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CONSTITUTION

Cullunghutti Aboriginal Child and Family Centre Incorporated

An Incorporated Association registered under the
Associations Incorporation Act (NSW) 2009

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PART I - PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

1.1 In this Constitution, except in so far as the context or subject matter otherwise indicates or requires:

"**Aboriginal**" means a person who,

- (a) is of Aboriginal and or Torres Strait Island descent
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person.

"**Act**" means the Associations Incorporation Act (NSW) 2009 or its successors;

"**Annual General Meeting**" means a meeting held annually in accordance with **rule 28 and rule 29** and the s.37 of the Associations Incorporation Act (NSW) 2009

"**Association**" means *Cullunghutti Aboriginal Child and Family Centre Incorporated*;

"**Attendee**" means a person or persons permitted, at the discretion of the Board, to attend any part of the Association's Board meetings but with no status as a 'director' under the meaning of such in this Constitution or the law, and only in a non-voting capacity. Attendees permitted to attend Board meetings may speak with the consent of the Chair on agenda items to provide advice, counsel and information on matters or answer questions as requested by directors through the presiding Chair of the meeting. For the sake of legal clarity, attendees in this capacity, are recognised as having no role or authority in either making, or participating in making decisions that affect the whole, or a substantial part of the business of the Association; or be understood to have the capacity to affect significantly the Association's financial standing; or be understood to be issuing directions, instructions or wishes in accordance which the directors of the Association are accustomed to act; or in any other way be deemed to be a 'director' of the Association under the meaning of such in this Constitution or the law. An attendee includes a person or persons giving advice in the proper performance of functions attaching to their professional capacity or their business relationship with the Association;

"**Board**" means the governing body of directors of the Association however described 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 **Part III** of this Constitution. The Board shall have the same meaning as "Committee" as defined in, and is subject to s.28 of, the Associations Incorporation Act (NSW) 2009;

“Chairperson” refers to the person appointed pursuant to **rule 22** who must meet the eligibility criteria for being Aboriginal and is to preside as Chair at each general meeting and Board meeting of the Association pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution.

“Chief Executive Officer” of the Association means the principal corporate executive who must meet the eligibility criteria for being Aboriginal and is responsible for the overall day-to-day operations of the Association; appointed pursuant to **rule 21.8** and who may for the internal purposes of the Association be cited as the “*CEO*” or any other title the Board may so determine from time to time;

“Code of Conduct” means a Code, adopted from time to time by the Board, outlining the responsibilities of, or proper practices for Members and/or directors and Officers in relation to their activities and roles within, or representation of the Association;

“committee” means a committee constituted by and accountable to the Board pursuant to **rule 24** and are governance advisory bodies for the purpose of providing the Board with recommendations relevant to select *governance* matters of the Association and consisting of one or more directors and/or other persons as the directors from time to time think fit;

“Constitution” means the registered *Constitution* of the Association, as amended from time to time pursuant to **rule 44**, which binds the Association and its Members to the same extent as if it were a contract between them under which they each agree to observe its provisions;

“Core Service Area” will be defined from time to time by the Board

“director” means an eligible person pursuant to **rule 16.2**, who is duly appointed or elected to the Board pursuant to **rules 19 and 16.6**; a director shall have the same meaning as “Committee Member” pursuant to s.28.2 of the Associations Incorporation Act (NSW) 2009 and may for the purposes of this document and the internal purposes of the Association be referred to as a “*member of the Board*” or a “*Board member*”;

“Director General” means the Commissioner for Fair Trading, NSW Department of Commerce and its successors; or if there is no such position in the Department, the Director General of the Department.

“existing Aboriginal Organisations” means: (additional orgs)

Waminda

Nowra Aboriginal Lands Council

Ulladulla Aboriginal Land Council

Jerrinja Aboriginal Land Council

South Coast Aboriginal Medical Service

Wreck Bay Aboriginal Community Council
Arwon Elders
Bangee Ngurra Aboriginal Corporation
Boori Preschool Aboriginal Corporation
Browns Flat Aboriginal Corporation
Budamurra Aboriginal Corporation
Dharwal Aboriginal Corporation
Habitat Personnel
Illaroo Co-Operative Aboriginal Corporation
Oolong Aboriginal Corporation
Shoalhaven Aboriginal Corporation Elders and Friends
Aboriginal Education Consultative Group
Jerrinja Traditional Owners Aboriginal Corporation
and any other Aboriginal Organisation within Shoalhaven recognised formally by the Board formed since the initial adoption of, or the most recent amendment to, this Constitution as formally passed at a General Meeting of Association pursuant to [rule 43](#).

Elder
as endorsed by

Shoalhaven Aboriginal Organisations
Arwon Elders
Shoalhaven Elders and Friends
Shoalhaven City Council Elders register
Parent / Care Giver / Guardian
Parents/carers registered and using the Aboriginal Child and Family Service, Aboriginal or non-Aboriginal, who reside in the core service catchment area
Client
Adult clients of the Family Centre's integrated service delivery, Aboriginal or non-Aboriginal who reside in the core area service catchment area

“Financial Year” means the 12 month period commencing on 1 July and ending on 30 June in any year or such other period as the Board may determine;

“General Meeting” means a meeting held in accordance with [Part IV](#) at which all Members are entitled to attend. A General Meeting can be an *Annual General Meeting* of the Association or a *Special General Meeting* of the Association (i.e. a general meeting of the Association other than an Annual General Meeting) as per s.37 of the Associations Incorporation Act (NSW) 2009;

“Governance Charter” means a Board established document as referenced in [rule 47.2](#) that contains the Association's internal control framework of Board-determined governing policies as referenced in [rule 4](#), that give effect to the powers delegated to the Board pursuant to the Constitution and that guide how everyone in the Association is expected to act and behave and articulates who is responsible for what, who they are accountable to and the authorities and constraints each person must work within;

“Nowra” means the New South Wales township and includes the Shoalhaven Local Government Area and immediate region adjacent thereto and surrounding thereof;

“local Aboriginal community” means those people who collectively have a kinship and identity with the Shoalhaven Aboriginal communities and their associated history, customs and beliefs and other persons of Aboriginal descent and identity that reside in Shoalhaven;

“Majority Resolution” means a resolution passed at a General Meeting of Members by more than half of the votes cast by Members of the Association (present in person) who, under this Constitution, are entitled to vote on the proposed resolution as per s.38 of the Associations Incorporation Act (NSW) 2009;

“Member” means pursuant to **rule 3.2** a natural person over 18 years who is either an individual:

- Aboriginal from the local Aboriginal community;
- non-Aboriginal Shoalhaven community member who is a partner or parent of a local Aboriginal Community member;

“non-Aboriginal Shoalhaven community member” means persons of non-Aboriginal descent and identity that resides in the Shoalhaven;

“not-for-profit incorporated association” means (as defined by the Australian Taxation Office) an *“...organisation which is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. The Australian Tax Office accepts an organisation as non-profit where its constituent or governing documents prevent it from distributing profits or assets for the benefit of particular people - both while it is operating and when it winds up. These documents should contain acceptable clauses showing the organisation's non-profit character. The organisation's actions must be consistent with this requirement”*;

“NSW Fair Trading’s Registry of Co-operatives & Associations” means the body that regulates incorporated associations registered under the Associations Incorporation Act (NSW) 2009

“Office Bearer” of the Association means a director who holds a Board appointed or delegated position (with corresponding delegated authority) in addition to their director role on the Board pursuant to **rule 21**;

“Officer” of the Association means:

- (a) a director or office bearer of the Association; or
- (b) the public officer, Secretary or chief executive officer of the Association, the holder of any other office of the Association (however described) or a

- person occupying any of the above mentioned 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 Association
 - (ii) who is concerned in or takes part in the management of the Association's affairs (but does not include a patron or holder of another honorary office of the Association if the office does not give its incumbent a right to participate in the management of the Association's affairs)
 - (iii) who has the capacity to affect significantly the Association's financial standing; or
 - (iv) in accordance with whose instructions or wishes the directors of the association are accustomed to act (excluding persons who give advice in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the Association);

“Patron” means a person described in rule 43;

“policy” or “policies” means any governing policies (which may for the purposes of this document and the internal purposes of the Association, also be referred to as by-laws, guidelines, procedures, protocols, practices or processes) prescribing matters required or permitted by this Constitution to be prescribed or that are necessary or convenient to be prescribed with respect to any matter relating to the general courses of action required for the control, administration and management of the Association and its affairs, interests and property as created and amended from time to time by the Board pursuant to **rules 15.1.3 and 47**;

“principal place of administration” means the primary location where the Association's business is performed and where the Association's books and records are kept and has the same meaning as registered office;

“Public Officer” means a person who must meet the eligibility criteria for being Aboriginal and is appointed pursuant to **rules 21.5.1 and 27** and s.34 of the Associations Incorporation Act (NSW) 2009 and who resides in the NSW and is at least 18 years of age;

“Public Statement” and **“Statement”** means statements, whether verbal, written, in electronic form or any other form whatsoever, that could or would be seen, heard or by any other means communicated to a person not a Member of the Association;

“pursuant to” means, in relation to its use throughout this Constitution, literally *“in accordance with (a law or a legal document or resolution)”* [Source: Oxford Dictionaries; Oxford University Press];

“real or personal property” means the basic types of property in common law, roughly corresponding to the division between immovables and movables

in civil law. Real property consists of land, buildings, crops, and other resources, improvements, or fixtures still attached to the land. Personal property is essentially all property other than real property, including goods, animals, money and vehicles;

“**Regulation**” means the Associations Incorporation Regulation 2010 and its successors;

“**Secretary**” means a person who must meet the eligibility criteria for being Aboriginal and is:

- (a) appointed to hold office under this Constitution as Secretary of the Association (pursuant to [rule 24](#)); or
- (b) where no such appointment is made, the Public Officer of the Association (pursuant to [rule 25.3](#) and [27.1.7](#));

“**Special General Meeting**” means a meeting of Members other than an Annual General Meeting convened in accordance with [rule 30](#);

“**Special Resolution**” has the meaning given to it in [rule 37](#) and as per s.39 of the Associations Incorporation Act (NSW) 2009 and is one that affects something fundamental about the Association, including (but not limited to) ~

- altering the Association's Constitution, objects or purposes;
- changing the Association's name;
- amalgamating with another Association;
- disciplining a Member;
- removing a director; and
- winding up the Association.

