

The Rule Book of Wirru-murra Yindjibarndi Aboriginal Corporation

ICN 7483

This model rule book complies with the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

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1. Name

The name of the corporation is: Wirilu-murra Yindjibarndi Aboriginal Corporation.

2. Objectives

The corporation aims to:

- provide direct relief from poverty, sickness, suffering, misfortune, destitution or helplessness among Aboriginal people, especially the common law holders;
- be and to perform the functions of a prescribed body corporate, for the purpose of being the subject of a native title determination under section 56 and 57 of the Native Title Act;
- be and to 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;
- protect, preserve and advance the traditions, laws, languages, culture and customs of Aboriginal people, especially the common law holders; and
- hold title to any vested land.

The corporation may:

- advance and promote the well-being of Aboriginal people, especially the common law holders;
- provide environmental, social, economic and cultural benefits to Aboriginal people, especially the common law holders;
- maintain, protect, promote and support the culture, native title traditions and customs, economic development, interests and social progress of Aboriginal people, especially the common law holders;
- support and provide education, training and employment for Aboriginal people, especially the common law holders.

In carrying out its objectives, the corporation shall ensure no portion of its funds or property are paid or applied directly or indirectly by way of dividends, bonus or otherwise however by way of profit to any member, except in accordance with rule 9.

3. Members

3.1 *Who is eligible?*

A member must be:

- at least 18 years old; and
- a Yindjibarndi person who holds in common the body of traditional law and culture governing the determination area and who identifies as Yindjibarndi.

3.2 *How to become a member*

A person applies in writing.

A person is eligible under rule 3.1. The directors accept the application.

The person's name, address and date they became a member is put on the register of members.

The directors may refuse to accept a membership application. If they do so, they must write to the applicant about the decision and the reasons for it.

3.3 *Members' rights*

A member can:

- attend, speak and vote at general meetings
- be made a director
- put forward resolutions at general meetings
- ask the directors to call a general meeting
- look at the books and records of the corporation (if the directors have authorised them to do this, or if the members have passed a resolution which lets them do this).

3.4 *Members' responsibilities*

A member must:

- follow these rules
- let the corporation know if they change their address
- treat other members with respect.

3.5 *Liability of members*

Members do not have to pay corporation debts if the corporation is wound up.

3.6 *How to stop being a member*

A person stops being a member if:

- they resign in writing
- they die
- their membership is cancelled.

The person's name, address and date they stopped being a member is put on the register of former members.

3.7 *Cancelling membership*

If a member:

- can't be contacted for two years
- misbehaves or
- is not an Aboriginal or Torres Strait Islander person

their membership can only be cancelled by special resolution at a general meeting. The directors must then send that person a copy of the special resolution at their last known address, as soon as possible after it has been passed.

If a person is not eligible for membership for some other reason, the directors can cancel their membership by passing a resolution at a directors meeting. Before the meeting, directors must give the member 14 days to object in writing. If the member objects, the directors can't cancel the membership. The member can only then be removed at a general meeting by resolution.

3.8 *The register of members and former members*

The register must contain:

- members' and former members' names and addresses
- the date when the names were put on the register
- if a member is not an Aboriginal or Torres Strait Islander person (if your rule 3.1 allows non-Aboriginal or non-Torres Strait Islander members)
- for former members, the date when they stopped being a member.

It must be kept at the corporation's document access address or registered office. It must be available at the annual general meeting (AGM).

4. Meetings

4.1 AGM timing

AGMs must be held before the end of November each year.

4.2 AGM business

AGMs are for:

- confirming the minutes of the previous general meeting
- presenting reports: general, financial, directors'
- electing directors
- choosing an auditor (if required) and agreeing on the fee
- checking the register of members
- asking questions about how the corporation is managed.

4.3 General meetings

A director can call a general meeting.

Members can ask directors to call a general meeting.

The directors must call the general meeting within 21 days.

