

# Constitution

National Aboriginal and Torres Strait Islander  
Health Workers Association Limited  
ABN 61 138 748 697

A company limited by guarantee under the Corporations Act 2001

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This annexure 1 of 48pages referred to in form 205 Notification of Resolution



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## Part 1      Definitions and interpretation

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### 1.1      Definitions

In this Constitution unless the contrary intention appears ~

**Aboriginal and/or Torres Strait Islander Health Worker** means an Aboriginal and/or Torres Strait Islander Person who is in possession of a minimum qualification within the fields of primary health care work or clinical practice as accepted by the directors from time to time and who provides evidence of such a qualification; .

**Aboriginal and/or Torres Strait Islander Person** means a person of Aboriginal and/or Torres Strait Islander descent who identifies as an Aboriginal and/or Torres Strait Islander and is accepted as such by the community in which he or she lives. [Definition taken from the Constitutional Section of the Department of Aboriginal Affairs' *Report on a review of the administration of the working definition of Aboriginal and Torres Strait Islanders* (Canberra, 1981). See Research Note 18 2000-01 ~ *The Definition of Aboriginality*, John Gardiner-Garden, Social Policy Group, 5 December 2000; Parliament of Australia, Parliamentary Library.];

**Annual subscription Fee** means the amount fixed from time to time under rule 4.9;

**Application Fee** means an amount determined by the directors to be payable in respect of an application for membership of the company;

**Board** means the governing body of directors of the company or any number of directors assembled at a meeting of the board transacting business in accordance with this Constitution, being not less than a quorum, and as set out in rule 10.9. For the internal purposes of this document and the company the board may be cited as the collective term "*the directors*";

**Branch** means a Branch of the company as constituted and regulated by the directors under rule 7.1;

**Branch Rules** means the rules of a Branch as regulated by the directors and defined under rule 7.3;

**Chairman** refers to the position held by the chairman of directors with duties as created and amended from time to time by the directors in accordance with rule 10.4, and with duties in general meeting as appointed in accordance with rule 6.6;

**Chief Executive Officer** means a person appointed under Part 11 as the principal officer responsible for the overall day-to-day operations of the company; appointed by, responsible and reporting to the directors who may for the internal purposes of the company be cited as the "*CEO*" or any other title the directors may so determine from time to time;

**"Code of Conduct"** means a set of policies adopted from time to time by the directors to regulate the actions and behaviours of persons or body corporates admitted to company membership and/or directors and officers in their role within and representation of the company;



**committee** means a committee of directors constituted by the directors pursuant to rule 9.5.1(a) consisting of one or more directors and/or other persons as the directors think fit;

**Company** means National Aboriginal and Torres Strait Islander Health Workers Association Limited - a Company Limited by Guarantee which means a company formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up pursuant to rule 18.1;

**Constitution** means this constitution as amended from time to time, and a reference to a rule is a reference to a rule of this Constitution

**Corporations Act** means the *Corporations Act 2001 (Cwth)*;

**Director** means a person holding office as a director and has the same meaning as defined in the Corporations Act [s.9 Definition of "*director of a company*";];

**Directors** means all or some of the directors acting as a board;

**Founding members** can only be one of the persons listed in Attachment 1 and can vote in any Company resolution and be a Director of the Company, until the first annual general meeting of the Company, after which the Founding members will not be able to vote in any Company resolution or be a Director of the Company; unless they become a Full member, in addition to being a Founding member, if the requirements for the Full member class are met;

**Member** means a person, for the purposes of this Constitution or the Corporations Act, pursuant to rule 4.12.1 having been accepted as a *member of the company* pursuant to rules 4.6 and 4.14 and as generally set out in Part 4;

**Non-member** means a person admitted to a *class of membership* but not as a *member of the company* for the purposes of this Constitution or the Corporations Act but they may endure certain rights and obligations of membership as determined by the directors from time to time;

**Officer** of the company means

- (a) A director of the company; or
- (b) the secretary, public officer, or principal officer of the company, the holder of any other office of the company (however described) or a person occupying any of the abovementioned offices, whether validly appointed or not; or
- (c) any other person ~
  - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company
  - (ii) who is concerned in or takes part in the management of the company's affairs (but does not include a patron or holder of another honorary office of the company if the office does not give its incumbent a right to participate in the management of the company's affairs);

**Part** means a numbered Part of this Constitution as explained in rule 1.4.

**Registered Office** means the registered office of the company.

**Secretary** means a person appointed under Part 12 as a secretary of the company, and where appropriate includes an acting secretary and a person appointed by the directors to perform all or any of the duties of a secretary of the company.

**Tax Act** means the *Income Tax Assessment Act 1997 (Cwth)*.

## 1.2 Interpretation

In this Constitution unless the contrary intention appears ~

- 1.2.1 (gender) words importing any gender include all other genders;
- 1.2.2 (person) the word person is a reference to only an individual;
- 1.2.3 (singular includes plural) the singular includes the plural and vice versa;
- 1.2.4 (meaning not limited) a reference to the words "include", "including", "for example" or "such as", when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- 1.2.5 (regulations) a reference to a law includes regulations and instruments made under the law;
- 1.2.6 (amendments to statutes) a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- 1.2.7 (from time to time) a power, an authority or a discretion reposed in a director, the directors, the company in general meeting or a member of the company may be exercised at any time and from time to time;
- 1.2.8 (signed) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the directors;
- 1.2.9 (writing) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- 1.2.10 (currency) a reference to \$ is a reference to the lawful currency of Australia.

## 1.3 Corporations Act

In this Constitution unless the contrary intention appears ~

- 1.3.1 an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- 1.3.2 "section" means a section of the Corporations Act.



#### **1.4 Headings and Parts**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

#### **1.5 Replaceable rules not to apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the company.

#### **1.6 Inadvertent Omissions and Interpretation of the Constitution**

If some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Board that the omission has directly and unfairly prejudiced any member financially.

The directors shall, consistent with and in pursuance of this Constitution, have authority to interpret the meaning of this Constitution and any matter relating to the company on which this Constitution is silent.

The decision of the Board is final and binding on all members.

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## Part 2      Objects and Powers of Company

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### 2.1      Objects

The objects of the company are to promote and develop Aboriginal and/or Torres Strait Islander Health Workers by ~

- (a) advocating on behalf of Aboriginal and/or Torres Strait Islander Health Workers to ensure input and engagement on various workforce issues including recruitment and retention strategies and career pathways and support;
- (b) representing Aboriginal and/or Torres Strait Islander Health Workers at peak regional, state and national forums;
- (c) facilitating networking, information sharing, mentoring and support for Aboriginal and/or Torres Strait Islander Health Workers;
- (d) advocating for the accreditation and registration of Aboriginal and/or Torres Strait Islander Health Workers;
- (e) advocating for appropriate education, training and development needs of Aboriginal and/or Torres Strait Islander Health Workers;
- (f) representing Aboriginal and/or Torres Strait Islander Health Workers nationally with regards to relevant issues and needs of Aboriginal and/or Torres Strait Islander Health Workers;
- (g) promoting and facilitating cultural capability, understanding safety and respect within the workplace of Aboriginal and/or Torres Strait Islander Health Workers;
- (h) protecting the cultural integrity of Aboriginal and/or Torres Strait Islander Health Workers; and
- (i) doing all other things as may be incidental or ancillary to the attainment of these objects.

