

The rule book of Tasmanian Aboriginal Corporation (ICN: 8554)

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

Tasmanian Aboriginal Corporation (ICN: 8554)

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1. Name

The name of the corporation is: Tasmanian Aboriginal Corporation ('TAC').

2. Objectives

The objectives of the corporation are to provide benevolent relief of poverty, sickness, destitution and distress to address disadvantage among Aboriginal and Torres Strait Islander ('Aboriginal') people by any means possible including:

- operating community programs to address Aboriginal disadvantage and further the health, welfare, education, employment, training, legal, land, cultural and other social and economic needs of the Aboriginal community particularly in Tasmania;
- promoting and providing training opportunities for Aboriginal people which may include the operation of a Registered Training Organisation if the directors so decide;
- providing employment opportunities for Aboriginal people in Tasmania;
- pursuing Aboriginal land and cultural rights including: holding and managing land on behalf of the Aboriginal community of Tasmania; securing the return of ancestral remains and objects; and, promoting the use and revival of the palawa kani Tasmanian Aboriginal language;
- operating Aboriginal community enterprises to provide employment opportunities and promote economic development for the Aboriginal community in Tasmania;
- promoting Aboriginal economic development for the benefit of Aboriginal people in Tasmania;
- bringing the history and needs of the Aboriginal people to the attention of the people and governments of Australia engaged in the provision of services and in so doing attempt to overcome the disadvantage that exists within the Aboriginal community in Tasmania;
- operating and maintaining a gift fund to be known as the 'Tasmanian Aboriginal Corporation Gift Fund' in accordance with the requirements of the *Income Tax Assessment Act 1997*;
- doing all things incidental to the pursuit of the objectives;
- exercising the powers of a body incorporated under the CATSI Act; and
- applying the income and property of the corporation solely to promote these objectives.

3. Members

3.1 Who is eligible?

A member must be:

- at least 16 years old
- an Aboriginal or Torres Strait Islander person
- usually resident in Tasmania.

3.2 How to become a member

A person who is eligible in accordance with rule 3.1 needs to apply in writing using the 'Application for membership form' in accordance with the application process approved by the directors.

The directors accept the application by resolution at a directors' meeting.

The directors must consider all applications for membership within a reasonable period after they are received.

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.

A person does not become a member until their name is entered on the corporation's register of members. This must be done within 14 days after the directors accept the membership application.

Notwithstanding the above, special rules apply when notice has been given for a general meeting or annual general meeting, in which case a person shall not be entered on the register of members until after the meeting if:

- a person applies for membership after a notice has been given for a general meeting or AGM, and
- the general meeting or AGM has not been held when the directors consider the person's application.

3.3 Members' rights

A member can:

- attend, speak and vote at general meetings
- be made a director if the member is eligible to be a director under rule 5.3 of this Rule Book
- put forward resolutions at general meetings, including under rule 4.6
- ask the directors to call a general meeting under rule 4.3
- look at the members' register free of charge
- look at the minutes of general meetings and AGMs free of charge
- look at the rule book or get a copy free of charge
- raise a dispute and have a dispute dealt with using rule 10
- look at the books of the corporation if the directors have authorised it or the members pass a resolution at a members' meeting which approves it.

3.4 Members' responsibilities

A member must:

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

Members should also attend general meetings (including AGMs) or give their apologies.

3.5 No membership fee

The members of the corporation are not required to pay fees to join or for ongoing membership of the corporation.

3.6 Liability of members

The members do not have to pay the corporation's debts if the corporation is wound up.

3.7 How to stop being a member

A person stops being a member if:

- they resign in writing
- they pass away
- their membership is cancelled in accordance with rule 3.8 or 3.9.

When a person stops being a member the corporation must put their name, address and the date they stopped being a member on the register of former members.

3.8 Cancelling membership

A person's membership can be cancelled by the members passing a special resolution at a general meeting if the member:

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

The directors must give the person notice of the cancellation of their membership at the person's last known address as soon as possible after the special resolution is passed.