Number of members in corporation

Number of members needed to ask for a general meeting

2 to 10 members

= 1 member

11 to 20 members

= 3 members

21 to 50 members

= 5 members

51 members or more

= 10 per cent of members

4.4 General meeting business

General meetings are for:

- confirming the minutes of the previous general meeting
- everything in the notice of the meeting.

4.5 Notice for general meetings

At least 21 days' notice must be given.

Notice must be given to members, directors, officers, the contact person and the auditor, if the corporation has one.

The notice must set out:

- the place, date and time for the meeting
- the business of the meeting
- if a special resolution is being proposed, and what it is
- if a member can appoint a proxy.

Notices can be given to members personally (or in a manner which accords with Aboriginal or Torres Strait Islander custom), sent to their address, sent by fax or sent by email.

A notice of meeting:

- sent by post is taken to be given three days after it is posted
- sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

4.6 Members' resolutions

Members can propose a resolution by giving notice of it to the corporation.

| Number of members in corporation | Number of members needed to propose a resolution |
|---|---|
| 2 to 10 members | = 1 member |
| 11 to 20 members | = 3 members |
| 21 to 50 members | = 5 members |
| 51 members or more | = 10 per cent of members |

The notice must set out the resolution in writing and must be signed by the members proposing it.

The corporation must give notice of the resolution to all people entitled to it (see rule 4.5).

The corporation must consider the resolution at the next general meeting which is being held more than 28 days after the notice has been sent out.

4.7 Quorum at general meetings

| Number of members in corporation | Number of members to make a quorum |
|---|---|
| 30 or less members | = 2 members |
| 31 to 90 members | = 5 members |
| 91 members or more | = 10 members |

The quorum must be present during the whole meeting. If there is no quorum after one hour, the meeting is adjourned until the next week at the same time. If there is still no quorum, the meeting is cancelled.

4.8 Chairing general meetings

The chairperson will chair general meetings. If they are not available, the directors can elect someone to chair the meeting. If they don't, the members must elect someone.

4.9 Using technology

General meetings can be held at more than one place using any technology that gives members a way of taking part.

4.10 Voting

Each member has one vote.

The chair has one vote (if he or she is a member) plus a casting vote.

A resolution at a general meeting should be decided by consensus (discussion and agreement). If consensus cannot be reached after a reasonable effort has been made, the resolution should be decided by majority vote.

A challenge to a right to vote at a general meeting may only be made at the meeting, and must be determined by the chair, whose decision is final.

A resolution can be decided by majority on a show of hands, unless a poll is demanded. (A poll is a formal vote, not by show of hands—for example, by writing on a voting paper or placing marbles in labelled jars.)

The chair tells the meeting whether they have received any proxy votes and what they are.

The chair declares the results of the vote, on a show of hands, or when a poll is demanded.

4.11 Demanding a poll

Any member entitled to vote on the resolution or the chair can demand a poll. A poll can be held before or after a show of hands vote.

A poll on the election of a chair or on the question of an adjournment must be taken immediately. A poll demanded on other matters must be taken when and in the manner the chair directs.

4.12 Proxies

Members can appoint a person as proxy to attend meetings and vote for them.

Proxies can also speak at meetings and join in demanding a poll. They can vote if their appointment allows them to.

A proxy appointment must contain the member's name and address, the corporation's name, the proxy's name, the meeting where the proxy is going, and it must be signed by the member.

The corporation must receive the proxy's appointment at least 48 hours before the meeting.

A person must not be a proxy for more than three members.

5. Directors

5.1 Number of directors

The minimum number of directors is 3 directors and the maximum number of directors is 8 directors, comprised of:

- no more than 6 directors who are members; and
- no more than 2 independent directors.

5.2 Eligibility of Directors

A director must be at least 18 years old.

5.3 Majority of director requirements

A majority of directors of the corporation must:

- be individuals who are Aboriginal or Torres Strait Islander people;
- usually reside in Australia;
- be members of the corporation; and
- not be employees of the corporation.

The chief executive officer may be a director but cannot chair directors' meetings.

5.4 How to become a director

The corporation can appoint a director by resolution passed at a general meeting.