A special resolution must be passed at a general meeting of the Association. At least twenty-one (21) days notice of the meeting must be given to the Members of the Association together with a notice of intention to propose the resolution as a special resolution. At the meeting the special resolution must be passed by *at least three-quarters (75%) of Association Members who attend the meeting in person and who are entitled to vote*. It is not required that three quarters of the total membership pass the resolution, only those that attend the meeting.

“**Strategic Direction**” means and is restricted to, matters encapsulating the purpose and aspirations of the enterprise and pertaining to the stated outcomes and result priorities and the associated performance evaluation indicators required to achieve the objects of the Association as approved by the Board from time to time but excludes, without limitation, business and operational plans, policies, methods, practices, activities and decisions.

“**Treasurer**” means the person appointed to hold the office of Treasurer of the Association pursuant to [rule 26.1](#);

“**Cullunghutti Aboriginal Child and Family Centre**” means a gathering place in which the Association provides services in relation to the pursuit of the objects of the Association which may for the purposes of this document and the internal purposes be cited as “the Centre”;

1.2 In this Constitution unless the contrary intention appears:

- (a) (function) a reference to a function includes a reference to a power, authority or duty;
- (b) (exercise of a function) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty;
- (c) (person) a reference to a person includes a reference to a natural person, an incorporated association or company incorporated by statute, a company as defined in the Corporations Act 2001 (Cth) or any other legal entity not being a natural person.
- (d) (gender) words importing any gender include all other genders;
- (e) (person) the word person is a reference to only an individual;
- (f) (singular includes plural) the singular includes the plural and vice versa;
- (g) (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;
- (h) (regulations) a reference to a law includes regulations and instruments made under the law;
- (i) (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;
- (j) (from time to time) a power, an authority or a discretion reposed in a director, the directors, the Association in general meeting or a Member of the Association may be exercised at any time and from time to time;
- (k) (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;
- (l) (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

- (m) (currency) a reference to \$ is a reference to the lawful currency of Australia.

Legal Entity

- 1.3 Subject to the provisions of s.6 Associations Incorporation Act (NSW) 2009, enabling, by licence a not-for-profit incorporated association to be incorporated as a body corporate, this Association is an Incorporated Association (a legal entity, separate and distinct from that of the individual Members, distinguishing the liability of the Association from that of its Members) under the Associations Incorporation Act (NSW) 2009.

1.3.1 The Association is established for the purposes set out in the Constitution.

Name

- 1.4 Subject to the provisions of s.6(3)(b) of the Associations Incorporation Act (NSW) 2009, enabling, the specification of the Association's proposed name, the name of the Association shall be the *Cullunghutti Aboriginal Child and Family Centre Incorporated*.

Model Constitution not to apply

- 1.5 This *Constitution* applies to the Association *Cullunghutti Aboriginal Child and Family Centre Incorporated* and the provisions of the Associations Incorporation Act (NSW) 2009 that apply as the Model Constitution prescribed by the Regulations are displaced by this Constitution and accordingly do not apply to the Association. Where any ambiguity exists in the interpretation of any meaning, this Constitution shall be interpreted according to the Associations Incorporation Act (NSW) 2009 and the Associations Incorporation Regulation (NSW) 2010 and its successors.

Application of the Associations Incorporation Act (NSW) 2009

- 1.6 In this *Constitution* unless the contrary intention appears an expression has, in a provision of this *Constitution* that deals with a matter dealt with by a particular provision of the Associations Incorporation Act (NSW) 2009, the same meaning as in that provision of the Associations Incorporation Act (NSW) 2009; and "section" means a section of the Associations Incorporation Act (NSW) 2009;
- 1.7 This *Constitution* shall comply with the subscribed matters specified in the relevant sections of the Associations Incorporation Act (NSW) 2009 and such matters that may be prescribed.

Constitution

- 1.8 The *Constitution* binds the Association and its Members to the same extent as if it had been signed and sealed by each Member and contained covenants on the part of each Member to observe all the provisions of the *Constitution*.
- 1.9 Headings are inserted for convenience and are not to affect the interpretation of this *Constitution*. This *Constitution* is divided into Parts and numbered "rules" as indicated by its Contents.

Inadvertent Omissions and Interpretation of the Constitution

1.10 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.

Not-for-profit status

1.11 The profits (if any), assets and other income and property of the Association, however derived, must be applied solely towards the promotion and furtherance of the objects of the Association as set out in **rule 2.1**.

1.12 No part or portion of the profits (if any), assets and other income and property of the Association may be paid, distributed or transferred to a person or body corporate of any class of membership, either directly or indirectly by way of dividend, bonus or otherwise except as bona fide compensation for services rendered or expenses incurred on behalf of the Association pursuant to **rule 1.13**.

Not-for-profit incorporated association and function and powers to act as trustee for charity tax concessions in accordance with the Charities Act 2013 (Cth)

1.13 The Association shall have the power to:

- a) function as a charitable fund, being a not-for-profit incorporated association which is not carried on for the purpose of profit or gain to its individual members and which is not empowered to make any distribution, whether in money, property or otherwise, to its individual members.
- b) establish and act as trustee for charitable trusts and may by all lawful means acquire and receive personal and real property and shall apply the same in or towards the establishment or conduct of all or any of the objects as defined within the *Constitution*:
- c) carry on the business of a trustee and without limiting the generality thereof to act as a trustee of any trust, trust fund, foundation, or any like organisation whatsoever and to create and declare trusts.
- d) act as trustee, agent, nominee or broker for any person or persons, corporation or corporations or trustee, either alone or in conjunction with others and either with or without remuneration for so acting and to act as trustee, agent, nominee or broker as aforesaid.
- e) do all such acts and deeds or things as the Association may be required or authorised or have a discretion to do in its capacity as trustee, nominee or agent as aforesaid.
- f) carry out all or any of the objects of the Association and perform all or any of its functions in any part of the world and either as principal, agent, contractor or otherwise and by or through trustees or agents or otherwise and either alone or in conjunction with others.
- g) undertake and execute, either gratuitously or otherwise, any trust the undertakings of which represents a community service in the interest of the

- local Aboriginal community and seems desirable and to make, execute or enter into any trust, trust deed, declaration of trust, or other deed or instrument and to vary, amend or revoke the same by deed, instrument or otherwise, subject to the provisions of the law and this *Constitution*;
- h) establish, manage, carry on and support or aid in the establishment and support of societies, associations, institutions, trust funds, foundations, trusts, enterprises and conveniences calculated to meet the objects of the Association, and grant, subscribe or guarantee money for any purpose in pursuit of the objects of the Association;
 - i) accept any gift endowment, subsidy, grant or bequest made to the Association generally or for the purpose of any specific object and to carry out any trusts attached to any such gift, endowment, subsidy, grant or bequest, *provided* that in the case the Association shall take or hold any property which may be subject to any trust, the Association shall only deal with the same in such manner as is allowed by law having regard to such trusts;

Income exempt from taxation

- 1.14 The clauses of this *Constitution* are intended to confirm, *inter alia*, the Association to be a not-for-profit incorporated association carried on otherwise than for the purposes of profit or gain to the individual members of the Association and accordingly any income to be exempt under the relevant provisions of the *Income Tax Assessment Act 1997*, as amended, and that gifts, bequests subscriptions and donations to the Association, being a non for profit incorporated association, are allowable deductions within the *Income Tax Assessment Act 1997*.

Invitation and acceptance of donations etc. by appeal to the public

- 1.15 The Association will seek from the public and, subject to legislative provisions, accept subscriptions, donations and bequests (whether of real or personal property) to promote and undertake any non for profit undertaking, taking such lawful steps as may be necessary or desirable to obtain contributions to the funds of the Association in the form of donations, subscriptions, bequests or otherwise.

Deductible Gift Recipient and Gift Fund

- 1.16 Where the company has been endorsed by the Australian Taxation Office as a Deductible Gift Recipient (DGR), prior to any receipt of a tax deductible donation, gift of money or property, the Association shall establish and maintain a separate gift fund consistent with the provisions within subsections 30-125 (4) to (7) of the *Income Tax Assessment Act 1997* or as amended from time to time.
- 1.16.1 The gift fund shall be maintained:
- a) for the principal purpose of the Association;
 - b) as the sole account into which such gifts are deposited; and
 - c) used exclusively for crediting such gifts; and
 - d) shall only be used, or its funds disseminated, consistent with the not for profit purposes outlined in the object within the *Constitution* of the Association.

1.16.2 The name of the gift fund shall be the:

'Cullunghutti Aboriginal Child and Family Centre Deductible Gift Fund'

and the governance of the fund shall be consistent with relevant provisions within the *Income Tax Assessment Act 1997*, as amended from time to time, and relevant sections of the *Constitution* of the Association.

1.16.3 At the first occurrence of either the winding up of the Gift Fund, or the revocation of endorsement of the Association as a DGR, any surplus assets of the Gift Fund, remaining after the payment of the liabilities attributable to it, shall be transferred, to another not-for-profit incorporated association in Australia which is a not for profit incorporated association for the purposes of any Commonwealth Taxation Act and to which income tax deductible gifts can be made.