### 2.2      Powers

In addition to the **powers** conferred on the company by the Act, this Constitution and consistent with the assigned authorities in rule 9.1 [Powers of the directors], the company has all such powers as are necessary or convenient to carry out its objects and, in particular, shall have the following powers solely for and consistent with the purpose of carrying out the objects in rule 2.1 and not otherwise to ~

- 2.2.1    **Employ, appoint and/or engage** and at its discretion **remove, dismiss or suspend** any employees, officers, staff, servants, agents, contractors, tradespersons or professional **persons**;
- 2.2.2    Determine **wages, salaries and gratuities** of appointees and employees;
- 2.2.3    Establish and support, or aid in the establishment and support, of services, institutions, funds, trusts, schemes and conveniences calculated to benefit



- employees or past employees of the company and their dependants, and the granting of pensions, allowances or other **benefits to employees or past employees of the company** and their dependants, and the making of payments towards insurance or superannuation in relation to any of those purposes;
- 2.2.4 Print and publish by any technological means newsletters, periodicals, books, leaflets or other information **documents**;
- 2.2.5 Receive or make **gifts, grants, devises, bequests, subscriptions or donations** from or to any person, fund, authority, organisation or institution and accept any gift whether subject to special trust or not and to act as trustee of money or other property vested in the company on trust;
- 2.2.6 Take any measures from time to time as the company may deem expedient or appropriate for the purpose of procuring contributions to the **funds of the company**, whether by way of donations, subscriptions, grants or otherwise;
- 2.2.7 Draw, make, accept, endorse, discount and issue cheques, bank drafts, bills of exchange, promissory notes and other **negotiable instruments**;
- 2.2.8 Borrow or raise **money** in such manner and on such terms as the company may think fit;
- 2.2.9 Secure the repayment of money raised or borrowed or the payment of a **debt or liability of the company** by giving mortgages, charges or securities upon or over all or any of the real or personal property of the company;
- 2.2.10 **Invest** in authorised trustee investments of any monies of the company not immediately required for any of its objects or purposes in any manner in which trustees are authorised by law to administer money held on trust;
- 2.2.11 Enter into **contracts**;
- 2.2.12 Establish and support or aid in the establishment or support of, any **other Aboriginal service** formed for any of the objects, consistent with any of the aforesaid objects of the company;
- 2.2.13 Establish, maintain and manage any **building or works** and arrange for the construction maintenance and alteration of buildings or works and expend money and do any other thing necessary, convenient or advisable in relation to any building or works to achieve the aims of the company;
- 2.2.14 Purchase, take on lease or in exchange and the hiring or otherwise acquiring of any **real or personal property** that may be deemed necessary or convenient to achieve the aims of the company;
- 2.2.15 Buy, sell and supply of and deal in, **goods or services** of any kind to achieve the aims of the company;
- 2.2.16 **Do any other lawful act** as may be necessary, incidental or conducive to the achievement of the aforesaid objects of the company including to **co-operate with any person or organisation** on matters relating to the objects of the company;



*C. Scott*

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## Part 3      Income and property of company

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### 3.1      Application of income and property for objects only

The profits (if any), other income and property of the company, however derived, must be applied solely towards the promotion of the objects of the company as set out in Part 2.

### 3.2      No dividend, bonus or profit paid to any class of membership

No part of the profits, income or property of the company may be paid or transferred to a person or body corporate of any class of membership, either directly or indirectly by way of dividend, bonus or otherwise.

### 3.3      Payments by the company in good faith

Subject to rules 8.7, 8.8 and 8.9, rule 3.2 does not prevent payment in good faith to an officer of the company or a person or body corporate of any class of membership, or to a firm of which an officer of the company or a person or body corporate of any class of membership is a partner ~

- (a) of remuneration for **services** provided by that officer or person or body corporate of any class of membership to the company;
- (b) for **goods** supplied in the ordinary course of business;
- (c) of **interest** at a rate not exceeding the rate fixed for the purposes of this rule by the directors on money borrowed from an officer of the company or a person or body corporate of any class of membership; or
- (d) of reasonable **rent** for premises let by an officer of the company or a person or body corporate of any class of membership
- (e) .reimbursement of monies for **expenses** incurred on behalf of the company

or prohibit payment, in good faith, approved by the directors on the basis that the payment is for ~

- (f) out of pocket expenses, incurred by a director in performing a duty as a director of the company
- (g) a service rendered to the company by a director in a professional or technical capacity, where:
  - (i) the provision of the service has the prior approval of the directors; and
  - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service.

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## Part 4      Membership

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### 4.1      Admission to membership

A person or body corporate may only be admitted for membership under rule 4.2.

### 4.2      Obligations and eligibility for membership

The directors may admit for membership any person (or organisation or body corporate) who~

- a) agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the directors from time to time, including (but not limited to) ~
  - i. compliance with the Act and these Rules;
  - ii. notifying the company of any change in their address within 28 days of such change;
  - iii. compliance with any code of conduct adopted by the company;
  - iv. treating other members and the Board with respect and dignity;
  - v. not behaving in a way that significantly interferes with the operation of the company or of company meetings;
- b) is eligible pursuant to rule 4.12 and rules 14.14 through to 14.17.

### 4.3      Application for membership

A person or body corporate may apply for membership by submitting to the secretary a properly completed application in the form prescribed by the directors.

### 4.4      Effect of application

By completing an application form, the person or body corporate applying for membership agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the directors from time to time.

### 4.5      Application Fee

The directors may resolve from time to time that any person or body corporate applying for membership, in any particular class of membership, must pay an **Application Fee** and, if so, how much it is and when and how it is to be paid.

### 4.6      Decision to accept or reject membership application

The directors must consider and resolve whether to accept or reject each application for membership and, within a reasonable time after making a decision, give the applicant a notice which states whether the application was successful or not. The directors are not required to give reasons for rejection of an application for membership of the company.



#### **4.7 Admission to membership**

A person or body corporate is admitted to membership when ~

- (a) the person's or body corporate's application is accepted under rule 4.6; and
- (b) the applicant pays the Application Fee (if any) in the manner specified by the directors pursuant to rule 4.5.

If payment of the Application Fee is not made as required, the directors may, in their discretion, cancel their acceptance of the application for membership of the company.

#### **4.8 Member of the company to notify changes**

A person admitted in the class of membership pursuant to rule 4.12.1 must promptly notify the company of any change in the details with respect to that member of the company which are recorded in the register of members of the company.

#### **4.9 Annual Subscription Fee**

The directors may determine from time to time the amount of the **Annual Subscription Fee** (if any) for each year, for each person or body corporate admitted to any class of membership.

#### **4.10 Payment of Annual Subscription Fee**

Subject to any contrary notice by the directors specifying a date and manner of payment, each person or body corporate admitted to any class of membership must pay any applicable Annual Subscription Fee in advance by 1 July in each year.

#### **4.11 Waiver of Annual Subscription Fee**

The directors may waive the payment of all or any part of an Annual Subscription Fee for a member of the company or any class of membership.

