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**THE RULE BOOK OF**

**Karlka Nyiyaparli**

**Aboriginal Corporation RNTBC**

**ICN 3649**

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## 1. NAME OF THE CORPORATION

- (a) The name of the Corporation is **Karlka Nyiyaparli Aboriginal Corporation RNTBC**.
- (b) The Rule Book does not contain all of the rules and laws which apply to the Corporation. The Corporation is also bound by commercial contracts, general law and legislation; including but not limited to the CATSI Act, the *Corporations (Aboriginal and Torres Strait Islander) Regulations 2007*, the *Corporations Act 2001* (Cth), the *Criminal Code 1995* (Cth) and the *Native Title Act*.

## 2. DEFINITIONS AND INTERPRETATION

The definitions and interpretation provisions of the Rule Book are contained in Schedule 1 – Interpretation and Definitions.

## 3. OBJECTS

### 3.1 Objects of the Corporation

The Objects of the Corporation are the following:

- (a) to provide direct relief from poverty, sickness, suffering, misfortune, disability, destitution, and disadvantage of the Nyiyaparli People;
- (b) to develop and manage the delivery of programs, initiatives and other services for the benefit of the Nyiyaparli People;
- (c) to maintain, protect, promote and advance the law, culture, native title, traditions and customs of the Nyiyaparli People;
- (d) to promote, develop, improve and advance the skills, capabilities, knowledge, and commercial achievements of the Nyiyaparli People;
- (e) to promote, develop, improve and advance the education, health and wellbeing of the Nyiyaparli People;
- (f) to provide economic, environmental, social, health, educational and cultural benefits to the Nyiyaparli People;
- (g) to give effect to the principle of self-determination for Aboriginal people by promoting, supporting and sponsoring the endeavours of Aboriginal organisations, groups, enterprises and individuals living in or having a connection with the Region (especially the Nyiyaparli People), towards social, cultural and economic development;
- (h) to generally act in the best interests of the Nyiyaparli People;
- (i) to accept appointments made by the Nyiyaparli People in accordance with the Approved Process for the Corporation to act as the “Local Aboriginal Corporation” or otherwise as the agent of the Nyiyaparli People pursuant to and for the purposes of native title agreements, indigenous land use agreements and other contractual arrangements;



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- (j) to accept appointments made by the Nyiyaparli People in accordance with the Approved Process for the Corporation to be the “Nyiyaparli Registrar” and to maintain the Register of Nyiyaparli People;
  - (k) to acquire, hold title or other interest in, encumber, deal in, develop and manage land, buildings, plant, equipment and other assets for the benefit of the Nyiyaparli People;
  - (l) to promote fair and just representation of the Nyiyaparli People in a manner that provides a fair and just representation of the Members;
  - (m) if the Corporation is nominated by the Common Law Holders as a Prescribed Body Corporate, the Corporation has the following further objects:
    - (i) to be and perform the functions of a Prescribed Body Corporate, for the purpose of being the subject of a determination under section 56 and 57 of the Native Title Act;
    - (ii) to be and perform the functions of a Registered Native Title Body Corporate for the purpose of being the subject of a determination under section 57 of the Native Title Act;
    - (iii) to hold the Native Title Rights and Interests in trust for the Common Law Holders or act as agent or representative of the Common Law Holders in matters relating to the Native Title Rights and Interests;
    - (iv) to manage the Native Title Rights and Interests of the Common Law Holders;
    - (v) to represent the interests of the Nyiyaparli People in matters relating to the Determination Area:
      - (A) as a Registered Native Title Body Corporate under the Native Title Act where there is an Approved Determination of Native Title; or
      - (B) as otherwise authorised by the Nyiyaparli People in accordance with the Approved Process;
  - (n) to do all such things as may be incidental or necessary to attain the above Objects, including but not limited to, applying for funding from the BMS to fulfil these Objects.

### **3.2 Application of funds to carry out Objects**

- (a) Subject to the CATSI Act and the 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 Objects.
- (b) Subject to the CATSI Act and the Rule Book, no portion of the funds and property of the Corporation may be paid or distributed to any Member.
- (c) Nothing in rule 3.2(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 qualifications, role and responsibilities of the Member as an employee);

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- (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); or
  - (iii) the application of funds or property of the Corporation in furtherance of the Objects to provide benefits to a Member in their capacity as a Niyaparli Person.

## 4. POWERS OF THE CORPORATION

### 4.1 Functions and powers of the Corporation as a Prescribed Body Corporate and Registered Native Title Body Corporate

If the Corporation is determined to be the Prescribed Body Corporate or Registered Native Title Body Corporate:

- (a) the Corporation has the functions and powers prescribed by the PBC Regulations from time to time for a PBC or RNTBC that holds Native Title Rights and Interests; and
- (b) the specific functions, powers and Native Title Decision Making Process outlined in Schedule 2 apply to the Corporation.

### 4.2 Further powers of the Corporation

- (a) Subject to the CATSI Act and the Rule Book, the Corporation has the power to do anything lawful to carry out the Objects, except that the Corporation shall not exercise a power unless it is to carry out at least one of the Objects, and shall not exercise a power that is contrary to any of the Objects.
- (b) The Corporation cannot charge application fees for membership or annual membership fees.

## 5. REGISTER OF NYIYAPARLI PEOPLE

### 5.1 When this rule applies

This rule 5 applies if the Corporation has:

- (a) been nominated by the Niyaparli People according to the Approved Process to be the Niyaparli Registrar; and
- (b) has accepted the nomination.

### 5.2 Corporation to maintain Register

- (a) The Corporation must establish, maintain and regularly update a register of all Aboriginal persons who are:
  - (i) 18 years of age or over; and
  - (ii) members of the Niyaparli People.
- (b) The register is to be known as the **Register of Niyaparli People**.

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- (c) The Corporation must maintain the Register of Niyaparli People in electronic form, and may also maintain the Register of Niyaparli People in hard copy.
  - (d) The Register of Niyaparli People is to include the following details in respect of each person on the Register:
    - (i) the person's full name;
    - (ii) the person's date of birth (or if it is not known, a reasonable estimation of their year of birth); and
    - (iii) the person's address (if any) for receiving mail, which may be or include an email address.
  - (e) To avoid doubt, the Register of Niyaparli People is to be separate from the Register of Members of the Corporation.

### **5.3 Process for updating the Register**

- (a) Subject to that person not already being included on the Register of Niyaparli People, should the Corporation become aware that a person claims to be a member of the Niyaparli People then the Corporation must as soon as reasonably practicable consider the claim and decide whether to include the person on the Register of Niyaparli People (whether or not the person applies directly to the Corporation to be recognised as a member of the Niyaparli People).
- (b) If a person ceases to be a Niyaparli Person (including because they are deceased) then the Corporation must as soon as reasonably practicable remove the person from the Register of Niyaparli People.
- (c) For the purposes of rules 5.2(a), 5.3(a) and 5.3(b), whether a person is or continues to be included on the Register of Niyaparli People will be determined by the Directors applying the following criteria. If there is any inconsistency, a criterion higher in the list prevails over one that is lower in the list. The Corporation:
  - (i) must include a person on or remove a person from the current Register of Niyaparli People if a court of competent jurisdiction makes a final determination not the subject of an appeal or review that the person is or is not (as the case may be) a Niyaparli Person;
  - (ii) must include a person or remove a person from the current Register of Niyaparli People if the Common Law Holders of Native Title in respect of the Niyaparli Determination make a decision in accordance with an Approved Process that the person is or is not (as the case may be) a Niyaparli Person;
  - (iii) may request and have due regard to the advice of a solicitor, barrister or anthropologist.

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## **5.4 Corporation to keep records**

The Corporation must keep a written record of:

- (a) all decisions made under rules 5.3(a) and 5.3(c)(ii), including the date of the decision;
- (b) the date a person is added to the Register of Niyaparli People and a succinct statement of the reason they were added (including, where applicable, by reference to the matters in rule 5.3(c)); and
- (c) all persons removed from the Register of Niyaparli People under rules 5.3(b) and 5.3(c), including the date they were removed and a succinct statement of the reason they were removed.

## **5.5 Register to be made available**

- (a) The Corporation must as soon as reasonably practicable following receipt of a request to do so, allow the trustee of the BMS to inspect the Register of Niyaparli People or provide them with a copy of the Register of Niyaparli People (as the request may be) without charge.
- (b) The Corporation may allow any other person to inspect, or provide any other person with a copy of, the Register of Niyaparli People, subject to such terms and conditions as the Directors consider appropriate.

# **6. MEMBERSHIP OF THE CORPORATION**

## **6.1 Members by application after registration**

### **6.1.1 How to become a Member after registration**

A person becomes a Member after the Corporation has been registered if:

- (a) the person applies in writing to the Corporation to become a Member, using the form prescribed by the Directors;
- (b) the person is eligible to be a Member;
- (c) the Directors accept the application; and
- (d) the person's name is entered on the Register of Members.