A member who wishes to nominate as a director must provide notice of the nomination to the corporation no later than one week prior to the general meeting at which the nomination will be considered.

The board may appoint up to 2 non-member independent directors.

In appointing an independent director, the board may consider the candidate's expertise and skills in:

- Financial management;
- Corporate governance;
- Community development;
- Government relations;
- Law; or
- Any other relevant specialist field that will be of benefit to the Corporation's activities.

Directors must give the corporation their consent in writing to become a director.

The corporation must send the Registrar the directors' personal details within 28 days after they are appointed. The corporation can use the *Registrar's Notification of a change to corporation officers' details* form.

5.5 Directors' terms of appointment and rotation

A director who is a member will continue to be a director for a term of 2 years from the date of their appointment except as otherwise set out in this rule 5.

An independent director will be appointed for a term of 1 year.

50% of the member directors elected at the first AGM after this sub-rule 5.5 takes effect (rounded down to the nearest whole number if an odd number of member directors is elected at that AGM) will only hold office until the next AGM. The directors to which this rule shall apply will be determined by agreement between the directors. If the directors are not able to reach agreement on this, a random draw will be conducted to determine which directors this rule will apply to.

At every subsequent AGM an election shall be held to fill any available vacancies for member directors.

A director is eligible for re-election or re-appointment

5.6 How to become an office bearer (for example, chairperson, vice-chairperson or treasurer)

At the first directors' meeting after each AGM, the directors elect the office bearers of the corporation from the directors.

There shall be a chairperson, a deputy chairperson and a treasurer who shall be the office bearers.

5.7 How to fill vacancies

Directors can fill casual director vacancies, including office bearers.

Directors can appoint someone as a director to make up a quorum.

Their appointment must be confirmed by resolution at the next general meeting or they stop being a director.

5.8 How to stop being a director

A director dies.

A director resigns, in writing.

A director's appointment expires.

A director is removed as a director by the members or the other directors.

A director is disqualified from managing a corporation.

5.9 How to remove a director

By the members:

- A notice for a resolution to remove a director must be given to the corporation at least 21 days before the next general meeting (or AGM).
- The corporation must give the director concerned a copy of the notice as soon as possible.
- The director can give the corporation a written statement and speak at the meeting.
- The statement must be given to everyone entitled to notice of the meeting (see rule 4.5).

By other directors:

- Directors can only remove a director if the director fails to attend three or more consecutive directors' meetings without a reasonable excuse.
- Directors must give the director a notice in writing and they must give the director 14 days to object in writing.
- If the director objects, they cannot remove the director. The director can only then be removed at a general meeting by resolution.

5.10 Directors' and officers' duties

The duties are:

- a duty of care and diligence
- a duty of good faith
- a duty to disclose a conflict of interest (material personal interest)
- a duty not to improperly use position or information
- a duty to not trade while insolvent.

The business of the corporation is to be managed by or under the direction of directors. The directors may exercise all the powers of the corporation except any that the CATSI Act or this rule book requires the corporation to exercise in general meeting.

5.11 Conflict of interest (material personal interest)

A director who has a material personal interest in a corporation matter must tell the other directors.

They must give details of what the interest is and how it relates to the corporation. It must be given at a directors' meeting as soon as possible, and it must be recorded in the minutes of the meeting.

A director who has a material person interest must not:

- be present at the directors' meeting while the matter in question is being considered
- vote on the matter
- unless allowed to do so under the CATSI Act.

5.12 Payment

Directors are not paid, unless they are employees of the corporation, or unless they have a contract to provide goods or services (so long as the director has exercised any duty to disclose a conflict of interest).

The corporation may pay the directors' travelling and other expenses for attending meetings or to do with other corporation business.

5.13 Delegation

Directors can pass a resolution to delegate any of their powers to:

- another director
- a committee of directors
- an employee of the corporation.

The delegate must follow the directions of the directors when using the delegated powers.

5.14 Related party benefit

If a corporation wants to give a financial benefit to a director or related party (such as a spouse of a director) it must get the approval of the members by following the procedure in part 6.6 of the CATSI Act.