When a person's membership is cancelled the corporation must put their name, address and the date they stopped being a member on the register of former members.

3.9 Directors' limited right to cancel membership

For grounds not covered by rule 3.8, a person's membership can be cancelled by the directors passing a resolution at a directors' meeting if the member is not or stops being eligible for membership as set out in rule 3.1.

To do this, the directors must:

- write to the member to tell them:
 - the directors are going to cancel their membership
 - the member has 14 days to object to the planned cancellation
 - if the member objects, they must write to the corporation to say so
- allow the member 14 days to object in writing to the intended cancellation.

If the member does not object, the directors must cancel the membership by passing a resolution at a directors' meeting and then give the former member a copy of the resolution.

If the member objects, the directors cannot cancel the membership. The membership can only be cancelled by members passing a resolution at a general meeting.

3.10 The register of members and former members

The register or registers must contain:

- the names and addresses of members and former members
- the date when each person's name was added to the register
- for former members, the date when they stopped being a member.

The registers of members and former members must be kept at the corporation's registered office.

The register of members must be made available at the AGM.

4. General meetings and AGMs (members' meetings)

4.1 AGM timing

An AGM must be held before the end of November each year.

4.2 AGM business

AGM business includes:

- confirming the minutes of the previous general meeting
- consideration of the reports that under Chapter 7 of the Act are required to be laid before the AGM
- presenting reports: general, financial, directors'
- asking questions about how the corporation is managed
- electing directors (if required)
- choosing an auditor (if required), and agreeing on the fee.
- checking the register of members.

4.3 *Calling general meetings*

4.3.1 *By directors or members*

The directors can call a general meeting or AGM by passing a resolution in a directors' meeting or by circulating resolution.

The required number of members can request the directors to call a general meeting.

Number of members in corporation	Number of members required to request 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.

The members' request must:

- be in writing
- state any resolutions to be proposed at the meeting
- be signed by the members making the request
- nominate a member to be the contact member on behalf of the members making the request
- be given to the corporation.

Within 21 days of receiving the request the directors must either call the meeting or apply to the Registrar to deny the request.

4.3.2 *Directors agree to the request*

If the directors agree to the request they must call the general meeting within 21 days of receiving the members' request.

4.3.3 *Directors apply to the Registrar to deny the request*

If the directors resolve that:

- the request is frivolous or unreasonable, or
- complying with the request would be contrary to the interests of the members as a whole,

they may apply to the Registrar for permission to deny the request to call a general meeting.

The directors' application to the Registrar to deny the members' request must:

- be in writing
- set out the reasons why they wish to deny holding the meeting
- be made within 21 days after the members' request for a meeting was made.

The directors must give notice to the contact member that they have applied to the Registrar to deny the request.

4.4 General meeting business

The business of general meetings includes:

- confirming the minutes of the previous general meeting
- considering the business or resolutions in the notice of meeting.

4.5 Notice for general meetings and AGMs

At least 21 days' notice must be given.

Notice must be given to:

- each member individually
- the directors
- the corporation secretary
- 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, set out an intention to propose it and state what it is
- any technology to be used in the meeting (if required).

Notices must be given to each member individually. This can be done by sending by post to their address, by fax, by email or via social media. In addition to individual notice a corporation can also give notice in a manner which follows Aboriginal or Torres Strait Islander custom.

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*

The required number of members can propose a resolution by giving notice of it to the corporation.

Number of members in corporation	Number of members required 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 members in the same way as 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 from the members has been given to the corporation.

4.7 *Quorum at general meetings and AGMs*

The quorum at general and annual general meetings is 20 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 and at the same place. If there is still no quorum, the meeting is cancelled.

4.8 *Chairing general meetings and AGMs*

The chairperson elected in accordance with rule 5.5 will chair general meetings, including AGMs.

4.9 Using technology at general meetings and AGMs

General meetings and AGMs may be held at more than one place using any technology that gives members a reasonable opportunity to participate but the type of technology to be used must be set out in the notice of meeting.