#### **4.12 Classes of membership**

##### **4.12.1 Members**

In addition to the Founding members of the Company listed in Attachment 1 of this Constitution, the following classes of membership are **members** of the company for the purposes of this Constitution and the Corporations Act and endure all the rights, restrictions and obligations of membership as determined by the directors from time to time ~

- a) Full member of the company
- b) Any other class of member of the company established subject to rule 4.13

##### **4.12.2 Non-members**

The following classes of membership are **not members** of the company for the purposes of this Constitution or the Corporations Act but may endure certain rights, restrictions and obligations of membership as determined by the directors from time to time ~

- a) Associate membership
- b) Friend membership
- c) Honorary membership
- d) Any other class of non-member established subject to rule 4.13

#### **4.13 Creating and varying classes and class rights**

The directors may, subject to this Constitution and the Corporations Act ~

- (a) prescribe (and revoke or amend) the criteria for membership (including for any classes of membership) but, by doing so, do not become obliged to accept persons or body corporates fulfilling those criteria of membership;
- (b) establish any new class of membership and define the rights, restrictions and obligations of membership in that class; and
- (c) vary or cancel the rights, restrictions and obligations of membership in any new or existing class, if ~
  - (j) at least 75% of the membership of that class give their written consent; or
  - (ii) a special resolution to that effect is passed at a separate meeting of those members of the company .

The rules on general meetings apply to meetings of a class of membership so far as they are capable of application and with the necessary changes to every separate meeting.

#### **4.14 Full members of the company**

Subject to rule 4.13, the directors may admit persons to, and remove persons from, full member class of the company. A full member of the company ~

- (a) must be an Aboriginal and/or Torres Strait Islander Health Worker;  
or otherwise
- (b) may apply, pursuant to rule 4.3, to become a full member of the company if the person~
  - (i) is an Aboriginal and/or Torres Strait Islander person;
  - (ii) is not art Aboriginal and/or Torres Strait Islander Health Worker; and
  - (iii) can provide evidence to the satisfaction of the directors that the person will be, or will likely be, an Aboriginal and/or Torres Strait Islander Health Worker by a date determined by the directors.



- (c) following a period of not less than six (6) months continuous membership
- (i) can vote in any company resolution; and
  - (ii) can be a director of the company.

A full member of the company is such for the purposes of this Constitution and the Corporations Act.

**4.15 Associate membership** The directors may admit persons to, and remove persons from, associate membership. A person admitted to associate membership ~

- a) must be an Aboriginal and/or Torres Strait Islander Person who works or studies (or does both) in the health field and is not an Aboriginal and/or Torres Strait Islander Health Worker.
- b) does not have the right to vote on a matter concerning the company

The directors may determine the rights and obligations, including application and annual subscription fees, of a person admitted to associate membership.

A person admitted to associate membership is not a member of the company for the purposes of this Constitution or the Corporations Act.

#### **4.16 Friend membership**

The directors may admit persons, organisations or body corporates to, and remove persons, organisations or body corporates from, friend membership. A person admitted to friend membership ~

- a) can only be a person, organisation or body corporate that can assist the company from time to time.
- b) does not have the right to vote on a matter concerning the company

The directors may determine the rights and obligations, including application and annual subscription fees, of a person admitted to friend membership.

A person admitted to friend membership is not a member of the company for the purposes of this Constitution or the Corporations Act.

#### **4.17 Honorary membership**

The directors may admit persons to, and remove persons from, honorary membership. A person admitted to honorary membership ~

- a) can only be a person who has significantly assisted the company.
- b) does not have the right to vote on a matter concerning the company

The directors may determine the rights and obligations, including application and annual subscription fees, of a person admitted to honorary membership.

A person admitted to honorary membership is not a member of the company for the purposes of this Constitution or the Corporations Act.

#### **4.18 Ceasing membership**

A person ceases membership ~

- (a) on resignation; or
- (b) in the case of a natural person, on ~
  - (i) death;
  - (ii) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
  - (iii) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
  - (iv) the termination of the person's membership by the directors or by the company in general meeting in accordance with this Constitution;
  - (v) ceasing to be an Aboriginal and/or Torres Strait Islander Health Worker or is not likely be, an Aboriginal and/or Torres Strait Islander Health Worker by a date determined by the directors; and
- (c) in the case of Friend membership being an organisation or body corporate ~
  - (i) being dissolved or otherwise ceasing to exist;
  - (ii) having a liquidator or provisional liquidator appointed to it; or
  - (iii) being insolvent.

#### **4.19 Resignation**

A person (or organisation or body corporate) may by written notice to the company resign from membership with immediate effect or with effect from a specified date occurring not more than 14 days after the service of the notice. A person (or organisation or body corporate) of any class of membership remains liable after resignation for any Annual Subscription Fee due and unpaid at the date of the membership resignation and for all other money due and applicable under the membership to the company, in addition to any sum for which the person is liable as a member of the company under rule 18.1.

#### **4.20 Non-payment of Annual Subscription Fee**

The directors may determine ~

- a) the date the Annual Subscription Fee for any class of membership is due; and
- b) the consequences of non-payment of the Annual Subscription Fee by the due date, which may include termination of membership.

#### **4.21 Membership disciplining**

If any person or body corporate having been admitted to membership willfully refuses or neglects to comply with the provisions of this Constitution, adhere to the Code of Conduct, or acts in a manner which in the opinion of the directors is prejudicial to the interests of the company, including in a manner which is contrary to the objects in Part 2, the directors may by resolution censure, suspend or expel the person or body corporate having been admitted to membership from the company, provided that the following procedure is observed ~

- (a) at least one week before the directors' meeting at which the resolution is passed, the person or body corporate having been admitted to membership must be given notice of the meeting setting out ~
  - (i) what is alleged against the person or body corporate having been admitted to membership; and
  - (ii) the intended resolution;
- (b) at the directors' meeting, and before the passing of the resolution, the person or body corporate having been admitted to membership must be given an opportunity of giving, orally or in writing, any explanation the person or body corporate having been admitted to membership thinks fit;
- (c) should the directors proceed with the intended resolution to censure, suspend or expel the person or body corporate having been admitted to membership from the company following the procedure in rule 4.21(b), the secretary shall, within fourteen (14) days after that confirmation, by notice in writing, inform the person or body corporate having been admitted to membership of the fact and (in the case of members of the company) of their right of appeal under rule 14.21(d) & (e);
- (d) a censured, suspended or expelled member of the company may elect to appeal the decision by having it dealt with by the company in general meeting, by notice in writing lodged with the secretary at least fourteen (14) days after notice of the resolution is served on the member of the company;
- (e) if the member of the company gives a notice to appeal under this rule ~
  - (i) no resolution of the directors on that matter is effective;
  - (ii) a general meeting of the company must be called for the purpose of considering the resolution set out in the notice originally given to the member of the company under this rule; and
  - (iii) if, at the general meeting, a resolution is passed by a majority of at least two-thirds of those present and voting (the vote is to be taken by ballot), the member of the company concerned must be dealt with in accordance with the resolution;
  - (iv) if, at the general meeting, a resolution is passed confirming the director's resolution, the member of the company may be liable for any costs associated with the general meeting as determined by the directors; and
- (f) in the case of a resolution passed by the directors or in general meeting for the member of the company's expulsion under this rule, the membership of the member of the company automatically terminates, in which case the person or body corporate ceases to be a member of the company.