5.15 Directors' meetings

Directors must meet at least every three months.

The directors will usually decide at a meeting when and where the next meeting will be.

A director can call a meeting by giving reasonable notice to all the other directors.

5.16 Quorum for directors' meetings

A majority of the directors must be present at all times during the meeting.

5.17 Chairing directors' meetings

The directors can elect a director to chair their meetings. They must decide how long that director will be the chair.

5.18 Using technology

Directors' meetings can be held at more than one place using any technology, as long as they all agree to it.

5.19 Resolutions at directors' meetings

A resolution of directors must be passed by a majority of the votes. The chair has a vote, plus a casting vote.

Resolutions can be passed without a directors' meeting if all directors sign a statement saying that they are in favour of it.

5.20 Independent Directors

The board may appoint up to two non-member independent directors.

In appointing an independent director, the board may consider the candidate's expertise and skills in:

- Financial management;
- Corporate governance;
- Community development;
- Government relations;
- Law; or
- Any other relevant specialist field that will be of benefit to the Corporation's activities.

The independent director must give the Corporation his or her consent in writing to be a director before being appointed.

The independent director will be appointed for a term of one year. They are eligible to re-appointed.

6. Contact person or secretary

The contact person or secretary must be at least 18 years old. The directors appoint a contact person or secretary.

The directors decide the contact person or secretary's pay and terms and conditions of employment, if any.

The contact person or secretary must pass on any correspondence received to at least one of the directors within 14 days.

The contact person or secretary must give the corporation their consent in writing to become a contact person before being appointed.

The corporation must send the Registrar a contact person or secretary's personal details within 28 days after they are appointed. The corporation can use the Registrar's Notification of a change to corporation officers' details form.

7. Records

The corporation must keep the:

- minutes of meetings (in writing or as an audio or video recording)
- rule book (constitution)
- register of members and former members
- names and addresses of directors, officers and the contact person
- financial records (including documents needed to explain why payments are made for example, quotes, acceptance, invoices and payment approvals).

They must be kept at the corporation's document access address or registered office.

8. Finances

All money of the corporation must be deposited into the corporation's bank account. The corporation must give receipts for all money it receives.

All cheques, withdrawal forms and other banking documents must be signed by at least two directors.

All accounts must be approved for payment at a directors' meeting.

9. Application of funds

Directors can use the money and property of the corporation to carry out its business.

They cannot give the money and property to members of the corporation.

Note: This rule does not stop the corporation from making reasonable payment as permissible in accordance with its charitable status to:

- a member in their capacity as an employee; or
- a member under a contract for goods or services provided; or
- a member by way of special assistance in accordance with the objectives set out in sub rule 2.1 as approved by the directors up to a maximum aggregate sum of \$100,000 in any financial year.

10. Gift Fund requirements

The corporation may (and will, if required under the Tax Act), establish and maintain, for the specific purposes set out in Rule 222, the gift fund:

- to which gifts of money, contributions or property for those purposes are to be made;
- to which any money received by the corporation because of those gifts, contributions or property is to be credited; and
- that does not receive any other money, contributions or property.

Rules applying to the Gift Fund

The gift fund will not be maintained for the purpose of profit or gain to the members of the corporation.

All gifts or contributions made to the gift fund and any money received because of those gifts or contributions will be applied solely towards the promotion of the objects

of the corporation set out in rule 2 and no portion of the gift fund will be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to the members of the corporation.

The corporation must maintain a separate bank account for the Gift Fund and must comply with subdivision 30-BA of the *Income Tax Assessment Act 1997 (Tax Act)* with respect to the administration of the gift fund.

The Gift Fund will be administered by a committee of not less than three persons appointed by the management committee (the Gift Fund committee), a majority of which must be Responsible Persons. The Gift Fund committee will have the sole responsibility for decisions regarding the use and application of all gifts or contributions made to the Gift Fund and any money received because of those gifts or contributions for the purposes set out in clause 2.