### **6.1.2 Eligibility for membership (Who can apply to become a Member)**

A person is eligible to apply for membership of the Corporation if the person:

- (a) is 18 years of age or over; and
- (b) is a member of the Niyaparli People.

### **6.1.3 Deciding Membership applications**

- (a) The Directors will consider and decide membership applications in accordance with this rule 6.1.3.
- (b) In considering if a person is eligible for membership the Directors must take into account:

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- (i) the definition of Common Law Holders and Niyaparli People as determined in the Niyaparli Determination;
  - (ii) Niyaparli law and custom;
  - (iii) whether or not the person's name appears on the Register of Niyaparli People; and
  - (iv) any final declaration or determination by a court of competent jurisdiction not the subject of an appeal or review, as to whether a person or class of persons is or is not a Common Law Holder in accordance with the Niyaparli Determination.
- (c) The Directors may request and take into account the advice of:
- (i) a solicitor or barrister;
  - (ii) an anthropologist.
- (d) Notwithstanding any rule to the contrary, a membership application may only be decided:
- (i) by the unanimous decision of the Directors; or
  - (ii) where the Directors are unable to make a unanimous decision:
    - (A) the Directors must refer the application to the Karlka Advisory Group for recommendation in accordance with the process set out in rule 22; and
    - (B) after giving due regard to the recommendations of the Karlka Advisory Group, the Directors will decide the membership application in accordance with rule 12.6.
- (e) The Directors must not accept a membership application unless:
- (i) the Applicant applies in writing, using the form prescribed by the Directors; and
  - (ii) the Applicant meets the eligibility requirements for membership.
- (f) Membership applications will be considered and decided in the order in which they are received by the Corporation.
- (g) The Directors must accept a membership application where the Applicant:
- (i) applies in writing, using the form prescribed by the Directors; and
  - (ii) meets all of the eligibility requirements for membership.
- (h) If an application for membership is accepted, the Corporation must notify the Applicant in writing and add the Applicant's name to the Register of Members within 14 days of the decision.

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- (i) If an application for membership is rejected, the Corporation must notify the Applicant within 14 days of the decision and provide in writing:
    - (i) reasons for the decision;
    - (ii) a copy of rule 6.1.4 detailing the appeal process.

#### **6.1.4 Appeal against refusal to accept application for membership**

- (a) If an application for membership is rejected, the Applicant is entitled to appeal the rejection by using the procedure outlined in this rule.
- (b) The Applicant must write to the Corporation setting out the basis on which the Applicant feels that the rejection was incorrect or unreasonable.
- (c) At the next meeting of the Directors following receipt of an appeal, the Directors must reconsider the original membership application in light of the reasons stated in the appeal and determine whether to accept or reject the appeal in accordance with rule 6.1.4.
- (d) In deciding an appeal:
  - (i) the Directors may determine to accept or reject the appeal by ordinary resolution in accordance with rule 12.6.1; and
  - (ii) the Directors may, at their discretion, consult with the Karlka Advisory Group, in which the appeal will be decided at the next meeting of the Directors after the Karlka Advisory Group have delivered their recommendations.
- (e) If an appeal is accepted, the Corporation must notify the Applicant in writing and add the Applicant's name to the Register of Members within 14 days of the decision.
- (f) If the appeal is rejected, the Corporation must notify the Applicant and provide in writing reasons for the rejection within 14 days of the decision.

#### **6.1.5 Entry on the register of Members**

- (a) If a membership application is accepted, 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 the holding of a General Meeting or AGM; and
  - (ii) the General Meeting or AGM 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 or AGM has been held.

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## 6.2 Members rights and obligations

### 6.2.1 Members rights

- (a) Each Member has rights under the CATSI Act and the Rule Book including the rights set out below. A Member:
  - (i) can attend, speak and vote at a General Meeting or AGM of the Corporation;
  - (ii) can be elected or appointed as a Director (subject to legal eligibility);
  - (iii) cannot be removed as a Member unless the Directors and the Corporation have complied with the procedure outlined in the Rule Book;
  - (iv) can put forward resolutions to be voted on at a General Meeting or AGM of the Corporation in accordance with the procedure outlined in the Rule Book;
  - (v) can ask the Directors to call a General Meeting in accordance with the procedure outlined in the Rule Book;
  - (vi) can access the following books and records of the Corporation:
    - (A) the Register of Members in accordance with the procedure outlined in the Rule Book;
    - (B) the minute Books in accordance with the procedure outlined in the Rule Book;
    - (C) the Rule Book; and
    - (D) certain reports prepared by or for the Directors and the Corporation, in accordance with the CATSI Act.
  - (vii) can ask the Directors to provide access to any other records or Books of the Corporation in accordance the Rule Book; and
  - (viii) can have any appropriate Dispute dealt with under the Dispute Resolution Process outlined in the Rule Book.
- (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.

### 6.2.2 Members' responsibilities

Each Member has the following responsibilities:

- (a) to comply with the CATSI Act and the Rule Book;
- (b) to notify the Corporation of any change of 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;

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- (e) to not behave in a way that significantly interferes with the operation of the Corporation or of Corporation meetings;
  - (f) not to make improper use of information or opportunities received because of their position as Members or Directors; and
  - (g) not to make any public statement on behalf of the Corporation unless authorised by the Directors.

### **6.2.3 Liability of Members**

The Members and Former Members are not liable to contribute to the debts and liabilities of the Corporation on winding up.

## **6.3 How a person stops being a Member**

A person will stop being a Member if:

- (a) the person resigns as a Member in accordance with rule 6.5; or
- (b) the person dies; or
- (c) the person's membership of the Corporation is cancelled in accordance with rule 6.6.

## **6.4 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.

## **6.5 Resignation of a Member**

- (a) A Member may resign by giving a resignation notice to the Corporation.
- (b) A resignation notice must be in writing using the form prescribed by the Directors.
- (c) The Corporation must move the Member's name from the Register of Members of the Corporation to the Register of Former Members within 14 days after receiving the resignation notice.

## **6.6 Process for cancelling Membership**

### **6.6.1 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:
  - (i) stating that the Directors intend to cancel the membership for the reasons specified in the notice; and



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- (ii) stating that the member has 14 days to object to the cancellation of the membership; and
  - (iii) stating that the objection must be:
    - (A) in writing; and
    - (B) given to the Corporation within the period of 14 days from the day the notice is given.
  - (c) If the member does not object as provided for in rule 6.6.1(b)(iii), the Directors must cancel the membership.
  - (d) If the member does object as provided for in rule 6.6.1(b)(iii):
    - (i) the Directors must not cancel the membership; and
    - (ii) only the Corporation by resolution in a General Meeting may cancel the membership.
  - (e) If the 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 practicable after the resolution has been passed.

#### **6.6.2 Cancelling Membership if Member cannot be contacted**

- (a) The membership of a Member 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.

#### **6.6.3 Cancelling Membership if a Member misbehaves**

- (a) The Corporation may cancel the membership of a Member by Special Resolution in a General Meeting if the General Meeting is satisfied that the 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.

#### **6.6.4 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 as a current Member from the Register of Members of the Corporation and include it on the Register of Former Members.

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## **7. REGISTERS OF MEMBERS AND FORMER MEMBERS**

### **7.1 Corporation to maintain a Register of Members**

The Corporation must set up and maintain a Register of Members.

### **7.2 Information on the Register of Members**

The Register of Members must contain the following information about individual Members:

- (a) the Member's name (given and family name). The Register of Members may also contain any other name by which the Member is or was known;
- (b) the Member's address; and
- (c) the date on which the Member's name was entered on the Register of Members.

### **7.3 Corporation to maintain a Register of Former Members**

- (a) The Corporation must set up and maintain a Register of Former Members which includes any information on a person previously detailed in the Register of Members and the date when the person ceased to be a Member.
- (b) The Corporation may choose to maintain the Register of Former Members in one document with the Register of Members.

### **7.4 Inspection of Register of Members and Register of Former Members**

#### **7.4.1 Inspection fees**

- (a) A Member may inspect either the Register of Members or Register of Former Members without charge.
- (b) A person who is not a Member may inspect either the Register of Members or Register of Former Members only on payment of any fee required by the Corporation.

#### **7.4.2 Right to get copies**

The Corporation must give a person or Member a copy of either the Register of Members or Register of Former Members (or part of either register) within 7 days if the person or Member:

- (a) asks for the copy; and
- (b) pays any fee (up to the prescribed amount) required by the Corporation.

### **7.5 Making Register of Members available at AGM**

The Corporation must:

- (a) make the Register of Members available for inspection (without charge) by Members at the AGM; and
- (b) ask each Member attending the AGM to check and update their entry.

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## **8. ANNUAL GENERAL MEETINGS (AGMS) AND GENERAL MEETINGS**

### **8.1 AGMs**

#### **8.1.1 Holding AGMs**

The Corporation must hold an AGM within 5 months after the end of the Financial Year at a reasonable time and place.