#### **4.22 Notice of termination**

Pursuant to rule 4.21(f), the secretary shall, within fourteen (14) days after that resolution, by notice in writing, inform the person or body corporate that their membership has been terminated with immediate effect or with effect from a specified date occurring not more than 14 days after service of the notice.

#### **4.23 Limited liability**

A member of the company's liability is limited to the respective amounts that they undertake to contribute to the property of the company if it is wound up as set out in this Part 4 and rule 18.1.

#### **4.24 Member communication with the board**

A member may raise any matter in relation to the direction, control and management of the affairs of the company with the board that the member sees fit to raise. The member shall adhere to the following procedure for raising a matter with the board ~

- 4.24.1 The matter must be stated in writing, addressed to the secretary, clearly describing the matter and signed by the member;
- 4.24.2 The secretary shall ensure the correspondence relating to the matter is placed on the agenda of the next board meeting to be dealt with by the board at that board meeting, but no later than sixty (60) days from the date of receipt of the correspondence.
- 4.24.3 The secretary, shall inform the member in writing of the outcome of the board's deliberation of the matter within seven (7) days of the meeting at which the matter was discussed.
- 4.24.4 Following receipt of notification of the outcome of any board deliberation of the matter, the member may, if they so choose, pursue the matter further, by making a request, in writing, to be invited to attend and address the board in person (or pursuant to rule 10.13) as an attendee at the next board meeting, notwithstanding that the board can accept or reject the request for invitation for the member to address the board at their absolute discretion pursuant to rule 10.1.1.
- 4.24.5 Within fourteen (14) days of receipt of such a request the secretary will notify the member of the outcome of the request, and if accepted, shall notify the member of the date and time that the member may attend the next board meeting to discuss the matter and be dealt with in accordance with rule 10.1.1. The date of the meeting must be no more than sixty days (60) from the date of receipt of the request.



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## Part 5      General meetings

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### 5.1      Annual general meeting

Annual general meetings of the company are to be held in accordance with the Corporations Act [in particular: ss.250N, 250P, 250R, 250S, and 250T].

- 5.1.1    The company must **hold** an AGM at least once in each calendar year and within 5 months after the end of its financial year
- 5.1.2    The company may lodge an application with ASIC to extend the period within which s.250N requires the company to hold an AGM
- 5.1.3    The business of the AGM may include any of the following, even if not referred to in the notice of meeting:
  - (a) the consideration of the annual financial report directors' report and auditor's report;
  - (b) the election of directors;
  - (c) the appointment of the auditor;
  - (d) the fixing of the auditor 's remuneration.
- 5.1.4    The chair of the AGM must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the company
- 5.1.5    If the company's auditor or their representative is at the meeting, the chair of an AGM must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or the auditor's representative questions relevant to:
  - (i) the conduct of the audit; and
  - (ii) the preparation and content of the auditor 's report; and
  - (iii) the accounting policies adopted by the company in relation to the preparation of the financial statements; and
  - (iv) the independence of the auditor in relation to the conduct of the audit.

### 5.2      Directors have power to convene a general meeting

The directors may convene and arrange to hold a general meeting of the company when they think fit and must do so if required to do so under the Corporations Act [s.249C].

If there are not sufficient directors for a quorum, the continuing directors (or if only one remains) a director may convene a general meeting of the company at the cost of the company.

### 5.3      Members of the company have power to convene general meeting

A member of the company may ~

- (a) request the directors to call a general meeting in accordance the Corporations Act [s.249D]; and
- (b) request or call and arrange to hold a general meeting pursuant to the Corporations Act [s.249E or s.249F].



at the cost of the company.

#### **5.4 Notice of general meeting**

Notice of a general meeting must be given in accordance with the Corporations Act [Part 2G.2 Division 3].

5.4.1 At least 21 days notice must be given of a meeting of a company's members

5.4.2 The company may call on shorter notice (except to remove or appoint a director or remove an auditor):

- (a) an AGM, if all the members entitled to attend and vote at the AGM agree beforehand; and
- (b) any other general meeting, if members with at least 95% of the votes that may be cast at the meeting agree beforehand

5.4.3 Written notice of a meeting of a company's members must be given individually to each member entitled to vote at the meeting and to each director in accordance with rule 16.2

5.4.4 A company must give its auditor:

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

5.4.5 An auditor may appoint a representative to attend a meeting

#### **5.5 Calculation of period of notice**

In computing the period of notice under rule 5.4, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

#### **5.6 Directors entitled to notice of general meeting**

A director is entitled to receive notice of and to attend all general meetings of the company and all separate meetings of any class of membership and is entitled to speak at those meetings.

#### **5.7 Cancellation or postponement of general meeting**

Where a general meeting (including an annual general meeting) is convened by the directors, they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This rule does not apply to a meeting convened in accordance with the Corporations Act by a single director, by members of the company, by the directors on the request of members of the company, or to a meeting convened by a court.

#### **5.8 Notice of cancellation, postponement or change of place of general meeting**

Notice of cancellation or postponement or change of place of a general meeting must be given to all persons entitled to receive notices of general meetings from the company. The notice must be given at least 7 days before the date for which the meeting is convened and must specify the reason for the cancellation, postponement or change of place. A notice of a change of place of a general meeting must specify the different place for the holding of the meeting.

### **5.9 Contents of notice postponing general meeting**

A notice postponing the holding of a general meeting must specify ~

- (a) a date and time for the holding of the meeting;
- (b) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

### **5.10 Number of clear days for postponement of general meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this Constitution or the Corporations Act.

### **5.11 Business at postponed general meeting**

The only business that may be transacted at a general meeting, the holding of which is postponed, is the business specified in the original notice convening the meeting.

### **5.12 Non-receipt of notice**

The failure or non-receipt of, or accidental omission or error to give, a notice of a general meeting or cancellation, postponement or change of place of a general meeting by, or to, any person entitled to receive notice does not invalidate any act, matter or thing done or resolution passed at the general meeting or at a postponed or changed place meeting or the cancellation or postponement of a meeting. A member of the company who attends the general meeting waives any objection that member of the company may have in relation to receiving a notice of the general meeting.

### **5.13 Proxy or attorney at postponed general meeting**

Where by the terms of an instrument appointing a proxy or attorney ~

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney,

then, by force of this rule, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney unless the member of the company appointing the proxy, attorney gives to the company at its Registered

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Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

*C. Scott*



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## Part 6 Proceedings at general meetings

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### 6.1 Reference to a member of the company

Unless the contrary intention appears, a reference to a member of the company in this Part 6 means a person who is a member of the company, or ~

- (a) a proxy;
- (b) an attorney (pursuant to rule 6.20);

of that member of the company.

### 6.2 Number for a quorum

6.2.1 Subject to rule 6.5, **ten (10) per cent of members** of the company **or no more than thirty (30), whichever is the less**, present in person or by proxy or attorney are a quorum at a general meeting of the company.

6.2.2 In determining whether a quorum is present, each individual attending as a proxy or attorney is to be counted, except that ~

- (a) where a member of the company has appointed more than one proxy or attorney, only one is to be counted; and
- (b) where an individual is attending both as a member of the company and as a proxy or attorney, that individual is to be counted once for their own membership and once for every proxy held.