4.10 Voting at general meetings and AGMs

Each member has one vote.

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

A resolution is decided by majority on a show of hands, unless a poll is demanded under rule 4.11.

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

4.11 Demanding a formal count (i.e. a poll)

Either the chairperson or any member entitled to vote on a resolution can demand a poll. A poll is a formal count of votes.

A poll can be held instead of, or immediately after, a vote decided by majority on a show of hands.

A poll demanded on any matter must be taken immediately. The chair of the meeting directs how the poll will be taken.

4.12 Proxies

Proxies may not be appointed to attend or vote for members at general meetings.

4.13 Other people at general meetings and AGMs

A person appointed by a member as their attorney under a power of attorney may not in their capacity as attorney attend general meetings and AGMs or vote for the member, whether personally or through a proxy.

The chairperson may allow any person (excluding an attorney) other than a corporation director, member or auditor to attend general meetings and AGMs. But the person cannot propose or vote on resolutions.

5. Directors

5.1 *Role of directors*

The role of the directors is to:

- control and oversee the management of the affairs of the corporation on behalf of all members
- set the strategic direction of the corporation
- appoint and remove the chief executive officer (CEO) in accordance with the law.

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 a general meeting.

5.2 *Number of directors*

The number of member directors of the corporation is nine, including the chairperson.

5.3 *Eligibility of directors*

A director must be:

- at least 18 years old
- a member
- an Aboriginal or Torres Strait Islander person
- resident in Tasmania.

A person is not eligible to become a director if the person:

- is a current employee of the corporation or was an employee within the period of 12 months prior to nominating for appointment as a director
- has been disqualified from managing corporations by law or under a funding contract
- has been convicted of a criminal offence in the last five years and been sentenced to imprisonment for more than 12 months.
- is an undischarged bankrupt.

5.4 *How to become a director*

Members who wish to become a director, including the chairperson, need to nominate and submit a completed consent to become a director form to the corporation before the AGM.

The corporation can appoint a director by the members passing a resolution at a general meeting or AGM.

If there are more nominations than vacancies then an election occurs amongst the full membership, other than for three of the directors who shall be elected by members at regional meetings in the south, north and north-west of Tasmania. Voting is to be held under an optional preferential system. Voting can be in person or by postal vote.

If there is a casual vacancy in a directorship the other directors can pass a resolution in a directors' meeting to fill the vacancy (rule 5.7).

The corporation must notify the Registrar of the director's appointment and personal details within 28 days after they are elected.

5.5 *Election of chairperson*

A chairperson is to be elected at the same time and in the same manner as the other directors. The chairperson shall hold office for two years and must retire at the end of the second AGM after he or she takes office however is eligible for re-election. The members may also remove a chair (but not their appointment as a director) and appoint a replacement at any time by a resolution of the members.

5.6 *Directors' terms of appointment*

Directors are appointed for two years. They must retire at the end of the second AGM after they take office. They are eligible to be re-elected.

If, despite the operation of section 246-25(4) of the CATSI Act, the terms of all directors expire so that there are no directors appointed at a particular time, the directors holding office immediately before the expiry will continue to hold office until the members appoint new directors or reappoint the existing directors by resolution at a general meeting.

5.7 How to fill casual vacancies

The directors can appoint a person as a director to fill a casual vacancy.

A casual vacancy is where a person stops being a director before their term of appointment expires and so the position of that director is vacant.

The person must meet the director eligibility criteria in rule 5.3 and any criteria that apply to the particular vacancy.

The term of an appointment made to fill a casual vacancy is for the balance of the term remaining on the vacant position.

However, a person's appointment to fill a casual vacancy must be confirmed by members passing a resolution at the next general meeting otherwise the person stops being a director at the end of the general meeting.

5.8 How to stop being a director

A person stops being a director if:

- the director passes away
- the director resigns in writing
- the director's term of appointment expires
- the director is removed as a director by the members or the other directors
- the director is disqualified from managing a corporation
- the director ceases to be a member, but was a member when they became a director.

