'Innawonga Lands' means those lands outlined in blue in the plan contained in Schedule 2;

'Indigenous Corporation Number' or 'ICN' means that number given by the Registrar to the Corporation on registration;

'material personal interest' has the meaning given to it in rule 10.2;

'Niapaili' means the people who are from time to time members of the Aboriginal peoples known as the Niapaili being the persons who are by Aboriginal Tradition entitled to the use or occupation of the Niapaili Lands irrespective of whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission and includes those persons, if any, having native title thereto under common law, in accordance with the views of persons who are recognised Niapaili elders under Aboriginal Tradition;

'Niapaili Lands' means those lands outlined in green in the plan contained in Schedule 2;

'member' means a person whose name appears on the register of members;

'Objectives' means the objectives set out in rule 3;

'officer' is a director, corporation secretary, administrator, special administrator, receiver, receiver and manager, liquidator or trustee of the Corporation or a person who makes decisions that affect a substantial part of the business of the Corporation; or could significantly affect the Corporation's financial standing;

'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) and a poll can include a secret ballot;

'proxy' means a person who has been anointed to attend, speak and vote at a general meeting on behalf of a member, according to rule 7.14;

'registered native title body corporate' or 'RNTBC' means a prescribed body corporate whose name and address are registered on the National Native Title register under the *Native Title Act 1993*;

'register of members' means the register of members kept according to rule 5.2.5;

'Registrar' means the Registrar of Aboriginal and Torres Strait Islander Corporations appointed in accordance with the Act;

'replaceable rule' is a rule under the Act that can be either apply as is or changed;

'Rule Book' means a document consisting of set laws under the Act, the Corporation's constitution and any replaceable rules that apply to the Corporation;

'secretary' means a person elected or appointed according to rule 12;

'set law' means provisions extracted from the Act;

'special general meeting' or 'SGM' means a general meeting other than an annual general meeting;

'special resolution' means a resolution 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;

'Traditional Lands' means the Bunjima Lands, the Niapaili Lands and the Innawonga Lands;

'Traditional Owners' means the Bunjima, the Innawonga and the Niapaili;

'Trust Deed' means the deed of trust dated 27 February 2007 executed by Gumala Aboriginal Corporation as the 'Manager', Gumala Investments Pty Ltd as the 'Trustee' and Claire Boyd as the 'Founder' as amended from time to time;

'Trust Fund' means the trust fund established pursuant to the Trust Deed;

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

Interpretation

In these rules:

- (a) Words in the singular include the plural and vice versa.
- (b) The words 'including', 'include' and 'includes' are to be read without limitation.
- (c) 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.
- (d) Headings and notes are used for convenience only and are not intended to affect the interpretation of these rules.
- (e) 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.
- (f) Any inconsistency with the Act is to be resolved in favour of the Act.

Schedule 2 – Plan