Payments by the company in good faith

1.17 **Rule 1.12** does not prevent payment in good faith to a director or officer of the Association or a person or body corporate of any class of membership, or to a firm of which an officer of the Association or a person or body corporate of any class of membership is a partner ~

1.17.1 of remuneration for **services** provided by that officer or person or body corporate of any class of membership to the Association;

1.17.2 for **goods** supplied in the ordinary course of business;

1.17.3 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 Association or a person or body corporate of any class of membership;
or

1.17.4 of reasonable **rent** for premises let by an officer of the Association or a person or body corporate of any class of membership

1.17.5 reimbursement of monies for **expenses** incurred on behalf of the Association

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

1.17.6 out of pocket expenses, incurred by a director in performing a duty as a director of the Association

1.17.7 a service rendered to the Association by a director in a professional or technical capacity, where:

1.17.7.1 the provision of the service has the prior approval of the

directors; and

- 1.17.7.2 the amount payable is not more than an amount that commercially would be reasonable payment for the service.

Evidence based services

_____ entails making decisions about how to promote health and education or provide care by integrating the best available evidence with practitioner expertise and other resources, and with the characteristics, state, needs, values and preferences of those who meet our core services. This is done in a manner that is compatible with the environmental and organisational objectives. Evidence is comprised of research findings derived from the systematic collection of data through observation and service provider and client feedback.

2. PURPOSE, OBJECTS AND POWERS OF THE ASSOCIATION

PURPOSE

The purpose of the Association is for a significant place of importance and of belonging for all children, families and the local Aboriginal community that supports local Aboriginal community members to aspire towards a healthy and positive vision in life, raise healthy and culturally strong children and build strong families and a strong community.

OBJECTS

- 2.1 Subject always to its Purpose, the objects of the Association are to:
- 2.1.1 Provide services to meet Aboriginal children and families' needs
 - 2.1.2 Provide services that culturally match the local Aboriginal community
 - 2.1.3 Deliver evidence based services to improve outcomes for children and families including but not limited to health, education and welfare initiatives and a not for profit Early Learning Service.
 - 2.1.4 Provide the aforementioned services for all family and community members beyond the target group initially set by government
 - 2.1.5 Ensure the aforementioned services, adopt, implement and promote culturally appropriate processes and protocols
 - 2.1.6 Undertake evaluation of the aforementioned services with a methodology that is culturally accepted and has participation or lead involvement by the local Aboriginal community. The evaluation will take into account outcomes related to cultural identity for children and the local community
 - 2.1.7 Influence mainstream (children's, family support and health services) delivery to improve partnerships, access and referrals and effectiveness for Aboriginal families
 - 2.1.8 Ensure any Centre owned and used by the Association in the provision and delivery of the aforementioned services be staffed and managed (as fully as practically as possible) by Aboriginal people
 - 2.1.9 Ensure the Association maintains the principles of working closely with existing Aboriginal Organisations for best outcomes for Aboriginal children, their families and the local Aboriginal community
 - 2.1.10 Doing all such acts, deeds, matters and things as may be incidental, ancillary or conducive to the attainment and furtherance of these objects

|
_ To establish a Public Benevolent Institution which will be a Non-Profit Institution organised for the direct relief of poverty, sickness, suffering,

distress, misfortune, disability or helplessness among the Aboriginal Community which it serves.

2.1.12 To auspice services and organisations that provide services to peoples of the Shoalhaven and surrounding areas.

2.1.13 To promote, strengthen and maintain the social and cultural integrity of Aboriginal communities by ensuring that all programs operate in a culturally appropriate respectful and supportive ways.

BUT AT ALL TIMES recognising that the Association may be constrained to pursue only some of those objects to exclusion of others from time to time or pursue some objects with differing priorities.

POWERS

2.2 The **powers** of the Association are:

In addition to the **powers** conferred on the Association by the Act or Regulations, this Constitution and consistent with the assigned authorities in **rule 15**, the Association 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 aforesaid objects 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, and tradespersons or professional **persons**;

2.2.2 Determine **wages, salaries and gratuities** of officers, employees and other appointed contractors, agents, service providers where appropriate;

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 Association and their dependants, and the granting of pensions, allowances or other **benefits to employees or past employees of the Association** 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 **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 association on trust;

2.2.6 Take any measures from time to time as the Association may deem expedient or appropriate for the purpose of procuring contributions to

the **funds of the Association**, whether by way of donations, subscriptions, grants or otherwise;

- 2.2.7 Draw, make, accept, endorse, discount and issue cheques, draft bills of exchange, promissory notes and other **negotiable instruments**;
- 2.2.8 Borrow or raise **money** and other funds in such manner and on such terms as the Association may think fit;
- 2.2.9 Secure the repayment of money raised or borrowed or the payment of a **debt or liability of the Association** by giving mortgages, charges or securities upon or over all or any of the real or personal property of the Association;
- 2.2.10 **Invest** in authorised trustee investments of any monies of the Association 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 Association;
- 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 Association;
- 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 Association;
- 2.2.15 Buy, sell and supply of and deal in, **goods or services** of any kind to achieve the aims of the Association;
- 2.2.16 **Do any other lawful act** as may be necessary, incidental or conducive to the achievement of the aforesaid objects of the Association **including to co-operate** with any person or organisation on matters relating to the objects of the Association;
- 2.2.17 Form a solely owned **incorporated entity** or participate in the formation of an incorporated entity with any other persons or bodies whose objects are similar to those of the Association;
- 2.2.18 Subscribe to, become a member of, form or participate in the formation of or enter into a **partnership or joint venture** with or co-operate with or

amalgamate with any other persons or bodies whose objects are similar to those of the Association;

In relation to rules 2.2.17 and 2.2.18, *provided* that the Association shall not subscribe to or participate or support with its funds or amalgamate with any corporate entity which allows the distribution of its income and property among its individual Members as provided for this Association in rules 1.11 and 1.12 of this *Constitution*;

2.2.18. Appoint an **Auditor** as required pursuant to s.52 of the Act;

2.2.19 Appoint a **Public Officer** as required pursuant to s.34 of the Act.

PART II – MEMBERSHIP

3. MEMBERSHIP – QUALIFICATIONS OF MEMBERSHIP

3.1 Subject to the application of rule 4, a person (being either a natural person) is qualified to be a Member of the Association if and only if they have an interest in the objects of the Association and the person agrees to be bound by all the provisions of the Act, this Constitution and any other policies (guidelines, procedures, protocols, practices or processes) prescribed by the Board from time to time; including (but not limited to) ~

- a) supporting and acting in a manner consistent with the objects of the Association
- b) notifying the Association of any change in their address within 28 days of such change;
- c) compliance with any Code of Conduct adopted by the Association;
- d) treating other Members, Staff, Clients, Partners (Stakeholders) and the Board with respect and dignity;
- e) not behaving in a way that significantly interferes with the operation of the Association or of Association meetings;
- f) not making public statements on behalf of the Association unless prior to making such statements the Board has approved the making of such statements;
- g) paying any fee, levy, etc as determined from time to time by the Board pursuant to rule 9.

3.2 Membership of the Association is open to a natural person who is 18 years or older and who is either an:

3.2.1.1 An Aboriginal individual authorised as a representative of an Aboriginal organisation from the core service area defined in rule 1 Definitions and Interpretations;

3.2.1.2 Parent, Care Giver, Guardian or Client either Aboriginal or non-Aboriginal who is actively using the Services of the Association

3.2.1.3 An Aboriginal Elder who is recognised and accepted by either Elder Group or an Aboriginal Organisation who resides in the Core Service Area as defined in rule 1 Definitions and Interpretations;

- 3.3 The classification of membership will be determined by the Board who also may resolve at any time to vary the classification of any Member in accordance with rules 4.2 and 4.6.
- 3.4 In determining at any time the classification of Membership to which an applicant is admitted, the Board may also have regard to such other factors as the Board considers appropriate.
- 3.5 A person may be denied Membership, at the absolute discretion of the Board, on the following grounds ~
- 3.5.1 The applicant does not have the legal capacity to enter in to a contractual agreement;
- 3.5.2 Acceptance of the applicant as a Member would or could be deemed prejudicial or detrimental to the interests of the Association or contrary to the principles of the objects of the Association;
- 3.5.3 That the period required as per rule 4.5.3 has not yet been met.
- 3.7 Membership of the Association does not confer on a Member any right, title or interest, whether legal or equitable, in the Association's assets.

4. MEMBERSHIP - APPLICATION FOR MEMBERSHIP

- 4.1 An application for Membership of the Association:
- 4.1.1 shall be made in writing on the *Application for Membership* form as determined by the Board from time to time (set out in Appendix 1 to this Constitution) and
- 4.1.2 shall be lodged with the Secretary of the Association at the principal place of administration of the Association.
- 4.2 As soon as practicable after receiving an application for Membership, the Secretary shall refer it to the Board (or their delegate) which shall determine whether to approve or reject the application, and if approved, determine the classification of the Member.
- 4.3 Where the Board determines and approves an application for Membership, the Secretary shall, with as little delay as possible, notify the applicant in writing that it has been approved for Membership of the Association and advise the applicant of their attendant rights, privileges and obligations.
- 4.4 If an application for Membership is rejected by the Board, they must send to the applicant written notice of the outcome of the decision but no reason need be given.

4.5 A person who is denied membership may make *an application for review* of the decision at the next general meeting of Members. An *application for review* of the decision must be made in writing addressed to the Secretary and be received within twenty one (21) days of the date of service of notice that membership has been denied.

4.5.1 Upon receipt from an applicant under **rule 4.5** of an *application for review* of a decision to deny membership, the Secretary shall notify the Board which shall ~

- a) within twenty one (21) days acknowledge receipt of the application in writing addressed to the applicant;
- b) place the *application for review* as an agenda item at the next general meeting;
- c) inform the applicant of the date of the next general meeting of Members at least twenty one (21) days prior to the date of the general meeting.

Where the next general meeting is less than twenty one (21) days from the date of receipt of the *application for review*, the Board is not bound by the time limits provided for above.

4.5.2 The general meeting of Members may accept the applicant as a Member on a majority vote. Failure to achieve a majority vote will be confirmation of the decision of the Board.

4.5.3 An applicant rejected for membership, may re-apply for membership of the Association after a period of one (1) year from the date of the previous application rejection or as the Board may otherwise determine at their absolute discretion.

4.6 Prior to making a formal application for Membership of the Association the person may request the Board to indicate the classification likely to be allocated to the applicant if formal application is made for Membership.

5. MEMBERSHIP - CESSATION OF MEMBERSHIP

5.1 A person ceases to be a Member of the Association if the person:

5.1.1 resigns that Membership pursuant to **rule 7**; or

5.1.2 has their Membership terminated pursuant to **rules 13 or 14**;

5.1.3 dies, becomes bankrupt, makes a composition with or assigns the Member's estate for the benefit of the Member's creditors;

5.1.4 ceases to satisfy any criteria for admission to membership of the Association which may be established from time to time .

5.2 Cessation of Membership does not entitle the person to any refund of fees, subscriptions, levies, etc

6. MEMBERSHIP - ENTITLEMENT NOT TRANSFERABLE

6.1 A right, privilege or obligation which an person has by reason of being a Member of the Association -

6.1.1 is not capable of being transferred or transmitted to another person;

6.1.2 shall remain with that person notwithstanding that they may change their name as long as the person still qualifies for Membership of the Association pursuant to rule 3.

7. MEMBERSHIP - RESIGNATION OF MEMBERSHIP

7.1 A Member of the Association is not entitled to resign that Membership except in accordance with this Constitution.

7.2 A Member of the Association who has paid all amounts payable by the Member to the Association in respect of the Member's Membership may resign from Membership of the Association by first giving notice being not less than one month (or such shorter period as the Board may determine) in writing to the Secretary of the Member's intention to resign. Upon the expiration of the period of notice, the Member ceases to be a Member.

8. MEMBERSHIP - REGISTER OF MEMBERS

8.1 The Secretary of the Association shall establish and maintain a register of Members of the Association specifying the particulars required in accordance with s.29(2) of the Act.

8.2 The register of Members shall be kept at the principal place of administration of the Association and shall be open for inspection, free of charge, by any Member of the Association at any reasonable hour, having first given reasonable notice in writing to inspect and made prior arrangement with, the Secretary to inspect. The inspection may be supervised by the Secretary and undertaken at a time convenient to both parties. The registrar of Members is not to be removed from the principal place of administration of the Association and remains the property of the Association to be used solely for the purposes of the Association pursuant to the matters required as described in this Constitution and the Act and Regulations

- 8.3 Where a Member of the Association ceases to be a Member, the Secretary shall make an appropriate entry in the register of Members recording the date on which the Member ceased to be a Member in accordance with s.29(2)(c) of the Act.
- 8.4 A Member of the Association may obtain a copy of any part of the register on payment of a fee of not more than \$2 for each community member and \$10 for each organisation as defined in Rule 3
- 8.5 If a Member requests that any information contained on the register about the Member (other than the Member's name) not be available for inspection that information must not be made available for inspection.
- 8.6 A Member must not use information about a person obtained from the register to contact or send material to the person, other than for:
- 8.6.1 the purposes of sending the person a Board (or their delegate) sanctioned newsletter, a notice in respect of a meeting or other event relating to the Association or other material relating to the Association, or
- 8.6.2 any other purpose necessary to comply with a requirement of the Act or the Regulation.

9. MEMBERSHIP - FEES, LEVIES, ETC.

- 9.1 A Member of the Association shall, upon admission to Membership, pay to the Association an **application fee** in an amount the Board may from time to time determine.
- 9.2 Any Member may with the written approval of the Board pay the application fee in such manner as the Board may determine. However, the whole of the application fee (including any part which has been deferred and is not yet due) must be paid before a Member may resign.
- 9.3 In addition to any application fee payable by the Member under **rule.9.1**, a Member of the Association shall for each Financial Year pay to the Association a **membership fee** in an amount and according to such terms, conditions and timings as the Board may from time to time determine.
- 9.4 Members that have not remitted the full amount of application fee and/or membership fee permitted to be determined by the Board within 60 days of the date on the original invoice are liable to be charged **interest**. Interest shall be payable on demand and be calculated daily by applying to the latest cash rate target fixed by the Reserve Bank [<http://www.rba.gov.au/statistics/cash-rate/>] plus a margin of 2%.
- 9.5 The Board may from time to time as they see fit **vary** the amount of application fee and/or membership fee applicable under the clauses above.

9.6 The Board may at any time impose **other fees and/or levies** on Members where the Board considers it appropriate and prudent to do so in the interests of the Association and pursuant to the furtherance of its objects.

9.7 The Board may at its discretion waive any fee payable by members.

10. MEMBERSHIP – MEMBER COMMUNICATION WITH THE BOARD

10.1 A Member may raise any matter in relation to the direction, control and management of the affairs of the Association 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 ~

10.1.1 The matter must be stated in writing, addressed to the Secretary, clearly describing the matter and signed by the Member;

10.1.2 The Secretary shall ensure provision on the agenda of the next Board meeting for the correspondence relating to the matter 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.

10.1.3 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.

10.1.4 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 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 17.2**.

10.1.5 Within fourteen (14) days of receipt of such a request pursuant to **rule 10.1.4** 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 17.2**. The date of the meeting must be no more than sixty (60) days from the date of receipt of the request.

11. MEMBERSHIP - LIABILITIES OF MEMBERS

The liability of a Member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the Member in respect of Membership of the Association as required by **rule 9**.

12. MEMBERSHIP - RESOLUTION OF DISPUTES

Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, unable to be resolved through internal Association grievance resolution processes, are to be referred to the Australian Commercial Disputes Centre or similar organisation as mutually agreed by the parties for mediation or to a community justice centre for mediation under the *Community Justice Centres Act 1983*..

If a **dispute** is not resolved by mediation within 3 months of the referral to a community justice centre, the **dispute** is to be referred to arbitration. The *Commercial Arbitration Act 1984* applies to any such **dispute** referred to arbitration.

13. MEMBERSHIP - DISCIPLINING OF MEMBERS

13.1 The Board in its discretion may determine by resolution of not less than a two-thirds majority (of the total number of directors), to terminate a Member's Membership of the Association; or suspend a Member from Membership of the Association for a specified period, subject to compliance with the later provisions of **rule 13** and where a Member of the Association;

13.1.1 wilfully refuses or neglects to pay, within 60 days any of the application fee, or membership fees, or interest raised pursuant to **rules 9 or 41**; or

13.1.2 wilfully refuses or neglects to adhere to the Code of Conduct; or

13.1.3 wilfully acts in any way or manner that the Board determines is liable to bring, or has brought the Association into disrepute through their activities or inactivity or in any way or manner determined by the Board to be prejudicial or detrimental to the interests or pursuit of the furtherance of the objects of the Association.

13.2 Where the Board passes a resolution pursuant to **rule 13.1**, the Secretary shall, as soon as practicable, cause a notice in writing to be served on the Member:

13.2.1 setting out the resolution of the Board and the grounds on which it is based;

13.2.2 stating that the Member may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;

13.2.3 stating the date, place and time of that meeting; and

13.2.4 informing the Member that the Member may do either or both of the following:

(i) attend and speak at that meeting;

- (ii) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- 13.3 A meeting of the Board shall be convened at the time and place specified in the notice pursuant to rule 13.2 or such other place as the Member and the Board shall agree.
- 13.4 At the meeting of the Board held pursuant to rule 13.3, the Board shall:
 - 13.4.1 give to the Member an opportunity to make written or oral representations;
 - 13.4.2 give due consideration to any oral or written representations submitted to the Board by the Member at or prior to the meeting; and
 - 13.4.3 by resolution determine whether to confirm or to revoke the resolution.
- 13.5 Where a Board confirms a resolution pursuant to rule 13.4, the Secretary shall, within seven (7) days after that confirmation, by notice in writing inform the Member of the fact and of the Member's right of appeal pursuant to rule 14.
- 13.6 A resolution confirmed by the Board pursuant to rule 13.4 does not take effect:
 - 13.6.1 until the expiration of the period within which the Member is entitled to appeal against the resolution where the Member does not exercise the right of appeal within that period; or
 - 13.6.2 where within that period the Member exercises the right of appeal, unless and until the Association confirms the resolution pursuant to rule 14.4.

14. MEMBERSHIP - RIGHT OF APPEAL OF DISCIPLINED MEMBER

- 14.1 Within seven (7) days after notice of the resolution is served on the Member that Member may appeal to the Association in General Meeting against a resolution of the Board which is confirmed pursuant to rule 13.4, by lodging with the Secretary a notice to that effect.
- 14.2 Upon receipt of a notice from a Member pursuant to rule 14.1, the Secretary shall notify the Board which shall convene a General Meeting of the Association to be held within sixty (60) days after the date on which the Secretary received the notice.
- 14.3 At a General Meeting of the Association convened pursuant to rule 14.2:
 - 14.3.1 no business other than the question of the appeal shall be transacted;

- 14.3.2 the Board and the Member shall be given the opportunity to state their respective cases orally or in writing, or both; and
- 14.3.3 the Members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 14.4 If at the General Meeting the Association passes a majority resolution in favour of the confirmation of the resolution, the resolution is confirmed.

PART III - THE BOARD

15. THE BOARD - POWERS OF THE BOARD

- 15.1 Subject to the Act, the Regulation and this Constitution, the Board:
- 15.1.1 shall direct, control and be responsible for the management of the affairs, and the furtherance of the objects, of the Association;
 - 15.1.2 may exercise all such functions as may be exercised by the Association other than those functions that are required by this Constitution to be exercised by a General Meeting of Members of the Association; and
 - 15.1.3 has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Association.
- 15.2 Except in the case of a specific delegation of authority pursuant to **rule 26**, the Board shall approve any and all public statements made on behalf of the Association by any Member, duly appointed director, office bearer, officer, employee, delegated person, persons, or committee and/or agent of the Association, prior to that person making such statement.
- 15.2 Members of the Board should and are required to:
- 15.2.1 sign a conflict of interest declaration stating: Shoalhaven Aboriginal organisation/s they are a member of, Shoalhaven Aboriginal organisation/s are on the board of
 - 15.2.2 use reasonable care, diligence and skill in the performance of their duties;
 - 15.2.3 act in good faith in the best interest of the Association and for a proper purpose;
 - 15.2.4 sign a declaration stating that they will act in the best interest of the Association at all times.
 - 15.2.4 disclose an interest in a matter that conflicts with the performance of their duties, not to use information acquired as a Board member dishonestly and not to use their position dishonestly pursuant to Sections 31, 32, and 33 of the Act;
 - 15.2.5 ensure that the Association does not incur debts that are not expected to be repaid;
 - 15.2.6 comply with any additional duty set out in the Act, this Constitution or common law.
- 15.3 The Board's main general role, functions and activities are to ~
- a) Formulate the Association's strategic direction;

- b) Determine the Association's governance policies (pursuant to rule 47);
- c) Monitor and supervise the Association's CEO and organisational performance and risk management processes;
- d) Provide accountability to the Members;
- e) Appoint and work with and through the CEO;

in pursuit of the furtherance of the objects of the Association.

16. THE BOARD - COMPOSITION AND MEMBERSHIP

Board composition

16.1 Subject to s.28 of the Act, there shall be a governing Board which shall be the governing body of the Association whose members shall consist of a maximum of **eight (8)** persons who shall be Members of the Association duly elected in accordance with rule 19, who shall be directors of the Board of the Association which shall comprise of 4 representatives from Aboriginal Organisations and 4 representatives from non-organisation members (i.e. Clients, Parents, Care Givers, Guardians and Elders)

[Note: As is required by law, each director is elected as an individual and must form their own independent opinion and judgement on matters before the Board and act in the best interests of, and owe their duty to, the collective membership of the Association as one assemblage. As such, directors should be careful not to represent or advocate for an individual Member, a select group of Members' or Aboriginal Organisation point of view nor do they owe any specific duties to, or are they required act on behalf of, an individual Member, select group of Members or Aboriginal Organisation.]

16.1.1 Where fewer than eight (8) directors are holding office, the directors may by resolution appoint further directors to a maximum of eight (8) pursuant to rule 16.6.

Transition Board

16.1.2 The initial directors of the Association will be either those individuals named on the application who authorised the registration of the Association or those nominated from the existing unincorporated body that authorised the registration of the Association (whichever is the case) who have consented to act as directors of the Association.

16.1.3 The initial directors are appointed to serve for up to six months from the date of registration of the Association, or as soon as practicable thereafter. Following the expiry of the initial director's tenure, a general meeting shall be held to duly elect a governing Board in accordance with rule 19.

Director eligibility

16.2 Only a fully paid up financial Member of the Association shall be eligible and may nominate in the first election as a director pursuant to rule 9.

In all subsequent elections only a fully paid up financial Member of the Association who has been a continuous Member of the Association for at least twelve (12) months may as a director pursuant to rule 9.

16.2.1 The law prohibits certain persons from accepting a position on the Board that include any person who ~

- a) has been convicted of offences in the promotion, formation or management of a body corporate;
- b) has been convicted of offences involving fraud or dishonesty punishable by imprisonment of three months or more; or
- c) is insolvent under administration within the meaning of the Corporations Act.

Persons convicted of these offences may be entitled to accept Board positions not earlier than five years after conviction or release from prison, or by the authority of the Supreme Court. Persons who are insolvent may also seek leave from the Supreme Court to accept such positions.

16.2.2 A or any

- a) current employee of the Association;
- b) Member who has been an employee of the Association (or any of its associated bodies corporate, affiliates or companies or body corporate under the auspice of the Association) within the immediate preceding two year period from the date of the forthcoming Annual General Meeting at which directors are to be elected;

is excluded from being a director or from being nominated as a director.

16.2.3 Each newly elected director shall be responsible for ensuring their required particulars are provided for inclusion in the register of Board members in accordance with s.29 of the Act

Director tenure

16.3 Each director shall, subject to this Constitution, hold office for a period of two years until the conclusion of the second Annual General Meeting following the date of the director's election and shall be eligible for re-election.

16.3.1 The first election of directors will be separated into two (2) terms two (2) community and (2) Organisations directors will be elected for 2 years with the second half of the two (2) community and (2) Organisations directors will be

elected for 12 months. This will ensure continuity of services and governance. At each subsequent AGM half of the Board of Director is rotated and appointed.

Board vacancies

16.4 For the purpose of this Constitution, a director vacates his or her position on the Board when:

16.4.1 the Member ceases to be a Member of the Association;

16.4.2 the Member for Aboriginal Organisation had his authorisation from his organisation revoked or the Organisations resigns their membership

16.4.3 the director resigns the office by notice in writing given to the Secretary;

16.4.4 the director is absent without the consent of the Board for two consecutive meetings of the Board;

Note: A vacating director pursuant to rules 16.4.1 through to 16.4.4 shall be responsible for ensuring all documents in their possession, belonging to the Association, are delivered to the Secretary (or where no person holds that office, the Public Officer) of the Association within 14 days after vacating office.

16.4.4 the director becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;

16.4.5 the director dies.

Director proxy, alternate, substitute or deputy

16.5 No director shall be entitled to appoint another director as proxy nor be entitled to appoint any alternate, substitute or deputy person to act as a director who is not already a director.

Casual vacancy

16.6 In the event of a casual vacancy occurring in the membership of the Board, the Board shall appoint a suitable and eligible Member of the Association subject to the composition restrictions conditions pursuant to rule 16.1 and the eligibility conditions pursuant to rule 16.2 to fill the vacancy, who shall hold office until the conclusion of the next Annual General Meeting following the date of the director's appointment and shall be eligible for re-election pursuant to rule 16.3.

17. THE BOARD - MEETINGS AND QUORUM

Number, means, place and time of meeting

- 17.1 The Board shall meet each month for the first 12 months than at least 4 times in each period of 12 months either in person or via electronic telecommunication means at such place and time as the Board may determine.
- 17.1.1 Additional meetings of the Board may be convened by the Chairperson or by any two directors.
- 17.1.2 Alternative technology may be used for any Board meeting
- 17.1.3 Unscheduled meetings held between meetings using alternative technology is required to be tabled at the next scheduled meeting of the Board of Directors.
- 17.2 The Board shall hold all Board meetings as *in camera* sessions, but may invite, at their own discretion, any person or persons as attendees to any part of the Board meeting who may be invited to make representations or by permission of the Chairperson speak on agenda items to provide reports, advice, counsel and information or answer questions on matters as requested by Board members.
- 17.2.1 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 21.8.1**.

Notice of meetings

- 17.3 Oral or written notice of a meeting of the Board shall be given by the Secretary to each director within such period as may be unanimously agreed upon by the members of the Board before the time appointed for the holding of the meeting.
- 17.4 Notice of a meeting given under **rule 17.3** herein shall specify an agenda of the business to be transacted at the meeting and may contain attached information papers and reports relevant to matters before the Board.

Quorum

- 17.5 Any number of directors being present in person and representing half or more of the number eligible to attend and vote on that day shall constitute a quorum for the transaction of the business of a meeting of the Board so long as the number at any time doesn't fall below four (5).
- 17.6 No decision shall be transacted by the Board unless a quorum is present
- 17.7.1 If the number of directors falls below the number required to form a quorum, the remaining directors may act only to:
- 17.7.1.1 appoint suitable and eligible Members of the Association to fill casual vacancies pursuant to **rule 16.6**

or

17.7.1.2 call a general meeting pursuant to **rule 30.1**

Presiding member

17.8 At a meeting of the Board:

17.8.1 the Chairperson or, in the Chairperson's absence, the Deputy-Chairperson, shall preside; or

17.8.2 if the Chairperson and the Deputy-Chairperson are absent or unwilling to act, such one of the remaining Members of the Board as may be chosen by the directors present at the meeting shall preside.

Minutes

17.9 The directors must cause minutes to be made of:

17.9.1 the names of the directors present at all Board meetings;

17.9.2 all proceedings and resolutions of Board meetings;

17.9.3 all resolutions passed by the Board in accordance with **rule 18**;

17.9.4 all appointments of office bearers and officers; and

17.9.5 all disclosures of interests made under **rule 15.2.3**.

17.10 Minutes of proceedings at a meeting shall be signed by the presiding Chairperson of the meeting or by the presiding Chairperson of the next succeeding meeting

17.11 The Association must keep all registers required by this Constitution and the Law.

18. THE BOARD - VOTING AND DECISIONS

18.1 Questions arising at a meeting (or via alternative technology) of the Board shall be determined by a majority of the votes of the directors at the meeting (except a resolution pursuant to **rules 13.1 and 20.3**), with every vote being equal.

18.2 In the event of an equality of votes on any question, the person presiding, in addition to their deliberative vote, may exercise a casting vote.

18.3 Subject to a quorum being achieved in accordance with **rule 17.5**, the Board may act notwithstanding any vacancy on the Board.

Validity of Acts

18.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the Board, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any Board member.

19. DIRECTORS - PROCEDURE FOR ELECTION OF

19.1 Nomination of a candidate for election to the Board:

19.1.1 shall be made in writing on the form of nomination as determined by the Board from time to time;

19.1.2 The nomination form must be submitted by the candidate at least 24 hours prior to scheduled commencement of the meeting and identify classification of nomination (membership) (organisation/community).

19.1.3 shall be accompanied by the written consent of the candidate (which must be endorsed on the form of nomination);

19.2 If the number of nominations received is *equal* to the vacancies to be filled, the persons nominated shall be deemed to be elected (subject to the classification criteria community/organisation).

19.3 If the number of nominations received *exceeds* the number of vacancies to be filled, a ballot shall be held. Any tie shall be broken by lot.

19.4 If the number of nominations received is *less* than the number of vacancies to be filled, the Board may fill the remaining vacancy or vacancies in accordance with **rule 16.6**

19.5 Other than for casual vacancies, ballots for the election of Members of the Board shall be conducted at the Annual General Meeting in such usual and proper manner as the Board may direct.

20. DIRECTORS - REMOVAL OF

20.1 The office of a director immediately becomes vacant if a director vacates his or her position on the Board pursuant to **rule 16.4**

20.2 The Members may resolve to remove a director from office and elect another person to replace that director at any time, at a general meeting convened in accordance with **rule 30**.

20.3 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, Governance Charter or other policies or such that

continuance in office would be prejudicial to the interests of the Association.

20.4 Should the directors so resolve to enact the suspension pursuant to **rule 20.3**, the directors shall, within seven (7) days, issue to the suspended director a “Notice to Show Cause” why the director should not be removed as a director.

20.4.1 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.

20.4.2 The directors must, within fourteen (14) days of the receipt of any response pursuant to **rule 20.4.1**, 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.

20.5 Should the directors so resolve to enact the removal pursuant to **rule 20.4.2**, the directors shall, within twenty one (21) days of the meeting held pursuant to **rule 20.4.2**, 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 Association ~

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

20.5.2 the Members of the Association present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked;

20.6 Should the resolution at the general meeting of the Association be ~

20.6.1 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 16.6**;

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

21. OFFICE BEARERS AND OTHER POSITIONS - ELECTION AND APPOINTMENT OF

21.1 The Office Bearers of the Association shall be:

21.1.1 the Chairperson;

21.1.2 the Deputy-Chairperson;

21.1.3 the Secretary

21.1.4 the Treasurer

21.2 The Office Bearers of the Board shall be elected annually (from among the members of the Board) by the Board in such manner as the Board may determine. Such elections shall be held immediately following each Annual General Meeting.

21.2.1 The Office Bearer positions in rules 21.1.1 to 21.1.4 may not be held by the same person

21.3 In the event of a casual vacancy in a position of Office Bearer, the Board shall elect a person to fill the vacancy.

21.4 A person shall cease to be an Office Bearer if:

21.4.1 that person ceases to be a director pursuant to rule 16.4 or rule 20; or

21.4.2 the Board so determines.

Other Board Appointed Positions

21.5 The following (non-office bearer) positions (who may be either a Board member, an employee, a Member or another person who must meet the eligibility criteria for being Aboriginal **shall be** appointed annually by the Board immediately following each Annual General Meeting in such manner as the Board may determine pursuant to rules 25 and 27 respectively:

21.5.1 the **Public Officer**

21.6 The appointed positions in rules 21.5.1 may be held by the same or different person(s).

21.7 The Board may appoint (and remove in accordance with applicable law) a **Chief Executive Officer** of the Association who shall be responsible and accountable to the Board for the day-to-day management and operations of the Association and shall undertake and fulfil any functions so delegated, and in

accordance with the terms of the delegation as determined by the Board from time to time.

21.8.1 the Chief Executive Officer shall attend all meetings of the Board, unless excused or requested not to by the Board pursuant to rule 17.2.1.

22. CHAIRPERSON

22.1 The Chairperson of the Association, who must meet the eligibility criteria for being Aboriginal, shall be elected annually by and from among the members of the Board in such manner as the Board may determine. Such elections shall be held immediately following each Annual General Meeting;

22.2 The Chairperson is to preside as Chairperson at each General Meeting and Board meeting of the Association at which the Chairperson is present or as otherwise determined pursuant to rule 17.8 and rule 32.

22.3 The Chairperson shall be responsible to the Board to ensure that absolute discretion, appropriate governance protocols and confidentiality shall apply in all Board activities, meetings and dealings related to the governance of the Association according to governing policies as the Board may determine from time to time.

22.4 The Chairperson of the Association shall represent the Board and shall be the spokesperson for the Association to external parties; and in this regard shall be professionally supported by the Chief Executive Officer.

22.5 The Chairperson may delegate the responsibilities referred to in rule 22.4 to the Chief Executive Officer, the Deputy-Chairperson or other delegate, but shall at all times be responsible for, and be kept fully informed of and receive reports from such delegated person.

22.6 As well as the Chairpersons' duties and functions described in this Constitution and rule 22, the Board may further determine the role and authorities of the Chairperson in providing leadership to, and assuring the integrity of the process and actions of the Board.

23. DEPUTY-CHAIRPERSON

23.1 The Deputy-Chairperson of the Association, shall be elected annually by and from among the members of the Board in such manner as the Board may determine. Such elections shall be held immediately following each Annual General Meeting;

23.2 The Deputy-Chairperson of the Association shall, during a vacancy in the office of Chairperson or, when the Chairperson is unable to perform the duties of office, shall act as Chairperson undertaking the duties of the Chairperson as provided for in this Constitution.

24. SECRETARY

- 24.1 The Board shall appoint a Secretary of the Association who must meet the eligibility criteria for being Aboriginal, shall be elected annually by and from among the members of the Board in such manner as the Board may determine. Such elections shall be held immediately following each Annual General Meeting
- 24.2 It is the duty of the Secretary to record and minute the following,
- 24.2.1 all appointments of Office Bearers and directors;
 - 24.2.2 the names of the directors present at Board meetings and Members present at all General Meetings; and
 - 24.2.3 to maintain the register of member
 - 24.2.4 take minutes at all meeting of the Association
- 24.3 Where no person is appointed as Secretary of the Association, the Public Officer of the Association shall act as Secretary pursuant to rule 27.1.7 and be responsible for the afore mentioned duties.

25. TREASURER

- 25.1 The Board shall appoint a Treasurer of the Association who must meet the eligibility criteria for being Aboriginal, shall be elected annually by and from among the members of the Board in such manner as the Board may determine. Such elections shall be held immediately following each Annual General Meeting
- 25.2 The Treasurer of the Association is to present the annual financial statements of the Association at the AGM and undertake any other formally delegated financial governance functions the Board deem necessary and applicable to the role.
- 25.3 The Treasurer of the Association is to present the bank statements and monthly profit and loss of the Association to the Board at its meetings
- 25.3 The Treasurer of the Association may preside over and chair any audit or finance committee(s) (where established from time to time pursuant to rule 24) which shall oversee the governance of Association financial management, security, accuracy and transparency.

25.4 The Treasurer is to ensure that they are knowledgeable of the financial affairs of the Association

26. DELEGATION

26.1 The Board may, by instrument in writing, delegate the exercise of such of the functions of the Board or any of its powers to any person or persons, or any committee as are specified in the instrument of delegation, other than:

26.1.1 this power of delegation; and

26.1.2 a function which is a duty imposed on the Board by the Act or by any other law.

26.2 A function, the exercise of which has been delegated under this Rule, may, while the delegation remains unrevoked, be exercised from time to time by the delegated person, persons, or committee in accordance with the terms of the delegation.

26.3 A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances as may be specified in the instrument of delegation.

26.4 Notwithstanding any delegation under this Rule, the Board may continue to exercise any function delegated.

26.5 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 Board.

26.6 The Board may, by instrument in writing, revoke wholly or in part any delegation under this Rule.

26.7 Any person, persons or committee appointed under this Rule shall report in writing to the Board on the exercise of the delegated functions or powers as and when and by a method and at a frequency the Board shall determine

27. PUBLIC OFFICER

27.1 The Board **shall** appoint a Public Officer of the Association (who may be either a Board member, an employee, a Member or another person) who must meet the eligibility criteria for being Aboriginal and who shall hold office on such terms and conditions as the Board determines and shall be responsible for:

27.1.1 notifying NSW Fair Trading of any change in the Association's official address within 28 days;

- 27.1.2 collecting all Association documents from former Board members and delivering the documents to the new Board member;
- 27.1.3 returning all Association documents to a Board member within 14 days, upon vacating office;
- 27.1.4 lodging an annual summary of financial affairs, with the prescribed fee, within 1 month of the association's Annual General Meeting;
- 27.1.5 acting as the official contact for the Association, including taking delivery of any relevant documentation and correspondence served on the Association and disclosing and reporting them to the attention of the Board as soon as possible;
- 27.1.6 custody of any documents as required by the Constitution;
- 27.1.7 acting as the Secretary of the Association where no other person has been appointed to that office pursuant to rule 25.

Note: The Board may, by instrument in writing, delegate some or all of the above duties to another person in accordance with rule 24 not acting formally as the Public Officer of the Association.

- 27.2 The Board is responsible for appointing a Public Officer and once the position becomes vacant, the Board must fill the position within 14 days. The new Public Officer must notify NSW Fair Trading within 14 days of the new appointment. Notification must be in the approved form.

PART IV - GENERAL MEETINGS

28. ANNUAL GENERAL MEETINGS - HOLDING OF

- 28.1 The Association shall, at least once in each calendar year and within the period of six months after the expiration of each Financial Year of the Association, convene an Annual General Meeting of its Members.
- 28.2 **Rule 28.1** has effect subject to any extension or permission granted by the Director General under s.37(2)(b) of the Act.

29. ANNUAL GENERAL MEETINGS - CALLING OF AND BUSINESS AT

- 29.1 The Annual General Meeting of the Association shall, subject to the Act and to **rule 28**, be convened on such date and at such place and time as the Board thinks fit.
- 29.2 The business of an Annual General Meeting shall be:
- 29.2.1 to confirm the **minutes** of the last Annual General Meeting and of any special general meeting held since that meeting;
 - 29.2.2 to receive from the Board **reports** upon the activities of the Association during the last financial year stating ~
 - a) the name of each member of the Board of the Association during the most recently ended financial year of the Association and, if different, at the date of the report; and
 - b) the principal activities of the Association during the most recently ended financial year and any significant change in the nature of those activities that occurred during that financial year;
 - 29.2.3 to receive and consider the **financial statements** for the previous year and Auditors Report for those statements which is required to be submitted to Members pursuant to Part 5 of the Act;
 - 29.2.4 to **elect directors**;
 - 29.2.5 to **appoint the Auditor**;
 - 29.2.6 to conduct **other (special) business** of which notice has been given to the Members.
- 29.3 An Annual General Meeting shall be specified as such in the notice convening it.

29.4 The procedure for an Annual General Meeting shall be as set out in **rule 31**.

30. GENERAL MEETINGS - CALLING OF

Board may call General Meeting

30.1 The Board may, whenever it thinks fit, convene a General Meeting of the Association.

Members may requisition the calling of a General Meeting

30.2 Except in the case of a Member exercising their rights under **rule 14**, the Board shall convene a General Meeting of the Association on the requisition in writing of not less than twenty five (25) per cent of the total Membership of the Association.

30.3 A requisition of Members for a General Meeting:

30.3.1 shall state the purpose or purposes of, and the business they wish to bring to, the meeting;

30.3.2 shall be signed by each of the Members making the requisition;

30.3.3 shall be lodged with the Secretary; and

30.3.4 may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.

Members may call General Meeting if requisition fails

30.4 If the Board fails to convene a General Meeting within one month after the date on which a requisition of Members for the meeting was lodged with the Secretary, any one or more of the Members who made the requisition may convene a General Meeting to be held not later than three months after the date on which the requisition was lodged.

30.5 A General Meeting convened by a Member or Members as referred to in **rule 30.4** shall be convened as nearly as is practicable in the same manner that General Meetings are convened by the Board and any Member who thereby incurs expense is entitled to be reimbursed by the Association for any expense so incurred.

30.6 The procedure for a General Meeting shall be as set out in **rule 31**.

31. GENERAL MEETINGS - PROCEDURE AT

- 31.1 No item of business shall be transacted at a General Meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- 31.2 A **quorum** for the transaction of the business of a general meeting shall constitute **twenty (20) Members of the Association**, entitled under this Constitution to vote at a general meeting being present in person.
- 31.3 If within half an hour after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting if convened upon the requisition of Members shall be dissolved and in any other case shall stand adjourned to the same day in the following week at the time and at the same place (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned).
- 31.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not fewer than five) shall constitute a quorum.

32. GENERAL MEETINGS – PRESIDING MEMBER

- 32.1 The Chairperson or, in the Chairperson’s absence, the Deputy-Chairperson, shall preside as Chairperson at each General Meeting of the Association.
- 32.2 If the Chairperson and the Deputy-Chairperson are absent from a General Meeting or unwilling to act, the Members present shall elect one of their number to preside as Chairperson at the meeting.

33. GENERAL MEETINGS – ADJOURNMENT 12 monthly

- 33.1 The Chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 33.2 Where a General Meeting is adjourned for 14 days or more, the Secretary shall give written or oral notice of the adjourned meeting to each Member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

- 33.3 Except as provided in **rules 33.1 and 33.2** herein, notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

34. GENERAL MEETINGS – MAKING OF DECISIONS

- 34.1 A question arising at a General Meeting of the Association is to be decided on a **show of hands** and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution
- 34.2 At a general meeting of the Association, a **poll** may be demanded by the person presiding or by not less than ten (10) Members or three (3) directors present in person at the meeting. The poll shall be taken ~
- 34.2.1 immediately in the case of a poll which relates to the election of the Chairperson of the meeting or to the question of an adjournment; or
- 34.2.2 in any other case, in such manner and at such time before the close of the meeting as the Chairperson directs, and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.

35. GENERAL MEETINGS – VOTING

2 proxy 24 hour on form

- 35.1 Upon any question arising at a General Meeting of the Association, and on any motion at a General Meeting, each Member shall be entitled to one (1) vote plus any entitlement as per rule 35.1.1.
- 35.1.1 Members may hold a maximum of 2 proxy's at any time. proxy
- 35.1.2 Proxy votes must be submitted 24 hours prior to the Association on the approved form as decided by the Board from time to time. The proxy form must be signed by the member giving their proxy and identify the member who has been given the proxy authority stating the date and location of the meeting.
- 35.2 The register of Members will be conclusive in determining membership and eligibility to vote.
- 35.2.1 A Member who has any fees pursuant to **rules 9.1 and 9.3** in arrears, whether or not they have received a notice of termination of membership, or is liable to pay interest on outstanding debts under **rule 9.4**, will not be eligible to vote on any resolution at any meeting of Members.

35.2.2 A Member who is not financial (i.e. up to date with the payment of any fees pursuant to rules 9.1 and 9.3) twenty eight (28) days prior to a meeting of Members will not be eligible to vote on any resolution proposed nor be eligible to propose a resolution at the meeting of Members.

35.3 A resolution, other than a special resolution, is deemed carried if more than half of the eligible voting Members vote in favour of the resolution;

35.4 In the case of an equality of votes on a question at a General Meeting, the person presiding at the meeting shall (in addition to their deliberative vote) be entitled to exercise a casting vote.

36. GENERAL MEETINGS – NOTICES

36.1 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary shall, at least **14 days** before the date fixed for the holding of the General Meeting, cause to notify each Member in the manner provided in rule 49 of the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

36.2 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Association, the Secretary shall, at least **21 days** before the date fixed for the holding of the General Meeting, cause notice to be sent to each Member in the manner provided in rule 49 specifying in addition to the matter specified in rule 36.1, the intention to propose the resolution as a Special Resolution.

36.3 No business other than that specified in the notice convening a General Meeting shall be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted pursuant to rule 29.2.

36.4 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary, who shall include that business in the next notice calling a General Meeting given after receipt of the notice from the Member.

37. GENERAL MEETINGS – SPECIAL RESOLUTIONS

37.1 A resolution of the Association is a Special Resolution if:

37.1.1 it is passed at a General Meeting convened as required under rule 30 by a $\frac{3}{4}$ (75%) majority. A $\frac{3}{4}$ (75%) majority means not less than $\frac{3}{4}$ (75%) of the total votes of such Members of the Association present and voting in person; or

37.1.2 where it is made to appear to the Director General that it is not possible or practicable for the resolution to be passed in the manner specified in paragraph 37.1.1, the resolution is passed in a manner specified by the Director General.

38. GENERAL MEETINGS – OFFENSIVE MATERIAL AND CONDUCT AND OBSERVERS

38.1 The Chairperson may refuse to admit a person, or require them to leave and not return to a general meeting if the person:

38.1.1 acts or behaves in a manner unbecoming of appropriate decorum;

38.1.2 is an financial member

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

38.2 Interested persons (other than Members) are permitted to attend General Meetings of the Association at the discretion of and with the permission of the Chairperson (or their delegate) but have no right to speak at or otherwise participate in the meeting and must follow any directions of the Chairperson.

PART V – MISCELLANEOUS

39. **INSURANCE**

39.1 The Association must effect and maintain insurance.

40. **FUNDS - SOURCE**

40.1 The funds of the Association shall be derived from membership, other fees, subscriptions, special levies, grants, donations, gifts and such other sources (including fee-for-service activities) pursuant to **rule 2.2** as the Board determines.

41. **FUNDS - MANAGEMENT AND ACCOUNTABILITY**

41.1 All money received by the Association shall be **deposited** as soon as practicable and without deduction to the credit of the Association's bank account.

41.2 The Association shall, as soon as practicable after receiving any money, issue an appropriate **receipt**.

41.3 Subject to any resolution passed by the Association in General Meeting, the **funds and assets of the Association shall be used in pursuance of the objectives of the Association** in such manner as the Board determines, provided such manner is in accordance with both **rules 2.1 and 52**.

41.4 The Board shall ensure that ~

- a) all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments issued; and
- b) all payments made (which may include electronic fund transfers, writing cheques, use of credit cards, payment of cash and any other lawful means of disbursement of funds);

by the Association, are specifically **authorised** in writing by (and in the case where physical signatures are required, attested by the signatures of) at least two persons being so authorised and delegated by the Board and in accordance and consistent with ~

- a) the associated delegated powers as are specified in the instrument of delegation
- b) any directions of the Board

c) the governing policies of the Association as determined by the Board.

41.4.1 Nothing in this provision shall prevent the use of petty cash from time to time once funds have been disbursed for that purpose and all other provisions of this Constitution have been complied with.

41.5 The Board must keep or cause to be kept proper **financial records** that correctly record and explain the transactions and the financial position of the Association; and keep its financial records in such a way that ~

- a) true and fair accounts of the Association can be prepared from time to time; and
- b) a statement of the accounts of the Association can conveniently and properly be audited in accordance with Part 5 of the Act; and

retain its accounting records for at least seven (7) years after the transactions to which they relate were completed.

41.6 The Association shall appoint an **Auditor** of the Association and shall audit the books and records of the Association annually.

41.6.1 The Auditor shall be nominated and accepted at an Annual General Meeting of the association. The term of the Auditor shall be two (2) years unless terminated earlier by the Board.

41.6.2 In the event of the position of the Auditor becomes vacant for any reason (including that under **rule 42.6.1**), that position for the remaining period of the term shall be filled by appointment by the Board. At the end of the term of the replacement Auditor, the provisions under **rule 42.6.1** will take effect.

41.7 Immediately after the expiration of each financial year the **accounts of the Association shall be examined by the Association appointed Auditor** who shall prepare a report to ascertain the correctness of the balance sheet and statements of receipts and expenditure.

41.8 The **Auditors report** must state whether the Association has kept such financial records as are necessary to enable financial statements to be prepared in accordance with the Australian Accounting Standards and that they give a true and fair view of the Association's affairs.

42. PATRONS OF THE ASSOCIATION

42.1 One or more patrons **may** be appointed by the Board. Such appointment must be by unanimous vote.

- 42.2 A patron of the Association (if so appointed pursuant to rule 43.1) is a person who, having accepted an invitation from the Board, may act in a representative capacity on behalf of the Association at public functions. A patron may make public statements on behalf of the Association at functions that have been pre-approved by the Board for the patron to attend.
- 42.3 The term of patronage will be determined by the Board. A term of patronage may be terminated without notice, by the Board.
- 42.4 The role of a patron (if so appointed pursuant to rule 43.1) is to increase the public profile of the Association in such a way as to promote the objectives and good standing of the Association.
- 42.5 A patron (if so appointed pursuant to rule 43.1) is prevented from acting in any way that may impede the objectives of the Association.

43. ALTERATION OF CONSTITUTION (INCLUDING OBJECTS)

This Constitution, including the statement of objects in **rule 2**, may be altered, rescinded and/or added to only by a Special Resolution passed by the Association in General Meeting. The change must be consistent with the Act and the rest of the Constitution.

The Association must by 30 November each year undertake a review of the constitution and submit via a special resolution to the AGM any changes that may be required to be made.

The Association must apply for registration of the changes within 28 days of the Special Resolution pursuant to s10 of the Act and the change will only take place once it is registered with NSW Fair Trading pursuant to s.14 of the Act.

44. EXECUTION OF DOCUMENTS (INCLUDING DEEDS)

44.1 The Association may execute any instrument with the authority of the Board without using a common seal (as under the provision in Section 22(1) of the Act) provided the dealing or deed is signed and attested by the signatures either of:

44.1.1 two (2) directors one not being the Public Officer; or

44.1.2 one (1) director and an authorised employee; or

44.1.3 two (2) persons as the Board may appoint for that purpose;

and that attestation is sufficient for all purposes that was affixed those signatures by authority of the Board.

45. CUSTODY OF BOOKS ETC.

- 45.1 Except as otherwise provided by the Act, the Regulations and this Constitution, the Secretary (or where no person holds that office, the Public Officer) of the Association shall keep in his or her custody or under his or her control all records, books and other documents relating to the Association.
- 45.2 The Board may, by instrument in writing, delegate the duty of the custody of all records, books and other documents relating to the Association under this Rule to another person in accordance with rule 24.

46. INSPECTION OF BOOKS ETC.

- 46.1 The records, books and other documents of the Association (other than legal documents related to Court action or current litigation, personnel files and documents and other privileged or commercial-in-confidence information), this Constitution and minutes of all Board meetings and general meetings of the Association shall be open to inspection at the principal place of administration during business hours by a Member of the Association, having first given the Association reasonable notice of their intention in writing to, and made prior arrangement with, the Secretary (or where no person holds that office, the Public Officer, or their delegate) to inspect.
- 46.2 The inspection may be supervised by the Secretary (or where no person holds that office, the Public Officer, or their delegate) and undertaken at a time convenient to both parties.
- 46.3 The records, books and other documents of the Association and minutes of all Board meetings and general meetings of the Association are not to be copied and/or removed from the principal place of administration of the Association and remains the property of the Association to be used solely for the purposes of the Association pursuant to the matters required as described in this Constitution and the Act and Regulations

47. GOVERNING POLICIES

- 47.1 The Board shall have the power to establish **governing policies** relating to the internal control, administration and management of the Association that give effect to the Constitution, the achievement of the objects of the Association and to regulate the business of the Association. The Board may at any time rescind, modify, change or vary any of the governing policies and make others to replace them in accordance with the changing needs and requirements of the Association. Such governance policies will be those deemed necessary or expedient or convenient for the proper conduct, control and governance of the Association. The governing policies must not be contrary to this Constitution or the Act.
- 47.2 The Board shall set out its governing policies in the Governance Charter.

47.5 The Members, directors and office bearers, officers, employees, contractors and agents of the Association shall be bound by and must comply with any governing policies in force from time to time

48. NOTICES - SERVICE OF

48.1 For the purpose of this Constitution, a notice may be served by or on behalf of the Association upon any Member either personally or by sending it by post or electronic means to the Member at the Member's (postal or electronic means) address shown in the register of Members.

48.2 Where a document is sent to a person by properly addressing, prepaying and posting or sending to the person a letter or an electronic means transmission containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of this Constitution to have been served to the person at the time at which the letter or electronic means transmission would have been delivered in the ordinary course of post or electronic means transmission.

49. INDEMNITY

49.1 Every duly appointed director, office bearer, officer, employee, delegated person, persons, or committee and/or agent of the Association shall be indemnified out of the property of the Association against any liability incurred by him or her in his or her capacity as director, office bearer, employee, delegated person, persons, or committee and/or agent of the Association in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted in connection with any application in relation to any such proceedings in which relief is under the Law granted to him or her by the Court subject to the provisions of the Act.

50. GST

50.1 All amounts of fees payable under or pursuant to this Constitution are exclusive of goods and services tax (GST). If GST is payable by the Association in respect of any supply by the Association to a Member, the Member shall promptly compensate the Association for and put it in funds to pay the GST. For all other purposes under this Constitution including the determination of all fees shall be calculated as exclusive of GST.

51. DISSOLUTION

51.1 The Association may be dissolved upon the passing of a special resolution of all Members at a general meeting convened for the purpose, and in accordance with Section 62 of the Act.

- 51.2 In the event of the Association being dissolved, any surplus property of the Association that remains following the winding up, will not be paid to or distributed among the members of the Association, but may be vested in another not-for-profit incorporated association if the recipient association ~
- a) has objects that are substantially similar to the Association;
 - b) does not operate for the purpose of trading or securing pecuniary gain for its members;
 - c) has provision in its rules requiring its surplus property to be passed to a similar not-for-profit incorporated association on dissolution or winding up;
 - d) is endorsed by the Commissioner of Taxation as a fund, authority or institution contemplated above;

such not-for-profit incorporated association (or associations) to be determined by the Members of the Association at or before the time of dissolution or in default thereof by the Director General.

If just before the winding up of the Association, the Association is an entity to which income tax deductible gifts can be made or there is a prior winding-up of any separate gift fund or upon the Association ceasing to be endorsed as a deductible gift recipient pursuant to the Income Tax Assessment Act 1997 whichever event shall occur first in time, then any surplus assets of the Company of any separate gift fund as the case may require, remaining after the payment of the Association's liabilities shall be transferred to another fund, authority or institution in Australia which has similar objects to the Association and which is a body that has a current deductible gift recipient endorsement under the Income Tax Assessment Act 1997 as referred to in [rule 1.17.3](#).

APPENDIX 1

(Constitution reference: rule 4.1.1)

APPLICATION FOR MEMBERSHIP OF ASSOCIATION

I
hereby apply to become a **Member** of **Cullunghutti Aboriginal Child and Family Centre Incorporated** [incorporated under the Associations Incorporation Act (NSW) 2009] and declare that I am 18 years or older and either (tick one):

- an **Aboriginal person from the local Aboriginal community** as defined in **rule 1** Definitions and Interpretations;
- a **non-Aboriginal Shoalhaven community member** as defined in **rule 1** Definitions and Interpretations;
- a Aboriginal person nominated as an authorised representative of an Aboriginal Organisation as defined in rule 1

and provide the following **contact information** for the serving of Association notices
(Tick the box corresponding to the method that you prefer to receive Association notices)~

Address of Applicant.....

Email of Applicant.....

Phone number of the Applicant.....

In the event of my admission as a Member, **I agree to be bound by the Constitution of the Association** for the time being in force and I attest that I satisfy the qualification of membership pursuant to **rule 3.2**.

Applicant Signature:

Date:

Model Proxy Voting Form

Cullunghutti Aboriginal Child and Family Centre

Special Resolution Proxy Voting Form

I, the undersigned, hereby acknowledge that I am a member in good standing of Cullunghutti Aboriginal Child and Family Centre

(Name)

and that the person designated below has the authority to vote on my behalf on the Special Resolution/s to be put forward

NAME OF THE DESIGNATED VOTER

at the _____
(Meeting)

to be convened at

(Location)

on _____
(Date)

- **Special resolution 1.**

• (name resolution)

- In favour of / against * (circle relevant vote)

- **Special Resolution**

2. _____
• (name resolution)

- In favour of / against / *(circle relevant vote)

Signed: _____ Date: _____

I understand that this ballot must be presented to the Public Officer no later than 24 hours in advance of the date of the above identified meeting, this can be done via email, fax or post or in person.