#### **8.1.2 Extension of time for holding AGMs**

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.

#### **8.1.3 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 or AGM, except at the first AGM;
- (b) the consideration of the reports under Chapter 7 of the CATSI Act that are required to be presented at the AGM;
- (c) the election of Directors;
- (d) the appointment and remuneration of the Auditor;
- (e) checking of details on the Register of Members; and
- (f) asking questions about management of the Corporation and asking questions of the Corporation's Auditor.

### **8.2 General Meetings**

#### **8.2.1 Purpose of General Meeting**

A General Meeting must be held for a proper purpose.

#### **8.2.2 Time and place of General Meeting**

A General Meeting must be held at a reasonable time and place.

#### **8.2.3 Business of General Meeting**

The business at each General Meeting must include all matters set out in the notice of the General Meeting.

#### **8.2.4 Use of Technology for General Meetings**

A General Meeting may be held at 2 or more venues using any technology that gives the Members as whole a reasonable opportunity to participate.

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### 8.3 Calling General Meetings

#### 8.3.1 Director may call General Meetings

Three or more Directors may call a General Meeting of the Corporation.

#### 8.3.2 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:

<b>Number of Members in Corporation</b>	<b>Number of Members needed to ask for a General Meeting</b>
2 to 10 Members	= 1 Member
11-20 Members	= 3 Members
21-50 Members	= 5 Members
51 Members or more	= 10 per cent of Members

- (b) A request by Members to hold a General Meeting must:
- (i) be in writing;
  - (ii) state any resolution to be proposed at the General Meeting;
  - (iii) be signed by the Members making the request, either on one document or on separate identical copies;
  - (iv) nominate a Member to be the contact Member on behalf of the Members making the request; and
  - (v) be given to the Corporation.

#### 8.3.3 Directors may apply to deny a Member's request to call a General Meeting

- (a) If the Directors resolve:
- (i) that a request to hold a General Meeting is frivolous or unreasonable; or
  - (ii) that complying with a request under rule 8.3.2 would be contrary to the interests 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 this rule 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 to hold a General Meeting was made.

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- (c) The Directors must, as soon as possible after making an application to the Registrar under this rule, give the contact Member of the Members requesting a General Meeting notice that an application to the Registrar has been made.

#### **8.3.4 Timing for a requested General Meeting**

- (a) If the Directors agree to call a General Meeting, they must call the meeting within 21 days after the request was sent to them.
- (b) If the Directors have applied to the Registrar for permission to refuse to call a General Meeting, and the Registrar has refused permission, then the Directors must call a General Meeting within 21 days after being notified of the Registrar's decision.

### **8.4 Requirement for notice of General Meeting and AGM**

#### **8.4.1 Notice for General Meetings and AGMs**

- (a) At least 21 days notice must be given of a General Meeting or AGM.
- (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 per cent of the Members agree beforehand; and
  - (iii) may not call an AGM or General Meeting on shorter notice than 21 days if a resolution is proposed to remove an Auditor or Director (or appoint a Director in place of a removed Director).
- (c) The Corporation may give the notice of a General Meeting or AGM to a Member personally or by sending it by post, fax or other electronic means nominated by the Member.

#### **8.4.2 Requirement to give notice of General Meeting or AGM to Members**

The Corporation must give written notice of a General Meeting or AGM to the following people:

- (a) each Member entitled to vote at the meeting;
- (b) each Director;
- (c) the Secretary; and
- (d) the Auditor.

#### **8.4.3 Contents of notice of General Meeting or AGM**

- (a) A notice of a General Meeting or AGM 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.
- (b) The information included in a notice of a General Meeting or AGM must be worded and presented clearly and concisely.

## 8.5 Failure to give notice

A General Meeting or AGM will not be invalid just because the notice of the meeting was accidentally not sent to a person or a person has not received the notice.

## 8.6 Members' Resolutions

### 8.6.1 Notice of Members' resolutions

- (a) Members can propose a resolution for a General Meeting or AGM if a minimum number of Members specified under this rule give notice of it to the Corporation.

<b>Number of Members in Corporation</b>	<b>Number of Members required</b>
2 to 10 Members	= 1 Member
11-20 Members	= 3 Members
21-50 Members	= 5 Members
51 Members or more	= 10 per cent of Members

- (b) The notice must set out the resolution in writing and must be signed by the Members proposing it (signed either on one document or on separate identical copies).
- (c) The Corporation must give notice of the resolution to all people entitled to it.
- (d) The Corporation must consider the resolution at the next General Meeting or AGM held more than 28 days after the Notice has been sent out.

### 8.6.2 Consideration of Members' resolutions

- (a) If the Corporation has been given notice of a Member's resolution it must be considered at the next General Meeting or AGM that occurs more than 28 days after the notice is given.
- (b) The Corporation must give all its Members, the trustee of the BMS and the Auditor (if any) 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 or AGM.
- (c) The Corporation does not have to give notice of a resolution or consider the resolution at a General Meeting or AGM if the Directors consider the resolution is defamatory.

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### **8.6.3 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 AGM; or
  - (ii) any other matter that may be considered at that General Meeting or AGM.
- (b) This request to give the Members a statement must be:
  - (i) made by at least the specified number of Members provided in rule 8.6.1(a);
  - (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 or AGM.
- (e) The Corporation does not have to comply with a request to distribute a statement if it is defamatory.

## **8.7 Quorum for General Meeting or AGM**

### **8.7.1 Quorum**

- (a) The quorum for a meeting of the Corporation Members is 20 people that are able to vote at that meeting.
- (b) The quorum must be present at all times during the meeting.

### **8.7.2 Adjourned meeting where no quorum**

- (a) A meeting of the Corporation Members that does not have a quorum present within 2 hours after the time for the meeting set out in the notice is adjourned to the same time on the next day, and to the same place, unless the Chairperson specifies a different time or place no later than 30 days after the date of the original meeting.
- (b) If Chairperson specifies a date more than 7 days after the date of the original meeting, then new notices must be sent out.
- (c) If no quorum is present at the resumed meeting within 3 hour after the time for the resumed meeting, the meeting is dissolved.

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## **8.8 Chairing a General Meeting and AGM**

- (a) The Directors may elect an individual to chair a General Meeting or AGM.
- (b) The Members at a General Meeting or AGM must elect a Member to chair the meeting (or part of it) if:
  - (i) the Directors have not already elected a Chairperson; or
  - (ii) a previously elected Chairperson is not available or does not want to chair the meeting.
- (c) The ruling of the Chairperson on all matters relating to the order of business, procedure and conduct of the meeting is final.
- (d) The Chairperson may expel any Member or Director from the meeting if the Chairperson reasonably believes that the conduct of the Member or Director is inappropriate.
- (e) The Chairperson must adjourn a General Meeting or AGM if the majority of Members present agree or direct that the Chairperson do so.

## **8.9 Auditor's right to be heard at General Meeting or AGM**

- (a) The Auditor (if any) is entitled to attend any General Meeting or AGM of the Corporation.
- (b) The Auditor is entitled to be heard at a General Meeting or AGM on any part of the business of that meeting that concerns the Auditor in their 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 or AGM.

## **8.10 Voting at General Meetings and AGMs**

### **8.10.1 Consensus before vote**

Where possible, the decisions or resolutions of the Members at a General Meeting or AGM will be by Consensus and failing that will be put to a vote in accordance with this rule.

### **8.10.2 Voting**

- (a) At a General Meeting or AGM, each Member has one vote, whether by a show of hands or a Poll.
- (b) The Chairperson has the deciding vote in the event of a deadlock.



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- (c) A resolution can be decided by majority on a show of hands, unless a Poll is demanded.
  - (d) The Chairperson declares the results of the vote, on a show of hands, or when a Poll is demanded.

### **8.10.3 Voting by Poll**

- (a) At a General Meeting or AGM, a Poll may be demanded by:
  - (i) at least 5 Members entitled to vote on the resolution; or
  - (ii) Members with at least 5% of the votes that may be cast on the resolution on a Poll; or
  - (iii) the Chairperson.
- (b) The Poll may be demanded:
  - (i) before a vote is taken; or
  - (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.
- (c) A demand for a Poll may be withdrawn.

### **8.11 Proxies**

A Member is not entitled to appoint a proxy to attend and vote for them at the meeting.

### **8.12 Questions at AGMs**

#### **8.12.1 Questions and comments by Members on Corporation management at AGM**

The Chairperson of an AGM must give Members a reasonable opportunity to ask questions about or make comments on the management of the Corporation.