### 6.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairman of the meeting (on the chairman's own motion or at the request of a member of the company, proxy or attorney who is present) declares otherwise.

### 6.4 If quorum not present

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting ~

- (a) if convened by a director, or at the request of members of the company, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the directors appoint by notice to the members of the company and others entitled to notice of the meeting .



## **6.5 Adjourned meeting**

At a meeting adjourned under rule 6.4(b), 2 persons each being a member of the company, proxy or, attorney present at the meeting are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

## **6.6 Appointment of chairman of general meeting**

If the directors have elected one of their number as chairman of their meetings (pursuant to rule 10.4), that person is entitled to preside as chairman at a general meeting of the company.

## **6.7 Absence of chairman at general meeting**

6.7.1 If a general meeting is held and ~

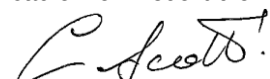
- (a) a chairman has not been elected by the directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may preside as chairman of the meeting (in order of precedence) ~
  - (i) the deputy chairman (if any);
  - (ii) a director chosen by a majority of the directors present;
  - (iii) the only director present; or
  - (iv) a member of the company present chosen by a majority of the members of the company present in person or by proxy or attorney .

6.7.2 Should the chairman elected by the directors arrive at a later stage during the meeting, but after rule 6.7.1(b) has been enacted, the newly appointed presiding chairman pursuant to rule 6.7.1(b) may ask the meeting to determine whether or not they should continue as presiding chairman, or allow the chairman appointed by the directors to assume the presiding chairman's role.

## **6.8 Conduct of general meeting**

The chairman of a general meeting ~

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion, deciding the validity of a proxy and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or



desirable for the proper conduct of the meeting, and a decision by the chairman under this rule is final.

- (d) may refuse to admit a person, or require them to leave and not return to a general meeting if the person:
- (i) refuses to permit examination of any article in the person's possession; or
  - (ii) is in possession of any electronic or recording device; placard or banner; or other article; or
  - (iii) acts or behaves in a manner unbecoming of appropriate decorum;

which the chairman considers to be dangerous, offensive or liable to cause disruption.

6.8.1 Interested persons (other than persons who are members or belong to any class of membership of the company ) are permitted to attend general meetings of the company at the discretion of and with the permission of the chairman (or their delegate) but have no right to speak at or otherwise participate in the meeting and must follow any directions of the chairman.

## **6.9 Adjournment of general meeting**

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but ~

- (a) in exercising this discretion, the chairman may, but need not, seek the approval of the members of the company present in person or by proxy or attorney; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairman, a vote may not be taken or demanded by the members of the company present in person or by proxy or attorney in respect of any adjournment.

## **6.10 Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting,

## **6.11 Questions decided by majority**

Subject to the requirements of the Corporations Act, a resolution, other than a special resolution, is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

## **6.12 Equality of votes - no casting vote for chairman**

If there is an equality of votes, whether on a show of hands or on a poll, the chairman of the general meeting is **not entitled to a casting vote** in addition to any votes to which the chairman is entitled as a member of the company or proxy of a member of the company.

### **6.13 Voting on show of hands**

6.13.1 At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded pursuant to rule 6.14 and the demand is not withdrawn.

6.13.2 A declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

### **6.14 Demanding a poll**

At a general meeting of the company, a poll may be demanded by ~

- (a) at least 3 members of the company entitled to vote on the resolution; or
- (b) the chairman of the meeting.

### **6.15 Poll**

If a poll is effectively demanded ~

- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairman or on a question of adjournment it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

### **6.16 Entitlement to vote**

Subject to the rights and any restrictions attached to any class of membership and to this Constitution ~

- (a) on a show of hands, each member of the company present in person and each other person present as proxy or attorney of a member of the company has one vote; and
- (b) on a poll, each member of the company present in person has one vote and each person present as proxy or attorney of a member of the company has one vote for each member of the company that the person represents.



### **6.17 Objection to voting qualification**

An objection to the right of a person to attend or vote at a general meeting or adjourned general meeting or to vote on a poll ~

- (a) may not be raised except at that meeting or adjourned meeting or when that poll is taken; and
- (b) must be referred to the chairman of the meeting, whose decision, pursuant to rule 6.8, is final.

A vote not disallowed under the objection is valid for all purposes.

### **6.18 Chairman to determine voting dispute**

If there is a dispute as to the admission or rejection of a vote, the chairman of the general meeting must, pursuant to rule 6.8, decide it and the chairman's decision made in good faith is final and conclusive.

### **6.19 Member of the company's right to appoint a proxy**

A member of the company may appoint a proxy to act on the member of the company's behalf at all or any meetings of the company or of any class of membership and may either instruct the proxy how to vote on a particular matter or may allow the proxy to vote as they think fit.

The proxy must not be the Chief Executive Officer or secretary of the company.

To be effective, an instrument appointing a proxy ~

- a) is to contain the information required by the Corporations Act [s.250A(1)] and be signed (or appropriately and suitably authenticated if sent by electronic means) by the full member of the company making the appointment and contain the following information:
  - (i) the member's name and address;
  - (ii) the company's name;
  - (iii) the proxy's name or the name of the office held by the proxy;
  - (iv) the meetings at which the appointment may be used.
- b) must be received by the company at least 48 hours before the meeting;

A proxy's appointment extends to all their rights, authorities and obligations as set out in this Constitution. Any dispute regarding the proxy's appointment, lodgement, validity, authority or otherwise shall be resolved by the chairman pursuant to rule 6.8, having regard to the best interests of the company, the process of natural justice and, where necessary, to the Corporations Act.

### **6.20 Member of the company's right to appoint attorney**

A member of the company may by power of attorney appoint an attorney to act on the member of the company's behalf at all or any meetings of the company or of any class of membership.

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To be effective, an instrument appointing an attorney under this rule, together with any evidence of non-revocation the directors require, must be received by the company at least 48 hours before the meeting.

*C. Scott*

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## Part 7      Branches

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### 7.1      Branches of the company

7.1.1    There shall be a Branch of the company in ~

- (a)    each Australian State, except Queensland which will be divided into the two branches of ~
  - (i)    the Torres Strait Islands and Northern Peninsula Area, to be known for the purposes of this Constitution as Torres Strait; and
  - (ii)   the remainder to Queensland, to be known for the purposes of this Constitution as Queensland; and
- (b)    the Northern Territory; and
- (c)    the Australian Capital Territory,

consisting of the member of the company resident therein.

7.1.2    The directors may alter the allocation of particular members of the company to Branches.

### 7.2      Altering Branches

From time to time, the directors may add, remove or otherwise alter Branches.

### 7.3      Branch rules

Subject to rule 7.4, the rules relating to the conduct, management, affairs and governance within the objects in Part 2 and the limits of this Constitution shall be determined by, and subject to approval of the directors (**Branch Rules**).

### 7.4      Oversight by directors

From time to time, the directors may impose and make changes to any Branch Rules and each Branch shall report to the directors in accordance with the rules.

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## Part 8 Directors

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### 8.1 Number of directors

The number of directors may not be less than three and more than nine (9).

### 8.2 Appointment of directors

8.2.1 Each Branch is entitled to appoint 1 director who must be a full member of the company and from the Branch as per their allocation pursuant to rule 7.1.

8.2.2 If a Branch fails to appoint a director, the position becomes a casual vacancy to be filled pursuant to rule 8.6.

### 8.3 Eligibility for election as director

8.3.1 Only a full member of the company is eligible to be a director subject to rule 4.14(b).

8.3.2 An employee of the company may not be a director.

### 8.4 Appointing directors

Subject to the Branch Rules ~

- (a) each Branch must call for nominations for a director to fill a vacancy created by a retiring director (from that Branch) at an annual general meeting, at a reasonable time prior to any vote or determination in respect of the appointment of a director; and
- (b) after the nominations are received, each Branch will elect at a meeting of the Branch a nominated person to be a director and the elected person will become the appointed director (from that Branch) to replace the retiring director at the next annual general meeting;
- (c) A retiring director is eligible to re-nominate for the vacancy as long as they do not hold office exceeding the maximum tenure pursuant to rule 8.5.2.

**Note:** The director appointed from each Branch is not intended to be regarded as a “representative” of the Branch as the process is simply an appointment method to ensure a broad geographic spread of directors on the NATSIHWA board. Each director must be aware that, when acting as a director of NATSIHWA they owe their fiduciary duties to NATSIHWA (and NOT their nominee Branch), nor should they necessarily reflect the Branch position or commit themselves to (or even vote in favour of) the Branch’s point of view over other considerations when making decisions on matters before the NATSIHWA board. Irrespective of who nominates them, all directors of NATSIHWA have a legal duty to:

- (i) “*act in the best interests of the corporation*” (i.e. the company’s membership ‘as a collective’) ...and not in the singular interests of their associated Branch [Corporations Act 2001 s.181(1)]
- (ii) “*not improperly use their position to gain advantage for themselves or someone else or cause detriment to the company*” [Corporations Act 2001 s.182(1)]; e.g. a director should be careful not ‘advocate’ a position on behalf of (or be regarded as the ‘advocate’ for) a Branch that may be perceived to provide benefits to that Branch over and above the collective benefit of NATSIHWA as a whole.



- (iii) “*not improperly use information [obtained as a director] to gain advantage for themselves or someone else or cause detriment to the corporation*” (Corporations Act 2001 s.183(1)); e.g. a director should not disclose to external parties, including their nominee Branch, aspects about board meetings - the board minutes are the only official record of board decisions and the board will decide, as a group, the communiqués it will disclose to members and stakeholders.

## 8.5 Term of directors

8.5.1 Each **director** shall hold office for a period of up to three (3) years until the conclusion of the third Annual General Meeting following the date of the director’s appointment at which meeting they must retire from office (effective from the conclusion of the meeting) but are eligible for re-appointment in accordance with rule 8.4 and subject to rule 8.5.3.

8.5.2 Directors will be elected on rotation for a three-year term, so that the appointment of one third of the directors expires each year.

To implement the rotational system:

- (a) the directors of the Company on registration of the Company will only hold office until the first annual general meeting of the Company and will be eligible for re-appointment;
- (b) at the first annual general meeting of the Association:
  - i. one-third of the directors will be appointed for a term of one year;
  - ii. one-third of the directors will be appointed for a term of two years; and
  - iii. one-third of the directors will be appointed for a term of three years;
- (c) the Board will determine who will be appointed for the one, two and three year terms. If a decision cannot be reached the director terms will be determined by lot; and
- (d) at subsequent annual general meetings of the Association, the appointment of any directors at that AGM will be for three years.

8.5.3 No director shall hold office for a period exceeding nine (9) consecutive years.

## 8.6 Casual vacancy

8.6.1 The directors may at any time appoint any person pursuant to rule 8.3, from any Branch (but as far as practicable from the Branch of the vacating director), to be a director to fill a vacancy created pursuant to rule 8.11.

8.6.2 A director appointed pursuant to rule 8.6.1 holds office until the conclusion of the term of the director they have replaced.

8.6.3 A director appointed pursuant to rule 8.6.1 who is retiring shall only be eligible for re-appointment as a director pursuant to rule 8.2.1 and in accordance with rule 8.4.

8.6.4 Should the director appointed pursuant to this rule 8.6 not be re-appointed by the relevant Branch pursuant to rule 8.6.3, they are still eligible to fill any further casual vacancy as long as they do not hold office exceeding the maximum tenure pursuant to rule 8.5.3.

### **8.7 Remuneration of directors**

A director must not be paid any remuneration for services as a director unless approved by the company in general meeting. If the company pursues a charitable purpose, then the company must not pay fees to directors in accordance with the Corporations Act [s.150(1)(b)].

### **8.8 Reimbursement of expenses**

A director is entitled to be reimbursed out of the funds of the company for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the directors or a committee or when otherwise engaged on the business of the company.

### **8.9 Payments to director**

Any payment to a director which is not prohibited under rule 8.7 (including a payment permitted under rule 8.8) must be approved by the directors.

### **8.10 Director's interests**

Subject to rules 8.8 and 8.9 and to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a director may ~

- (a) enter into a contract, agreement or arrangement with the company;
- (b) hold any office or place of profit in the company, except that of auditor or employee, unless being or becoming a director would breach this Constitution or any law by reason of holding that office;
- (c) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the company or in which it has an interest of any kind;
- (d) participate in any company, body corporate, institution, fund, trust or scheme for past or present employees or directors of the company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the company, except as auditor;
- (f) if the other directors determine that the director's interest should not disqualify the director from considering or voting on a matter, participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the directors and may be present at any meeting where any matter is being considered by the directors; and
- (g) sign or participate in the execution of a document by or on behalf of the company; and
- (h) do any of the above despite the fiduciary relationship of the director's office ~

- (i) without any liability to account to the company for any direct or indirect benefit accruing to the director; and
- (i) without affecting the validity of any contract or arrangement.

### **8.11 Vacation of office**

In addition to the circumstances in which the office of a director becomes vacant under the Corporations Act, the office of a director becomes vacant if the director ~

- (a) ceases to be a member of the company of the full member class;
- (b) resigns office by notice in writing to the company;
- is not present personally at 3 or more consecutive meetings of the directors, all of which the director received notice, without leave of absence from the directors and the directors have declared the office vacant;
- (c) becomes bankrupt or insolvent under administration within the meaning of the Corporations Act or makes arrangement or composition with their creditors generally;
- (d) is convicted on indictment of an offence in the promotion, formation or management of a body corporate or involving fraud or dishonesty;
- (e) is removed from office by members of the company in general meeting or pursuant to rule 8.17;
- (f) the director has a direct or indirect conflict of interest with the company and fails to declare the nature of the interest as required by the law, the Act or this Constitution;
- (g) the director becomes an employee of the company;

Note ~ A vacating director pursuant to rules 8.11(a) through to 8.11(h) shall be responsible for ensuring all documents in their possession, belonging to the company, are delivered to the secretary of the company within 14 days after vacating office.

- (h) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (i) dies.

Any vacancy created pursuant to this rule 8.16 shall be deemed a casual vacancy and shall be dealt with pursuant to rule 8.6.

### **8.12 Removal of a director**

8.12.1 The directors may resolve to suspend a director from office, by a two-thirds majority, if in their opinion they establish sufficient legitimate grounds for them to determine the conduct of a director is in breach of this Constitution or the Code of Conduct or such that continuance in office would be prejudicial to the interests of the company.