In accordance with the Tax Act, receipts issued for gifts must state:

- the name of the corporation;
- the ABN applicable to the corporation; and
- the fact that the receipt is for a gift.

Rules 9A and 9B apply only if the corporation is required to establish a gift fund by the Tax Act unless otherwise determined by the management committee.

Winding up the Gift Fund

If the corporation's endorsement as a deductible gift recipient is revoked or the gift fund is wound up (whichever occurs first), any surplus of the following assets shall be transferred to another charitable organisation to which income tax deductible gifts can be made:

- gifts of money, contributions or property for the principal purpose of the corporation;
- contributions made in relation to an eligible fundraising event held for the principal purpose of the corporation; and
- money received by the Corporation because of such gifts and contributions.

11. Winding up

If the Corporation is wound up all surplus assets after the satisfaction of all debts and liabilities shall be transferred to another charitable organisation to with similar purposes which is not carried on for the profit or gain of its individual members, or applied for similar charitable purposes.

12. Dispute resolution

If a dispute arises, the parties must first try to resolve it themselves.

If the dispute is not resolved within 10 business days, any party may give a dispute notice to the other parties.

The dispute notice must be in writing and must say what the dispute is about. It must be given to the corporation.

The directors or any of the dispute parties may ask the Registrar for assistance.

The directors must help the parties resolve the dispute within 20 business days after the corporation receives the notice.

If the directors cannot resolve the dispute, it must be put to the members to resolve at a general meeting.

13. Changing the rule book

The rule book can be changed by passing a special resolution at a general meeting. The proposed changes must be set out in the notice of the general meeting.

Within 28 days after the resolution is passed, the corporation must send the Registrar:

- a copy of the changes
- a copy of the minutes of the meeting
- a request to change corporation rule book form.

The changes do not take effect until the new rule book is registered by the Registrar.

Schedule 1 - Application for membership form

Application for membership

Wirru-Murra Yindjibarndi Aboriginal Corporation

I, _____

(First or given name)

(Surname)

Note: corporation's rules may permit corporate applicants.

of _____

(address)

hereby apply for membership of the Wirru-Murra Yindjibarndi Aboriginal Corporation. I declare I am eligible for membership.

Signed: _____

Date: _____

Schedule 2 - Proxy form

Appointment of proxy

Wirilu-Murra Yindjibarndi Aboriginal Corporation

I, _____

(Full name of member)

of _____

(address of member)

being a member of Wirilu-Murra Yindjibarndi Aboriginal Corporation

hereby appoint _____

(full name of proxy)

of _____

(address of proxy)

as my proxy to vote for me on my behalf at the general meeting of the corporation
(annual general meeting or other general meeting, as the case may be) to be held
on the _____ day

_____ 20 _____ and at any adjournment of that meeting.

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

Signed: _____

(Signature of member appointing proxy)

Date: _____

NOTE: A person must not exercise proxies for more than 3 members.

Schedule 3—Consent to become a director form

Consent to become a director

Wirilu-Murra Yindjibarndi Aboriginal Corporation

I, _____
(first and last name of person)

of _____
(residential address, a postal address is not sufficient)

give consent to become a director of the corporation.

I confirm my date of birth was _____ (date of birth)

and my place of birth was _____ (place of birth)

I also acknowledge I am automatically disqualified from managing corporations if I:

- have been convicted of an offence under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act) that is punishable by imprisonment for more than 12 months
- have been convicted of an offence involving dishonesty that is punishable by imprisonment for at least three months
- have been convicted of an offence against the law of a foreign country that is punishable by imprisonment for more than 12 months
- are an undischarged bankrupt
- have signed a personal insolvency agreement and have not kept to the agreement
- have been disqualified under the Corporations Act 2001 from managing corporations
- and I will notify the corporation if any of the above events occur after my appointment.

Signature of person:

Date:

NOTE: This form should be completed and given to the corporation before the person is appointed as a director—section 246-10(1) of the CATSI Act.

The period of automatic disqualification is set out in sections 279-5 and 279-10 of the CATSI Act.