### **8.13 Disruptions to General Meetings or AGMs**

- (a) If the Chairperson or Directors in their opinion consider that a person in attendance at a General Meeting or AGM is disrupting the meeting, the Chairperson, or one of the Directors if no Chairperson has been elected, may give verbal notice to that person that he or she is disrupting the meeting.
- (b) If the person continues to disrupt the General Meeting or AGM, the Chairperson, or a Director if no Chairperson has been elected, may give a second verbal notice to that person that he or she is disrupting the meeting.
- (c) If after 2 verbal notices, the person continues to disrupt the meeting, the Chairperson, or a Director if no Chairperson has been elected, can direct that person to be removed from the meeting.

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- (d) If a person is removed in accordance with rule 8.13 more than once at any one or more General Meetings or AGMs, then that person's membership may be cancelled in accordance with rule 6.6.3.

#### **8.14 Observers**

The Corporation shall not permit any observers at its meetings, including General Meetings or AGMs.

### **9. DIRECTORS OF THE CORPORATION**

#### **9.1 Number of Directors**

- (a) Subject to rule 9.2, the Corporation must have:
  - (i) at least 3 Directors;
  - (ii) not more than 7 Member Directors; and
  - (iii) not more than 2 Independent Directors.

#### **9.2 Eligibility to be a Director**

##### **9.2.1 Eligibility for appointment as a Director**

- (a) An individual who is disqualified from managing Aboriginal and 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.
- (b) A person is only eligible for appointment as a Director if he or she signs any document and agreement and provides any information reasonably requested by the board of Directors (including any previous criminal convictions in Australia).
- (c) A person is not eligible for appointment as a Director if that person has:
  - (i) been removed as a Director of the Corporation under rule 9.8 or section 249 of the CATSI Act within the previous 2 years; or
  - (ii) been disqualified from managing an Aboriginal and Torres Strait Islander corporation under Part 6-5 of the CATSI Act; or
  - (iii) been convicted in a serious criminal proceeding or named a subject of a pending serious criminal proceeding; or
  - (iv) been found in a civil proceeding to have violated any federal or state securities, commodities, or corporation law.

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### **9.2.2 Eligibility for appointment as a Member Director**

A person is only eligible for appointment as a Member Director if:

- (a) he or she satisfies all of the following requirements:
  - (i) is at least 18 years of age;
  - (ii) has been a Member for 3 years or more;
  - (iii) is eligible under rule 9.2.1; and
- (b) the appointment of the person will not result in:
  - (i) more than 2 Member Directors who are family members of one another (which in relation to an individual means a child, parent or sibling of the person, adopted or biological, or a spouse or de-facto partner of the person) being appointed as Directors at any given time; and
  - (ii) more than 2 Member Directors who are descendants of the same Nyiyaparli Apical Ancestor being appointed as Directors at any given time.

### **9.2.3 Eligibility for appointment as an Independent Director**

An individual is only eligible for appointment as an Independent Director if he or she satisfies all of the following requirements:

- (a) is at least 18 years of age;
- (b) is an Australian resident;
- (c) is Independent;
- (d) has completed a Director's course approved by the Australian Institute of Company Directors, or similar Director's training course (or does so within the first year of his or her term as a Director of the Corporation); and
- (e) is eligible under rule 9.2.1.

### **9.2.4 Majority of Directors Requirement**

- (a) A majority of the Directors of the Corporation must:
  - (i) be Aboriginal or Torres Strait Islander persons;
  - (ii) be Members;
  - (iii) ordinarily reside in Australia; and
  - (iv) not be employees of the Corporation.
- (b) 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 9.2.4(a).

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### **9.3 Consent to act as a Director and Code of Conduct**

- (a) Before a person may be appointed as a Director, that person must give the Corporation a signed:
  - (i) consent to act as a Director of the Corporation; and
  - (ii) declaration to comply with the Corporation's Code of Conduct.
- (b) The Corporation must keep the consent and declaration.

### **9.4 Appointment of Directors**

#### **9.4.1 Appointment of Member Directors**

- (a) The board of Directors must provide Members with 30 days to respond to a call for nominations for Member Directors.
- (b) Nomination for election as a Member Director must be made in writing, in such manner as prescribed by the board of Directors from time to time and must address how the nominee satisfies the eligibility requirements set out in rule 9.2.
- (c) Members may nominate other Members, or themselves, for election.

#### **9.4.2 Eligibility of Candidate**

- (a) The Corporation will assess the nominated persons for eligibility under rules 9.2.1 and 9.2.2.
- (b) All nominees confirmed eligible for appointment will be put forward for voting.

#### **9.4.3 Appointment of Member Directors by Members**

- (a) The Members may appoint a person as a Member Director by:
  - (i) a resolution passed at a General Meeting or AGM; or
  - (ii) a postal or electronic vote conducted in accordance with rule 9.4.4 where the Directors have resolved to conduct the election by postal or electronic vote.
- (b) Where there are a greater number of nominees than vacancies, a result for the appointment will be declared based on the person who received the most votes cast by Members in favour of their appointment, subject to rule 9.2.2(b).

#### **9.4.4 Procedure for postal or electronic election of Member Directors**

Where the Directors resolve to conduct a postal or electronic election for the appointment of Members Directors, the board of Directors will appoint an independent and suitably qualified organisation to conduct the election at a reasonable cost in accordance with the requirements of the Rule Book.

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#### **9.4.5 Directors may appoint Member Directors**

- (a) As long as the maximum number of Member Directors is not exceeded, the Directors of the Corporation may appoint a person who meets the eligibility criteria in rule 9.2 as a Member Director.
- (b) The person must provide the documents required by rule 9.3 and a statement addressing how the person meets the eligibility requirements set out in rule 9.2 prior to appointment.
- (c) If a person is appointed under rule 9.4.2(a), the Corporation must confirm the appointment by resolution at the Corporation's next General Meeting or AGM. If the appointment is not confirmed, the person ceases to be a Member Director at the end of the General Meeting or AGM.

#### **9.4.6 Appointment of Independent Directors**

The Member Directors are to appoint the Independent Directors (if any) by resolution. Before an appointment is made, the Member Directors must conduct a proper merit selection process to select an Independent Director, including, but not limited to, seeking independent advice on the selection process from an appropriately qualified and experienced party.

### **9.5 Term of appointment**

- (a) Subject to the Rule Book, each Director may hold office until the earlier of:
  - (i) the expiry of a period of 3 years;
  - (ii) the expiry of such earlier term of appointment determined by the Directors in the resolution appointing that Director in order to give effect to the rotational system implemented in accordance with rule 9.5(c); and
  - (iii) the date on which the Director retires or is removed or the office becomes vacant by virtue of such other rule of the Rule Book.
- (b) Subject to rules 9.5(c) and 9.5(e), a Director must not be appointed for more than 3 years.
- (c) The Directors must implement a rotational system for the appointment of Directors to ensure that not all of the Directors are being appointed at the same time.
- (d) Subject to rule 9.2, a Director is eligible for reappointment.
- (e) If the terms of appointment of all 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.

#### **9.5A Alternate Directors**

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

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- (b) If the appointing director requests the Corporation to give the alternate notice of directors' meetings, the corporation must do so.
  - (c) When an alternate exercises the director's powers, the exercise of the powers is just as effective as if the powers were exercised by the director.
  - (d) The appointing director may terminate the alternate's appointment at any time.
  - (e) An appointment or its termination must be in writing. A copy must be given to the Corporation.

## **9.6 How a person ceases to be a Director**

A person ceases to be a Director if:

- (a) the person dies;
- (b) the person resigns as a Director using the procedure outlined in the Rule Book;
- (c) the term of the person's appointment as a Director expires;
- (d) the person is removed as a Director by the Members using the procedure outlined in the Rule Book;
- (e) the person is removed as a Director by the other Directors using the procedure outlined in the Rule Book, or
- (f) the person becomes disqualified from managing Aboriginal and Torres Strait Islander Corporations under Part 6-5 of the CATSI Act.

## **9.7 Resignation of a Director**

A Director may resign as a Director by giving notice of resignation in writing to the Corporation.

## **9.8 Process for removing a Director**

### **9.8.1 Removal by Members**

- (a) The Corporation may, by resolution in a General Meeting, remove a Director from office despite anything in:
  - (i) the Rule Book;
  - (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 General Meeting is to be held. However, if the Corporation calls a General Meeting after the notice of intention is given, the General Meeting may pass the resolution even though the General Meeting is held less than 21 days after the notice is given.

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- (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 the Members by:
    - (i) giving the Corporation a written statement for circulation to Members using the procedure outlined in the Rule Book; or
    - (ii) speaking to the motion at the meeting.
  - (e) The Corporation is to circulate the written statement given under rule 9.8.1(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 no time to comply with rule 9.8.1(d)(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 9.8.1(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.

### **9.8.2 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) 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 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.
- (c) If the Director concerned does not object within 14 days, the Directors must remove the Director concerned.
- (d) If the Director concerned does object within 14 days:
  - (i) the Directors cannot remove the Director concerned; and

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- (ii) the Corporation, by resolution in a General Meeting or AGM, may remove the Director in accordance with the procedure outlined in the Rule Book.
  - (e) 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.
  - (f) 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.