The corporation must send the Registrar a notice within 28 days after a person stops being a director.

5.9 How to remove a director

5.9.1 By resolution of the members in a general meeting:

- 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. (Alternatively, the members can request a meeting (rule 4.3) for the purpose of removing a director.)
- 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 written statement must be given to everyone entitled to notice of the meeting (see rule 4.5).

5.9.2 By the 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 or AGM by resolution.

5.10 Directors' and officers' duties

The duties are:

- a duty of care and diligence
- a duty of good faith and to act in the best interests of the corporation
- a duty to disclose a conflict of interest
- a duty not to improperly use position or information
- a duty to not trade while insolvent.

5.11 Conflict of interest

A director who has, or thinks they may have, a conflict of interest in a corporation matter must tell the other directors. This includes, but is not limited to, a material personal interest.

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

A director who has a conflict of interest must not:

- be present at a directors' meeting while the matter in question is being considered
- vote on the matter

unless they have been granted approval by:

- the other directors (those that do not have a conflict of interest) passing a resolution, or
- the Registrar in writing.

5.12 Payments to directors

A director cannot be paid a salary or sitting fees for their work as directors.

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

5.13 Related party benefit

If a corporation wants to give a financial benefit to a director or other related party (including a spouse, child or parent of a director) it must comply with Part 6.6 of the CATSI Act and, where required, follow the procedure to get the approval of the members.

5.14 Delegation of directors' powers

The directors can pass a resolution to delegate any of their powers to:

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

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

The exercise of the power by the delegate is as effective as if the directors had exercised it themselves. This means the directors are still responsible for what the delegate does with the powers.

Delegates must report to directors on the exercise of their delegated power.

5.15 Calling and giving notice of directors' meetings

Directors must meet at least every three months.

All directors must be given reasonable notice of a directors' meeting

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

5.16 Quorum for directors' meetings

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

The directors may appoint a member as a director to make up a quorum for a directors' meeting.

5.17 Chairing directors' meetings

The chairperson will chair directors' meetings when present.

If the chairperson is not present, the directors must elect a director present to chair the meeting (other than the CEO).

5.18 Using technology

Directors' meetings can be held at more than one place using any technology, as long as all directors agree to it. The type of technology to be used may be set out in the notice for a directors' meeting.

5.19 Resolutions by directors

Directors pass a resolution at a directors' meeting by a majority of the votes.

Each director has one vote.

The chairperson of the meeting does not also have a casting vote.

Directors can pass a resolution without a directors' meeting if all directors sign a statement saying that they are in favour of it.

5.20 Subcommittees

Directors may establish sub-committees from time to time to make recommendations to the directors.

The directors shall establish a Risk and Finance Committee.

Each sub-committee will include at least one director and may include staff and non-members with particular expertise.

5.21 Roles of chairperson and CEO

5.21.1 Chairperson

The role of the chairperson is to:

- chair directors' and members' meetings
- liaise with the CEO on matters affecting the corporation and its performance
- provide leadership and guidance to the other directors.

5.21.2 CEO

The role of the CEO is to:

- be responsible for the day-to-day running of the corporation, including staff recruitment and management, financial administration, service delivery, internal practices and procedures
- advise and inform the directors so informed decisions can be made
- ensure directors' decisions are implemented.

6. Corporation secretary

The directors must appoint a corporation secretary.

The corporation secretary must be at least 18 years old.

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

The corporation's secretary must pass on any correspondence received to at least one of the directors within 14 days.

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

The corporation must send the Registrar a corporation secretary's details within 28 days after they are appointed.

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 corporation secretary
- written financial records.

8. Finances

The corporation must keep written financial records that:

- correctly record and explain its transactions, financial position and performance
- would enable true and fair financial reports to be prepared and audited.