8.12.2 Should the directors so resolve to enact the suspension pursuant to rule 8.12.1, the directors shall issue to the suspended director a "Notice to Show Cause" why the director should not be removed as a director.

8.12.2.1 The affected director shall have fourteen (14) days from the date of the "Notice to Show Cause" to either ~

- a) respond in writing to the directors; or
- b) seek to address the directors personally;

stating any reason why the director should not be removed.

8.12.2.2 The directors must, within fourteen (14) days of the receipt of any response pursuant to rule 8.12.2.1, convene a meeting of the directors specifically called for that purpose and give seven (7) days notice to the suspended director that they will either (as the case may be) ~

- a) review the written "Notice to Show Cause"; or
- b) hear the personal address from the suspended director;

and shall upon such review or hearing, determine their response accordingly.

8.12.3 Should the directors so resolve to enact the removal pursuant to rule 8.12.2, the directors shall, within twenty one (21) days of the meeting pursuant to rule 8.12.2.2, convene a general meeting and include in the notice a resolution to confirm the removal of the suspended director from office. At the general meeting of the company ~

8.12.3.1 the directors and the suspended director shall be given the opportunity to state their respective cases orally or in writing, or both; and

8.12.3.2 the members of the company present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked;

8.12.4 Should the resolution at the general meeting of the company be ~

8.12.4.1 confirmed, the suspended director shall forthwith be formally removed from office and the vacancy shall then being treated as a casual vacancy pursuant to rule 8.6;

8.12.4.2 revoked, the suspended director shall forthwith be reinstated as a director.

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## **Part 9 Powers and duties of directors**

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### **9.1 Powers of directors**

The directors ~

- a) shall direct, control and be responsible for the management of the business and affairs, and the furtherance of the objects of the company;
- b) may exercise all the powers of the company that are not, by the Corporations Act or by this Constitution, required to be exercised by the company in general meeting;
- c) have power to perform all such acts and do all such things and determine such policies, by-laws, rules or regulations as appear to the directors to be necessary or desirable for the proper management and conduct of the business and affairs of the company;

### **9.2 Authorising payments and receipts**

The directors may determine the manner in which, and persons by whom

- a) cheques, bankers' drafts, bills of exchange, promissory notes and other negotiable instruments and any other payments (which may include electronic fund transfers, use of credit cards, payment of cash and any other lawful means of disbursement of funds) by the company; and
- b) receipts for money paid to the company;

may be signed, drawn, accepted, endorsed or otherwise executed.

### **9.3 Appointment of attorney**

The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company for the purposes and with the powers, authorities and discretions vested in or exercisable by the directors for the period and subject to the conditions they think fit.

### **9.4 Provisions in power of attorney**

A power of attorney granted under rule 9.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

### **9.5 Powers of delegation**

9.5.1 The directors may, by instrument in writing, delegate any of their powers - other than this power of delegation and powers required by law to be dealt with by directors as a board – to ~

- a) a committee (consisting of one or more of their number and/or others as they think fit);



- b) a director,
- c) an employee of the company; or
- d) any other person or persons

they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions and in accordance with any directions as the directors think fit that are specified in the instrument of delegation, and may in writing, revoke, withdraw, alter or vary the delegation of any of those powers.

- 9.5.2 Notwithstanding any delegation under this rule, the directors may continue to exercise any function delegated
- 9.5.3 Any act or thing done or suffered by the delegated person, persons, or committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the directors and noting that the exercise of the power by the delegate is as effective as if the directors themselves had exercised it.
- 9.5.4 The powers of delegation expressly or impliedly conferred by this Constitution on the directors are conferred in substitution for, and to the exclusion of, the power conferred by the Corporations Act [s.198D].



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## Part 10 Proceedings of directors

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### 10.1 Directors' meetings

The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

10.1.1 The board shall hold all board meetings as *in camera* sessions, but may invite, at their own discretion, any person or persons as an attendee to any part of the board meeting who may be invited to raise a matter or speak on agenda items to provide reports, advice, counsel and information or answer questions on company related matters as requested by board members.

- (a) In most instances the CEO shall attend all meetings of the board for the full duration, unless excused or requested not to by the board pursuant to rule 11.3.
- (b) In most instances the secretary shall attend all meetings of the board for the full duration to fulfil their delegated governance administrative functions pursuant to rule 12.3, unless excused or requested not to by the board.

### 10.2 Convening a meeting

The chairman or any two directors may at any time, and the secretary must on the written request of the chairman or any two directors, convene a meeting of the directors.

### 10.3 Questions decided by majority

A question arising at a meeting of directors is to be decided by a majority of votes of directors present and entitled to vote (except for the purpose of rule 8.12.1) and that decision is for all purposes a decision of the directors.

### 10.4 Chairman of directors' meetings

The directors may elect one of their number as chairman of their meetings and may also determine their roles, functions, authorities and the period for which the person remains as chairman.

### 10.5 Absence of chairman at directors' meeting

If a directors' meeting is held and ~

- (a) a chairman has not been elected under rule 10.4; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the directors present must elect one of their number to be a chairman of the meeting.

### 10.6 No chairman's casting vote at directors' meetings

The chairman of a directors' meeting does not have a casting vote.



### **10.7 Appointment of proxy director**

A director may participate in and vote by proxy at a meeting of the directors if the proxy ~

- (a) is another director; and
- (b) has been appointed in writing signed by the appointor.

### **10.8 Proxy director and voting**

A director who is present at a meeting of directors as a proxy for another director has one vote for each absent director who would be entitled to vote if present at the meeting and for whom that director is a proxy, in addition to their own entitled vote as a director.

The appointment may be general or for one or more particular meetings. A director present as proxy of another director who would be entitled to vote if present at the meeting has one vote for the appointor and one vote in his or her own capacity as a director.

### **10.9 Quorum for directors' meeting**

At a meeting of directors, the number of directors whose presence in person or by proxy is necessary to constitute a quorum is the total number of currently appointed directors divided by 2, rounded up to the nearest whole number, but not less than three (3). For example a quorum is ~

- (a) 3 directors if there are 6 directors in total;
- (b) 4 directors if there are 7 to 8 directors in total; and
- (c) 5 directors if there are 9 directors in total.

### **10.10 Continuing directors may act**

The continuing directors may act despite a vacancy in their number.

If the number of directors is reduced below the minimum fixed by rule 8.1, the continuing directors may, except in an emergency, act only to ~

- a) fill vacancies to the extent necessary to bring their number up to that minimum; or
- b) convene a general meeting.

### **10.11 Circulating resolutions**

The directors may pass a resolution without a directors' meeting being held if all of the directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by the directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last director signs.

### **10.12 Validity of acts of directors**



All acts done at a meeting of the directors or of a committee, or by a person acting as a director are, even if it is afterwards discovered that ~

- (a) there was a defect in the appointment or continuance in office of a person as a director or of the person so acting; or
- (b) a person acting as a director was disqualified or was not entitled to vote, as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

### **10.13 Meeting by use of technology**

Subject to the Corporations Act, a directors meeting may be held by the directors communicating with each other by any electronic technological means by which they are able simultaneously to hear each other and to participate in discussion.

A director may not leave a meeting using such technological means by intentionally disconnecting the communication link without the consent of the chairman of the meeting. A director is deemed to be present and form part of the quorum throughout the meeting unless the director obtains the consent of the chairman of the meeting to leave the meeting.

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**Part 11 Chief Executive Officer**

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11. The directors may appoint a Chief Executive Officer. The directors may give a Chief Executive Officer any of the powers conferred on them by this Constitution, subject, at the directors' discretion, to ~
- (a) any time period;
  - (b) specific purposes; and
  - (c) any other terms and restrictions.
- 11.2 All or any of those powers may be given collaterally with, or to the exclusion of the powers of the directors and may be revoked or varied by the directors.
- 11.3 The Chief Executive Officer shall attend all meetings of the board, unless excused or requested not to by the board.



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## **Part 12 Secretary**

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### **12.1 Appointment of secretary**

The company must have at least one secretary who is to be appointed by the directors.

### **12.2 Suspension and removal of secretary**

The directors may suspend or remove a secretary from that office.

### **12.3 Powers, duties and authorities of secretary**

A secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the directors. The exercise of those powers and authorities and the performance of those duties by a secretary are subject at all times to the control of the directors.



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## **Part I3      Alteration of Constitution**

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### **13.1    Alteration of Constitution**

This Constitution, including the statement of objects in rule 2.1, may be altered, amended, rescinded and/or added to only by a special resolution passed by the company in general meeting and in accordance with provisions the Corporations Act [s.136]..

A handwritten signature in black ink, appearing to read 'C. Scott', is written over a vertical line that separates the page number from the rest of the footer.

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## **Part 14    Seals**

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### **14.1    Use of common seal**

The company may have a common seal but, as permitted under the provision in the Corporations Act [s.123 (Note 1)], may make contracts and execute documents without using a seal if the document is signed by ~

- (a) 2 directors of the company; or
- (b) a director and a secretary of the company or another person appointed by the directors to countersign that document or a class of documents in which that document is included.

If the company has a common seal ~

- (a) it may be used only by the authority of the directors, or of any delegated person, persons, or committee authorised by the directors in accordance with rules 9.3 through to 9.5 to authorise its use; and
- (b) every document to which it is affixed must be signed by a director and be countersigned by another director, a secretary or another person appointed by the directors to countersign that document or a class of documents in which that document is included.

### **14.2    Safe custody of common seals**

The directors must provide for the safe custody of any seal of the company.

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## **Part 15    Inspection of records**

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### **15.1    Inspection by members of the company**

The directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the company or any of them will be open to the inspection of members of the company (other than directors).

### **15.2    Right of a member of the company to inspect**

A member of the company (other than a director) does not have the right to inspect any document of the company except as authorised by the directors (pursuant to rule 15.1) or as subject to the Corporations Act by a resolution passed at a general meeting [s.247D].

Subject to the Corporations Act or as otherwise provided by law, a member of the company may not request and is not entitled to receive any ~

- (a) information concerning the business or trading of the company;
- (b) trade secrets or processes of the company; or
- (c) other commercial-in-confidence information of or used by the company.



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## **Part 16 Service of documents**

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### **16.1 Document includes notice**

In this Part 16, a reference to a document includes a notice.

### **16.2 Methods of service**

The company may give a document to a member of the company ~

- (a) personally;
- (b) by sending it by post to the address for the member of the company in the Register or an alternative address nominated by the member of the company;
- (c) by sending it to a fax number or electronic address nominated by the member of the company; or
- (d) by sending it to the member of the company by other electronic means nominated by the member of the company.

### **16.3 Post**

A document sent by post ~

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, it must be sent by airmail, and in either case is taken to have been received on the day after the date of its posting.

### **16.4 Fax or electronic transmission**

If a document is sent by fax or electronic transmission, delivery of the document is taken ~

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

### **16.5 Evidence of service**

A certificate in writing signed by a director or a secretary stating that a document was sent to a member of the company by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

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## Part 17 Indemnity and insurance

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### 17.1 Indemnity

To the maximum extent permitted by law, the company may indemnify any current or former director or secretary or officer of the company out of the property of the company against ~

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the company or a subsidiary, if that expenditure has been approved in accordance with the director's policies,

except to the extent that ~

- (d) the company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the company of the person against the liability or legal costs, if given, would be made void by law.

### 17.2 Insurance

The company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director or secretary or officer or senior manager of the company against liability incurred by the person in that capacity, including a liability for legal costs, unless ~

- (a) the company is forbidden by law to pay or agree to pay the premium; or
- (b) the contract would, if the company paid the premium, be made void by law.

### 17.3 Contract

The company may enter into an agreement with a person referred to in rules 17.1 and 17.2 with respect to the matters covered by those rules. An agreement entered into pursuant to this rule may include provisions relating to rights of access to the books of the company conferred by the Corporations Act or otherwise by law.



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## **Part 18 Winding up**

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### **18.1 Contributions on winding up**

Each member of the company undertakes to contribute to the company's property if the company is wound up during, or within one year after the cessation of the member of the company's membership on account of ~

- (a) payment of the company's debts and liabilities contracted before they ceased to be a member of the company;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves;

an amount not to exceed \$10.

### **18.2 Application of property on winding up**

If any property remains on the winding-up or dissolution of the company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the member of the company but must be given or transferred to some other institution ~

- (a) having objects and/or purposes similar to those of the company;
- (b) whose memorandum of association or constitution prohibits the distribution of its income and property among its members to an extent at least as great as imposed on the company under this Constitution; and
- (c) being an institution accepted as a deductible gift recipient under sub-division 30 of the Tax Act by the Commissioner of Taxation or otherwise approved for these purposes by the Commissioner of Taxation.

The institution is to be determined by the members of the company at or before the time of dissolution and in default by application to the Federal Court of Australia.

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## **Attachment 1 Founding Members**

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### **Founding members:**

Each of the undersigned, being a person specified in the application for registration of the Company as a person who consents to become a Founding member of the Company, agrees to the terms of this Constitution.

Kathleen Anne Abbott  
Wallace Rockhole Community, Alice Springs NT 0870

Robert John Dann  
10 Matilda St Port Lincoln SA 5606

Christine Ingram  
6/12 Knowles Street, Northcote VIC 3070

Jennifer Anne Poelina  
15 Yu Court, Broome WA 6725

Mavis Egan  
6 Iluka Cres, Moama NSW 2731

Clarke Scott  
49 Treetops Avenue, South Penrith NSW 2750

Bradley James Freeburn  
77 Pinehurst Way, Blue Haven NSW 2262

Patrick Francis Ahkit  
House 1, Wittin Community, Via Tenant Creek NT 0860

Dr Mick Adams  
129 Claremont Resort, 43I Park Ridge Road, Park Ridge QLD 4125

Seriako Stephen  
Poruma St, Thursday Island, QLD 4875

Ann Newchurch  
20 Duthie Street, Hillcrest SA 5086

Janine Engelhardt  
143 Nullabor Avenue. Harrison ACT 2914

Charles Davison  
7 Greengate Road, Killara, NSW 2071

Warren Locke  
1 Pleasant Court Albany Creek QLD 4035

Peter John Parrgquee BM  
16 Phoenix Street, Nightcliffe NT 0810