## **9.9 Remuneration**

- (a) The Directors, may be paid such reasonable remuneration as the Members in a General Meeting decide.
- (b) Rule 9.9(a) does not prevent:
  - (i) a Director who is also an employee of the Corporation from receiving remuneration in their capacity 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 11.3 has been complied with.
- (c) The Corporation may pay the travelling and other reasonable out of pocket expenses that a Director incurs:
  - (i) in attending Directors' 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. GENERAL DUTIES OF DIRECTORS AND OFFICERS**

- (a) The Directors, Secretary, other officers and employees must comply with the duties imposed on them by the CATSI 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;
  - (iv) a duty not to improperly use position or information; and



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- (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.

## **11. FUNCTIONS, POWERS AND DUTIES OF DIRECTORS**

### **11.1 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 of the powers of the Corporation except any that the CATSI Act or the Rule Book requires the Corporation to exercise in a General Meeting or AGM.

### **11.2 Functions of Directors**

The functions of the Directors shall include, but not be limited to:

- (a) managing the Corporation for the benefit of the Nyiyaparli People and in accordance with any relevant legislation and the Rule Book; and
- (b) supervising the administration and staffing of the Corporation which shall be managed by the CEO on a day-to-day basis.

### **11.3 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 11.3(b) says otherwise.
- (b) A Director does not need to give notice of an interest under rule 11.3(a) if:
  - (i) the interest:
    - (A) arises because the Director is a Member and is held in common with the other Members; or
    - (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 the Members and will not impose any obligation on the Corporation if it is not approved by the Members; or
  - (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; and
    - (B) if any Director had not yet been appointed when the notice was given, that Director has now received a copy of the notice; and
    - (C) the nature or extent of the interest has not materially increased above what was disclosed in the notice; or

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- (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 this rule must:
    - (i) give details of:
      - (A) the nature and extent of the interest; and
      - (B) the 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 their interest in the matter.
  - (d) The details referred to in rule 11.3(c)(i) must be recorded in the minutes of the Director' meeting referred to in rule 11.3(c)(ii).
  - (e) A contravention of this rule by a Director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.
  - (f) However, a deliberate and dishonest contravention of this rule by a Director may give rise to criminal penalties.
  - (g) If a Director is uncertain whether something is a Material Personal Interest that needs to be disclosed, they may consult with ORIC for advice.

#### **11.4 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 and provisions of the Rule Book.
- (c) The exercise of a power by a delegate is as effective as if the Directors had exercised it.

#### **11.5 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:
  - (i) the Corporation or entity must:
    - (A) obtain the approval of the Members in the way set out in Division 290 of the CATSI Act, and
    - (B) give the benefit within 15 months after the approval, or
  - (ii) the giving of the benefit must fall within an exception to the requirement for Member approval set out in Division 287 of the CATSI Act.

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- (b) If:
    - (i) the giving of the benefit is required by a contract;
    - (ii) the making of the contract was approved in accordance with this rule; and
    - (iii) the 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.

## **11.6 Training of Member Directors**

### **11.6.1 Initial Training**

- (a) Member Directors must undertake training in relation to corporate governance, financial literacy and directors' duties and responsibilities.
- (b) The Corporation will pay for the costs of such training to be approved by the board of Directors.

### **11.6.2 Continuing Training**

- (a) Member Directors must undertake at least 5 days of annual development training per calendar year, to be paid for by the Corporation.
- (b) The annual training must be approved by the board of Directors in writing prior to enrolment (if required) and be provided by:
  - (i) a professional governance training provider; or
  - (ii) the board of Directors through informal training at Director committee meetings.

## **12. DIRECTORS' MEETINGS**

### **12.1 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 3 months.

### **12.2 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 giving reasonable notice individually to every other Director. Two (2) or more Directors may convene a meeting of the Directors whenever they think fit.
- (c) The date, time and place for a Directors' meeting must not unreasonably prevent a Director attending.

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- (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, or in giving notice of any changes to the item, date or place of the Directors' meeting.

### **12.3 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.

### **12.4 Chairing Directors meetings**

- (a) The Directors must elect a Director to chair each of their meetings. The Directors may determine the period for which that Director is to be the chair.
- (b) If a Director has not been elected prior to the Directors meeting, or the elected Director is not available or does not wish to act, the Directors must elect a Director present at the meeting to chair the meeting.

### **12.5 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.

### **12.6 Resolutions at Directors meetings**

#### **12.6.1 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) In the event of a deadlock, the chair has the casting vote.

#### **12.6.2 Circulating resolutions of Directors**

- (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 this rule may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- (c) A resolution under this rule is passed when the last Director signs.

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## **13. SECRETARY**

### **13.1 Requirements for Secretary**

#### **13.1.1 Who may be a Secretary**

- (a) Only an individual who is at least 18 years of age may be appointed as a Secretary of the Corporation.
- (b) A person who is disqualified from managing an Aboriginal and Torres Strait Islander Corporation under Part 6-5 of the CATSI Act may only be appointed as a Secretary if the appointment is made with:
  - (i) the Registrar's permission; or
  - (ii) the leave of the court under the CATSI Act.

#### **13.1.2 Consent to act as Secretary**

- (a) The Corporation must receive a signed consent from a person to act as Secretary of the Corporation, before that person is appointed.
- (b) The Corporation must keep each consent received under this rule.

### **13.2 How a Secretary is appointed after Registration**

The Directors appoint a Secretary.

### **13.3 Terms and conditions of office**

A Secretary holds office on the terms and conditions (including remuneration) that the Directors determine.

## **14. EXECUTION OF DOCUMENTS AND THE COMMON SEAL**

### **14.1 Corporation may have common seal**

- (a) The Corporation may have a common seal.
- (b) If the Corporation does have 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.

### **14.2 Execution of documents**

#### **14.2.1 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.

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### **14.2.2 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; or
  - (ii) a Director and a Secretary.
- (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; or
  - (ii) a Director and a Secretary.
- (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 this rule.
- (d) This rule does not limit the ways in which the Corporation may execute a document (including a deed).

## **15. CHIEF EXECUTIVE OFFICER**

The Directors shall appoint and remove the CEO of the Corporation by resolution on such terms and conditions (including remuneration) as the Directors determine.

## **16. FINANCES AND RECORD KEEPING**

### **16.1 Minutes of meetings**

#### **16.1.1 Obligation to keep minutes**

- (a) The Corporation must keep minute Books in which it records within 1 month:
  - (i) proceedings and resolutions of General Meetings;
  - (ii) proceedings and resolutions of Directors' meetings;
  - (iii) resolutions passed by Members without a meeting; and
  - (iv) resolutions passed by Directors without a meeting.
- (b) The minutes of the meeting may be kept:
  - (i) in writing; or
  - (ii) by means of an audio, or audio-visual recording.
  - (iii) 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 each person attending the meeting states their name.

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- (c) 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.
- (d) 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 within a reasonable time after the first meeting.
- (e) The declaration under this rule must:
- (i) identify the audio, or audio-visual recording;
  - (ii) if the recording is not a recording of the whole of 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.
- (f) 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.
- (g) The Corporation must keep its minute Books at its Registered Office.
- (h) Minutes that are recorded and signed in accordance with this rule are evidence of the proceeding, resolution or declaration to which they relate, unless the contrary is proved.

## **16.2 Rule Book and records about officers etc**

The Corporation must keep:

- (a) an up-to-date copy of the Rule Book (incorporating any valid amendments to the Rule Book over time); and
- (b) written records relating to:
  - (i) the names and addresses of the Corporation's current officers and Secretary; and
  - (ii) the Corporation's Registered Office (if any); or
  - (iii) the Corporation's document access address (if any).

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## **16.3 Financial records**

### **16.3.1 Obligation to keep financial records**

- (a) The Corporation must keep written financial records that:
  - (i) correctly record and explain its transactions and financial position and performance; and
  - (ii) would enable true and fair financial reports to be prepared and audited.
- (b) The obligation in rule 16.3.1(a) extends to transactions undertaken as trustee.

### **16.3.2 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.

## **16.4 Physical format**

If the records that the Corporation is required to keep under this rule 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.

## **16.5 Place where records are kept**

The records that the Corporation is required to keep must be kept at the Corporation's Registered Office.

## **16.6 Right of access to Corporation books by Director or past Director**

- (a) A Director (or a person who has acted as a Director within the last 7 years) may inspect the Books of the 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 authorised to inspect Books under this rule for the purposes of a legal proceeding may make copies of the Books for the purposes of those proceedings.
- (c) This rule does not limit any right of access to the Books of the Corporation that a person has apart from this rule.



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## **16.7 Access to financial records by Directors**

- (a) A Director has a right of access to the records that the Corporation is required to keep.
- (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 subject to any other orders the court considers appropriate.
- (c) A person authorised to inspect records under this rule may make copies of the records unless the court orders otherwise.

## **16.8 Members' access to minutes**

- (a) 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) The Corporation must make its books available for inspection free of charge.
- (c) 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.
- (d) If the Corporation does not require the Member to pay for the copy, the Corporation must send it:
  - (i) within 14 days after the Member asks for it; or
  - (ii) within any longer period that the Registrar approves.
- (e) If the Corporation requires payment for the copy, the Corporation must send it:
  - (i) within 14 days after the Corporation receives the payment; or
  - (ii) within any longer period that the Registrar approves.
- (f) The amount of any payment the Corporation requires cannot exceed 50 cents per page.

## **16.9 Access to governance material**

### **16.9.1 Corporation to provide Member with rules, if requested**

If a Member asks for a copy of the Rule Book, the Corporation must provide it within 7 days and free of charge.

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### 16.9.2 Registered Office

The Corporation must make the Rule Book available for inspection by Members and officers at its Registered Office. 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.

### 16.9.3 General provisions regarding access to rules

The Rule Book includes:

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

## 17. AUDIT

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

## 18. DISPUTE RESOLUTION PROCESS

### 18.1 Dispute

The Dispute Resolution Procedure in this rule applies to disputes in relation to the operation of the Corporation and between any of the Directors, Members, Proposed Members, Common Law Holders, persons who claim to be a Common Law Holder or any one or more of them, but does not apply to a dispute between individual Nyiyaparli People (“**Dispute**”).

### 18.2 Corporation Operations to Continue

Despite the existence of a Dispute, the Corporation must continue to operate and any person with powers and functions under the Rule Book must, to the extent possible, continue to fulfil those obligations.

### 18.3 Informal Dispute resolution

If a Dispute arises, the parties to the Dispute must try to resolve it themselves on an informal basis, in good faith, having regard to the spirit and intent of the Corporation.

### 18.4 Formal Dispute resolution

- (a) If the Dispute cannot be resolved informally, any party to the Dispute may give the Directors written notice identifying the particulars of the Dispute Notice (“**Dispute Notice**”).
- (b) If the Directors are unable to resolve the Dispute to the mutual satisfaction of the parties within 30 days after the Dispute Notice is given, or if the Dispute relates to a refusal by the Directors to accept a membership application, then either party to the Dispute may refer the matter to the Karlka Advisory Group (if any).

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- (c) If the Dispute is not resolved within 30 days of the matter being referred to the Karlka Advisory Group or otherwise not resolved within 90 days after the Dispute Notice was served, then at the request of either party the matter must be referred to a General Meeting for the Members to resolve.

## **18.5 Legal Proceedings**

No party is entitled to commence or maintain legal proceedings relating to any Dispute until the processes outlined in the Rule Book have been followed, except where that party seeks urgent interlocutory or other urgent relief.

## **19. CONFIDENTIAL INFORMATION**

Except as otherwise required by the Rule Book, the Corporation and its Members shall keep confidential any information which may come into their possession in the course of the exercise of the powers of the Corporation that is confidential according to the law and custom of the Nyiyaparli People.

## **20. WINDING UP**

- (a) The winding up of the Corporation shall be in accordance with the CATSI Act.
- (b) If upon the winding up of the Corporation there remains, after satisfaction of all debts and liabilities, any property or monies, that property or monies shall not be paid to or distributed amongst the Members of the Corporation.
- (c) Subject to rule 20(b) and any direction provided by the Members by Special Resolution, any surplus property or monies shall be transferred or paid to another corporation, company, authority or institution which:
  - (i) is incorporated in Australia;
  - (ii) has similar objectives to the Corporation;
  - (iii) is not carried on for profit or gain of individual members and whose objects prohibit distributions or payments of its income and property among its members to an extent at least as great as is imposed on the Corporation under this Rule Book; and
  - (iv) is approved by the Commissioner of Taxation as a public benevolent institution to which tax deductible gifts may be made under the Income Tax Assessment Act 1997 as amended from time to time under any legislative provision enacted in substitution for those provisions.

## **21. AMENDMENT OF THE RULE BOOK**

### **21.1 Corporation wants to change the Rule Book**

For the Corporation to change the Rule Book, the following steps must be complied with:

- (a) the Corporation must consult with the Karlka Advisory Group regarding the proposed change;

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- (b) the Members must pass a Special Resolution at a General Meeting effecting the change;
  - (c) if, under the Rule Book, there are further steps that must also be complied with to make a change, those steps must be complied with;
  - (d) the Corporation must lodge certain documents with ORIC under rule 21.2; and
  - (e) the Registrar must make certain decisions in respect of the change and, if appropriate, must register the change.

### **21.2 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 2 Directors to the effect that the Special Resolution was passed in accordance with the CATSI Act and the Rule Book; and
  - (iv) a copy of the Rule Book change.
- (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 above; 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 Rule Book as it would be if the Registrar registered the change, it must do so.

### **21.3 Date of effect of change**

A change to the Rule Book under this rule takes effect on the day the change is registered.

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## **22. KARLKA ADVISORY GROUP**

### **22.1 Functions of the Karlka Advisory Group**

The functions of the Karlka Advisory Group shall include (but not be limited to) making recommendations and providing guidance to the Directors and to assist the Directors with decision-making, on the following matters:

- (a) law and custom;
- (b) native title;
- (c) land and waters;
- (d) protection of sites and heritage;
- (e) environmental matters;
- (f) language;
- (g) identification of Nyiyaparli People; and
- (h) changes to the Rule Book.

### **22.2 Terms of reference**

The board of Directors may develop terms of reference for the Karlka Advisory Group. If terms of reference are developed, they may be reviewed by the board of Directors annually.

### **22.3 Referral of general matters**

The board of Directors may, at its discretion, refer any matters relevant to the functions of the Karlka Advisory Group as set out in rule 22.1 above, to the group for consideration and recommendation.

### **22.4 Referral of Membership applications**

- (a) Referral of consideration of applications for membership of the Corporation or appeals against refusal to accept applications for memberships of the Corporation may occur under rule 6.1.3(d) or 6.1.4(d).
- (b) In making a recommendation to the Board regarding a membership application or an appeal against refusal of a membership application, the Karlka Advisory Group shall have regard to, but not be limited to, the following matters:
  - (i) the place of birth of the Applicant, their parents and grandparents;
  - (ii) the Applicant's parents' or grandparents' traditional associations with the Determination Area;
  - (iii) in the case of adoption (culturally raised) or incorporation, the incorporation must have occurred:
    - (A) when the person was a minor (under 12 years of age); and
    - (B) in accordance with traditional law and custom,
  - (iv) whether or not that person can speak and/or understand Nyiyaparli language;
  - (v) the length and nature of any physical association with, and knowledge of, the Determination Area by the Applicant; and

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- (vi) whether or not that person is identified as responsible for sites and places on the Determination Area by other Nyiyaparli persons;
  - (vii) knowledge of Nyiyaparli cultural geography- where sites are, their significance, and any access protocols;
  - (viii) skin group, kin classification and section system knowledge and participation; and
  - (ix) attendance at Nyiyaparli cultural events indicating physical association and/or cultural knowledge (such as attendance at funerals, community meetings, ceremonies etc.).
- (c) The Karlka Advisory Group may recommend to the board of directors that an application is:
- (i) accepted;
  - (ii) refused; or
  - (iii) referred to a meeting of the Common Law Holders for further consideration.

## 22.5

### Composition

- (a) The Karlka Advisory Group shall comprise of up to 10 senior Nyiyaparli People who are *middai* and hold strong knowledge and decision-making authority on matters of law and custom, and the Nyiyaparli Cultural Elders.
- (b) The initial members of the Karlka Advisory Group will be nominated by the Common Law Holders and appointed by the board of directors.
- (c) Nyiyaparli Cultural Elders are entitled to receive notice of and attend all Karlka Advisory Group meetings, and when they elect to attend the Karlka Advisory Group members must have due regard to their recommendation.
- (d) If any member of the Karlka Advisory Group is removed in accordance with rule 22.6 below, the board of Directors must appoint a replacement member nominated by the Common Law Holders at the next Common Law Holders meeting.

## 22.6

### Removal from Karlka Advisory Group

A person ceases to be a member of the Karlka Advisory Group if:

- (a) the person dies;
- (b) the person resigns by notice in writing to the board of Directors;
- (c) the person is removed by resolution of Karlka Advisory Group on the grounds that the person has failed to attend 3 consecutive meetings of the Karlka Advisory Group.

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**22.7****Meetings**

- (a) The Karlka Advisory Group shall meet when it is requested to do so by the board of Directors to consider a referral.
- (b) Meetings shall be called by the Corporation giving reasonable notice to each member of the Karlka Advisory Group, stating:
  - (i) the date, time and place of the meeting; and
  - (ii) the matters referred for consideration and recommendation.
- (c) The quorum for a meeting of the Karlka Advisory Group is a majority of the members, not including the Nyiyaparli Cultural Elders who shall only attend meetings at their discretion. The quorum must be present at all times during the meeting.
- (d) A recommendation of the Karlka Advisory Group must be decided by consensus, but where a consensus decision cannot be reached a recommendation may be decided by a majority of votes cast.
- (e) The Karlka Advisory Group must communicate its recommendations to the board of Directors in writing.
- (f) The Corporation must provide administrative support to the Karlka Advisory Group for meetings and reporting outcomes following meetings.

**22.8****Remuneration and Costs**

- (a) The Karlka Advisory Group members may be paid such reasonable remuneration for attendance at meetings as the board of Directors resolves.
- (b) The Corporation will pay for all reasonable expenses associated with holding meetings of the Karlka Advisory Group.

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## SCHEDULE 1 INTERPRETATION AND DEFINITIONS

### Interpretation

- (a) In the Rule Book:
- (i) words in the singular include the plural and vice versa;
  - (ii) any gender includes the other genders;
  - (iii) the words 'including', 'include' and 'includes' are to be read without limitation;
  - (iv) a reference to:
    - (A) 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;
    - (B) writing includes any mode or representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
    - (C) a rule or schedule is a reference to a rule or schedule, as the case may be, of this document;
  - (iv) headings and notes are used for convenience only and are not intended to affect the interpretation of the Rule Book;
  - (v) a word or expression defined in the CATSI Act and used, but not defined, in these rules has the same meaning given to it in the CATSI Act when used in the Rule Book;
  - (vi) if a word or phrase is defined its other grammatical forms have corresponding meanings; and
  - (vii) where time is to be calculated by reference to a day or event, that day or the day of the event is excluded.
  - (viii) The replaceable rules set out in the CATSI Act apply to the Corporation only to the extent that they are not inconsistent with the Rule Book and the *Native Title Act*.



## Definitions

<b>AGM</b>	means an annual general meeting of the Members under the provisions of the Rule Book.
<b>Applicant</b>	means a person applying to be a Member.
<b>Approved Determination of Native Title</b>	has the meaning given to that phrase in the Native Title Act.
<b>Approved Process</b>	means a traditional decision making process, or if there is no such process, then an agreed and adopted decision making process by which the Nyiyaparli People make a Native Title Decision.
<b>Auditor</b>	means the person, company or firm that is appointed as the auditor of the Corporation from time to time.
<b>Books</b>	Include a register, any record of information, financial reports or records, or documents of a Corporation however compiled, recorded or stored.
<b>BMS</b>	means both of: <ul style="list-style-type: none"> <li>(a) the Nyiyaparli Charitable Trust established by a deed between Simon Hawkins as settlor and Myer Family Company Ltd as trustee dated 24 May 2012; and</li> <li>(b) the Nyiyaparli Direct Benefits Trust established by a deed between Simon Hawkins as settlor and Myer Family Company Ltd as trustee dated 24 May 2012.</li> </ul>
<b>CATSI Act</b>	means the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cth) as amended from time to time and any regulations made under it.
<b>Chairperson</b>	means a person elected as Chairperson of a General Meeting, AGM or Directors meeting in accordance with the provisions of the Rule Book.
<b>Circulating Resolution</b>	means a resolution of the Directors passed in accordance with rule 12.6.2.
<b>Common Law Holders</b>	has the meaning given to that phrase in the <i>Native Title Act</i> .
<b>Consensus</b>	means the general agreement among those present at a meeting held under this Rule Book as to a particular matter whereby differing points of view, if any, have been considered and reconciled and any decision is generally agreed upon in accordance with Nyiyaparli law and custom, as determined by the Chairperson of the meeting. For the avoidance of doubt, a decision made by Consensus in accordance with law and custom, does not necessarily require that the decision be agreed unanimously.
<b>Corporation</b>	means Karlka Nyiyaparli Aboriginal Corporation RNTBC to which this Rule Book applies as registered with ORIC.

<b>Determination Area</b>	has the meaning given to that phrase in the Nyiyaparli Determination.
<b>Director</b>	means a person appointed to perform the duties of a director of the Corporation, and includes both an Independent Director and a Member Director.
<b>Directors</b>	means the Corporation's board of Directors.
<b>Dispute</b>	has the meaning given to it under the Dispute Resolution Process outlined in the Rule Book.
<b>Dispute Notice</b>	has the meaning given to it under the Dispute Resolution Process outlined in the Rule Book.
<b>Dispute Resolution Process</b>	means the procedure outlined in the Rule Book for resolving a Dispute.
<b>Financial Year</b>	means the 12 month period ending on 30 June each year.
<b>General Meeting</b>	means a meeting of the Members under the provisions of the Rule Book.
<b>Independent</b>	<p>means that the person, and any person who is a relative of that first person, so far as the first person is, or ought to be, reasonably aware:</p> <ul style="list-style-type: none"> <li>(a) is not and has not been a member of the Nyiyaparli People;</li> <li>(b) is not and has not been a relative or spouse of a member of the Nyiyaparli People;</li> <li>(c) does not have a membership interest (in accordance with section 960-135 of the <i>Income Tax Assessment Act 1997</i> (Cth)) in a related entity;</li> <li>(d) is not and has not within a period of 3 years prior to their appointment as a Director been: <ul style="list-style-type: none"> <li>i. an employee of, officer of, consultant to, advisor to, auditor of or other service provider to the Nyiyaparli People or a related entity;</li> <li>ii. an employee or officer of a related entity, a partner in a partnership, or a direct or indirect associate of a related entity or partnership, which is, or has been within that 3 year time period, consultant to, advisor to, auditor of or other service provider to the Nyiyaparli People or a related entity;</li> </ul> </li> <li>(e) has no material contractual relationship with a related entity or the Nyiyaparli People, other than as a Director;</li> <li>(f) has not served as a Director for a period which could, or could be perceived to, materially interfere with the person's ability to impartially and objectively discharge their duties as a Director; and</li> <li>(g) has no material interest in, business affiliation with or other relationship with any Member or related entity which would hinder the person in the impartial and objective discharge of their duties.</li> </ul>

<b>Independent Director</b>	means a person appointed to perform the duties of a Director of the Corporation who is Independent.
<b>Material Personal Interest</b>	means any direct or indirect benefit that a Director may receive that has the capacity, or would reasonably be perceived to have the capacity, to materially influence that Director when casting their vote at Directors meetings, General Meetings or AGMs; subject to the exclusions detailed in the Rule Book.
<b>Member</b>	means a person whose name appears on the Register of Members.
<b>Member Director</b>	means a person appointed to perform the duties of a Director of the Corporation who is not an Independent Director.
<b>Native Title</b>	has the meaning given to that phrase in the <i>Native Title Act</i> .
<b>Native Title Act</b>	means the <i>Native Title Act 1993</i> (Cth).
<b>Native Title Decision</b>	has the same meaning given to that phrase in the PBC Regulations.
<b>Native Title Rights and Interests</b>	has the same meaning given to that phrase in the <i>Native Title Act</i> .
<b>Nyiyaparli Apical Ancestors</b>	means the following persons: (i) Mintaramunya; (ii) Pitjirrpangu; (iii) Yirkanpangu (Jesse); (iv) Kitjiempa (Molly); (v) Mapa (Rosie); (vi) Iringkulayi (Billy Martin Moses); (vii) Parnkahanha (Toby Cadigan); (viii) Wiripangunha (Rabbity-Bung); (ix) Wuruwurunha (Tommy Malana); (x) Ijiyangu (Daisy); (xi) Sibling set of Ivy, Solomon and Mildred; and (xii) Sibling set of Maynha and Itika.
<b>Nyiyaparli Cultural Elders</b>	means the persons who hold traditional authority and knowledge regarding Nyiyaparli law and custom and are recognised as Nyiyaparli Cultural Elders by the Nyiyaparli People.
<b>Nyiyaparli Determination</b>	means the determination of native title made by consent in <i>Stock on behalf of the Nyiyaparli People v State of Western Australia (No 5) [2018] FCA 1453</i> as varied by the determination by consent in <i>Karlka Nyiyaparli Aboriginal Corporation RNTBC v State of Western Australia [2021] FCA 9</i> .
<b>Nyiyaparli People</b>	means the Common Law Holders of Native Title as described in the Nyiyaparli Determination and the term “ <b>Nyiyaparli Person</b> ” shall have the corresponding meaning.

<b>Niyaparli Registrar</b>	means the entity nominated by the Niyaparli People according to the Approved Process to establish, maintain and update the Register of Niyaparli People in accordance with rule 5 of the Rule Book.
<b>Objects</b>	means the Objects of the Corporation as set out in the Rule Book.
<b>ORIC</b>	means the Office of the Registrar of Indigenous Corporations.
<b>Ordinary Resolution</b>	means a resolution that must be passed by a majority of the votes cast by the Members entitled to vote on the resolution.
<b>Poll</b>	has the meaning given in rule 8.10.3 of the Rule Book.
<b>Prescribed Body Corporate</b>	has the same meaning given to that phrase in the PBC Regulations.
<b>Proposed Member</b>	means a person who has made an application, in writing, to be a Member of the Corporation.
<b>PBC Regulations</b>	means the <i>Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth)</i> .
<b>Region</b>	means the geographical area falling within the Shire of Ashburton, the Shire of East Pilbara (including the Jigalong reserve, Nullagine and Marble Bar) and the Town of Port Hedland.
<b>Register of Former Members</b>	means the Register of Former Members kept in accordance with the provisions of the Rule Book.
<b>Niyaparli People</b>	means the Common Law Holders of Native Title as described in the Niyaparli Determination and the term “ <b>Niyaparli Person</b> ” shall have the corresponding meaning.
<b>Niyaparli Registrar</b>	means the entity nominated by the Niyaparli People according to the Approved Process to establish, maintain and update the Register of Niyaparli People in accordance with rule 5 of the Rule Book.
<b>Objects</b>	means the Objects of the Corporation as set out in the Rule Book.
<b>ORIC</b>	means the Office of the Registrar of Indigenous Corporations.
<b>Ordinary Resolution</b>	means a resolution that must be passed by a majority of the votes cast by the Members entitled to vote on the resolution.
<b>Poll</b>	has the meaning given in rule 8.10.3 of the Rule Book.
<b>Prescribed Body Corporate</b>	has the same meaning given to that phrase in the PBC Regulations.
<b>Proposed Member</b>	means a person who has made an application, in writing, to be a Member of the Corporation.

<b>PBC Regulations</b>	means the <i>Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth)</i> .
<b>Region</b>	means the geographical area falling within the Shire of Ashburton, the Shire of East Pilbara (including the Jigalong reserve, Nullagine and Marble Bar) and the Town of Port Hedland.
<b>Register of Former Members</b>	means the Register of Former Members kept in accordance with the provisions of the Rule Book.
<b>Proposed Member</b>	means a person who has made an application, in writing, to be a Member of the Corporation.
<b>PBC Regulations</b>	means the <i>Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth)</i> .
<b>Region</b>	means the geographical area falling within the Shire of Ashburton, the Shire of East Pilbara (including the Jigalong reserve, Nullagine and Marble Bar) and the Town of Port Hedland.
<b>Register of Former Members</b>	means the Register of Former Members kept in accordance with the provisions of the Rule Book.
<b>Register of Members</b>	means the register of members kept in accordance with the provisions of the Rule Book. For the avoidance of doubt the Register of Members is not the same as the Register of Nyiyaparli People.
<b>Register of Nyiyaparli People</b>	means the register to be maintained in accordance with rule 5.
<b>Registered Office</b>	has the meaning given to that phrase in the CATSI Act.
<b>Registrar</b>	means the Registrar of ORIC from time to time.
<b>Representative Body</b>	means the representative Aboriginal and Torres Strait Islander body that is recognised under section 203AD of the Native Title Act for the Pilbara region of Western Australia.
<b>Rule Book</b>	means this Rule Book and any amendments or substitutionsthereto.
<b>Secretary</b>	means a person elected or appointed from time to time to the roleof secretary under the provisions of the Rule Book.
<b>Special Resolution</b>	means a resolution that must be passed by at least 75 per cent of the votes cast by the Members entitled to vote on the resolution.

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## SCHEDULE 2 – PBC AND RNTBC RULES

### S2.1 Further functions of Corporation

S2.1.1 Subject to the provisions of the *Native Title Act*, the PBC Regulations and this Rule Book, the Corporation may:

- (i) manage Native Title Rights and Interests;
- (ii) consult with the Common Law Holders on matters relating to their Native Title Rights and Interests, including in accordance with regulation 8 of the PBC Regulations before making a Native Title Decision;
- (iii) consult with a Representative Body, including in accordance with regulation 8 of the PBC Regulations;
- (iv) receive funds on behalf of the Common Law Holders (including payments received as compensation or otherwise related to the Native Title Rights and Interests) and to hold such payments in trust for the Common Law Holders;
- (v) invest or otherwise apply money held in trust for the Common Law Holders;
- (vi) hold Native Title Rights and Interests in trust as directed by the Common Law Holders;
- (vii) enter into agreements as trustee or agent for the Common Law Holders;
- (viii) carry out any other function in relation to the Native Title Rights and Interests as directed by the Common Law Holders.

### S2.2 Native Title Decision Processes

- (a) Where Native Title Decisions are allowed by the PBC Regulations to be made by way of alternative consultation processes, then such decisions will be made in the way set out in item S2.3. The processes set out in item S2.3 shall constitute an alternative consultation process for the purposes of Regulation 8A of the PBC Regulations or any other equivalent regulation. Native Title Decisions that are permitted to be dealt with under the alternative consultation processes shall be called **Alternative Consultation Process Decisions**.
- (b) For Native Title Decisions where alternative consultation processes are not permitted under the PBC Regulations, such as:
  - (i) a decision to enter into an Indigenous Land Use Agreement or an agreement under Subdivision P of Division 3 of Part 2 of the Native Title Act (**Right to Negotiate**); or
  - (ii) a decision to allow a person who is not a Common Law Holder, or a class of persons who are not Common Law Holders, to become members of the PBC; or
  - (iii) a decision to consent to one or more consultation processes in the PBC Rule Book,

then these Native Title Decisions must be made in accordance with item S2.4, unless the Nyiyaparli People have agreed and adopted different processes for making certain Native Title Decisions under item S2.5, in which case, those agreed and adopted processes shall apply.

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- (c) Item S2.5 allows the Niyaparli People, where there is no particular process of decision-making that under traditional laws and customs must be followed for the giving of consent to the proposed decision, to agree and adopt a process of decision-making for consultation and consent to some or all kinds of Native Title Decisions without needing a meeting for all the Common Law Holders.

### **S2.3 Alternative Consultation Processes**

S2.3.1 Alternative Consultation Process Decisions will be made by the Directors who may consult the Niyaparli People or others if they consider it appropriate.

### **S2.4 Default Process for Consultation and Consents to Native Title Decisions that are not Alternative Consultation Processes**

S2.4.1 Where there is a particular process that under traditional laws and customs must be followed for the Common Law Holders to give consent to Native Title Decisions that are not Alternative Consultation Process Decisions, then that process under traditional laws and customs must be followed.

S2.4.2 Where there is no particular process of decision-making that under traditional laws and customs must be followed for the Common Law Holders to give consent to the proposed Native Title Decision and no other agreed or adopted process has been made under item S2.5, then the Niyaparli People agree and adopt the process set out in item S2.4.4 and S2.4.5 below as the process to consult with, and obtain the consent of, the Niyaparli People to a Native Title Decision.

S2.4.3 The Directors shall have regard to the Register of Niyaparli People established and maintained under Rule 5 and use reasonable efforts to keep and update a record of addresses of Niyaparli People who are not Members.

S2.4.4 Notices and processes for meetings concerning Native Title Decisions shall be same as for General Meetings and shall apply as if the meeting were a General Meeting, save that:

- (i) reasonable steps shall be taken to give notice of the meeting to as many Niyaparli People for the area to be affected by the Native Title Decision who are not Members, as practicable. Such reasonable steps may include, but are not limited to, sending information to people who are entered on the Register of Niyaparli People but are not Members, or by placing notices in public places in the Region or in newspapers with circulation in the Region;
- (ii) the quorum shall be the greater of 20 Niyaparli People and 10% (or more), of the Niyaparli People on the Register of Niyaparli People;
- (iii) a decision to consent to a Native Title Decision is made by way of resolution passed by Consensus, and in the absence of Consensus, a resolution passed by a majority of the votes cast by the Niyaparli People present (Ordinary Resolution).

S2.4.5 The Directors must ensure that the members of the Niyaparli People at the meeting understand the purpose and nature of a proposed Native Title Decision and options available, including by consulting and considering the views of a Representative Body, and where it considers it to be appropriate and practicable, give notice of those views to the Niyaparli People.

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## **S2.5 Simpler agreed and adopted processes chosen for consents to various kinds of Native Title Decisions**

S2.5.1 Subject to item S2.2 and where permitted under the PBC Regulations or any other law, the Niyaparli People may decide to agree and adopt a process where consultation and consents to some or all kinds of Native Title Decisions that are not Alternative Consultation Process Decisions may be made by the Directors without further meetings, consultations and consents of the Niyaparli People.

S2.5.2 The Niyaparli People, using item S2.4 processes, may revoke any such agreed and adopted processes made under this item S2.5 from time to time and agree and adopt alternative processes under item S2.4.

## **S2.6 Evidence of Consultation and Consent**

S2.6.1 The Directors are responsible for ensuring that all Native Title Decisions are certified in accordance with Regulation 9 of the PBC Regulations or equivalent regulation.