The corporation must follow these procedures:

- The corporation must give receipts for all money it receives.
- All money of the corporation must be deposited into a corporation bank account.
- All accounts must be approved for payment at a directors' meeting or in accordance with valid delegations.
- All cheques, withdrawal forms, electronic funds transfer (EFT) transactions, and other banking documents must be signed by at least two people authorised by the directors.
- All payments made out of the corporation's money must be supported by adequate documents which explain the nature and purpose of the payment.
- The corporation must keep adequate records for all cash withdrawals from the corporation's bank accounts (i.e. records that show the cash was used for a proper purpose and in accordance with the corporation's objectives).

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

9. Use of funds

The corporation is a not-for-profit corporation.

The directors can use the money and property of the corporation only to carry out its objectives.

The directors cannot directly or indirectly give any money or property of the corporation to members of the corporation both while it is operating and on winding up. This rule does not stop the corporation from making:

- a reasonable payment to a member in their capacity as an employee or for payment under a contract for goods or services supplied in the ordinary course of business to the corporation;
- payment to a member in carrying out the corporation's objectives.

10. Dispute resolution

10.1.1 Internal resolution

If a dispute arises between members and directors, 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 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 it at a general meeting.

10.1.2 Seeking assistance from the Registrar

If a dispute or any part of a dispute relates to the meaning of any provision of the CATSI Act or the corporation's rule book, the directors or any party to the dispute may seek an opinion from the Registrar about the correct meaning of the relevant provision.

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

11. Changing the rule book

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

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

- rule book changes
- special resolution
- minutes of the meeting.

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

12. Gift fund rules

The corporation shall maintain for the main purposes of the corporation a gift fund:

- to be named the ‘Tasmanian Aboriginal Corporation Gift Fund’
- which must receive gifts of money or property for the purposes (objectives) of the corporation
- which must have credited to it any money received by the corporation because of those gifts, and
- in respect of which the corporation will maintain a separate bank account.

The gift fund cannot receive any money or property other than that for the purposes (objectives) of the corporation.

The corporation shall use gifts made to the gift fund and any money received because of them only for the purposes (objectives) of the corporation.

Receipts issued for gifts to the gift fund must state:

- the full name of the corporation
- the Australian Business Number (if applicable) and the Indigenous Corporation Number (ICN) of the corporation
- the fact that the receipt is for a gift.

As soon as:

- the gift fund is wound up, or
- the corporation’s endorsement as a deductible gift recipient is revoked under section 426-55 of the *Taxation Administration Act 1953*

any surplus assets of the gift fund must be transferred to another fund, authority or institution, which has similar objectives to the corporation. This body must also be able to receive tax deductible gifts under division 30 of the *Income Tax Assessment Act 1997*.

13. Winding up

13.1 Surplus assets of the corporation

Where:

- the corporation is wound up, and
- after all debts and liabilities have been taken care of, and costs of winding up have been paid, surplus assets of the corporation exist,

the liquidator can decide or the members may pass a special resolution about how the surplus assets of the corporation are to be distributed.

The surplus assets must not be given to any member or to any person to be held on trust for any member and can only be given to a charitable organisation/s which is/are required to pursue objects with similar charitable purposes and to apply its profits or other income in promoting its charitable purposes and is prohibited from making any distribution of its income or property to its members.

13.2 Surplus assets of gift funds

If the Australian Tax Office allows the corporation to give tax deductible receipts for donations, and the corporation is wound up, any surplus gift funds must be given to another body with similar objectives and which is charitable at law that gives tax deductible receipts for donations.

Schedule 1—Application for membership form

Tasmanian Aboriginal Corporation (ICN: 8554)

Application for membership

I, _____ (first name of applicant)

_____ (last name of applicant)

of _____ (address of applicant)

apply for membership of the corporation.

I declare that I am eligible for membership.

I am: Aboriginal Torres Strait Islander

Signature of applicant

Date

.....
Corporation use only

Application received	Date:
Application tabled at directors' meeting held on	Date:
Directors consider applicant is eligible for membership	Yes / No
Directors enter name, address and date on register of members (also Indigeneity if non-Indigenous members are allowed)	Date:
Directors have sent notification of directors' decision to the applicant	Date:

