

CASWA Consultations – Constitutional changes

Consultation on 14 July 2022

Community Organisational Attendees:

Chloe	Collard	Chief Executive Officer	Geraldton Streetwork Aboriginal Corporation
Jackie	Craigie	Chief Executive Officer	Yokai (West Australian Stolen Generations Aboriginal)
Devon	Cuimara	Founder & Chief Executive Officer	Aboriginal Males Healing Centre Strong Spirit Strong
Kris	Penny	Executive Manager	Breakaway Aboriginal Corporation
Jodie	Wyatt	General Manager	Western Australian Aboriginal Leadership Institute
Neville	D'silva	Chief Executive Officer	Wyndham Youth Aboriginal Corporation

Clause	Request	Advice from Lawyers	Outcome
Definition	Add definition for Circular Resolutions	Not added as circular resolution not used in constitution and meaning included in 5.17	No change effected
Definition	Add definition for Founding Director – Members of the AHCWA Social Services Committee who are Founding Directors for the purpose of registering the company and will be replaced at the first AGM.	Not added as its ordinary meaning is sufficiently clear and the term is otherwise defined in the Corporations Act	No change effected
Definition	Portfolio: add 'legal' Change 'Early Childhood' and remove '(Child protection)'	Edits do not create any further legal advice	Edits to Definition affected
Definition	Add definition for Special Resolution	Not added as its ordinary meaning is sufficiently clear and the term is otherwise defined in the Corporations Act	No change effected
7.1(a) Number for a quorum	Replace with clauses allowing for virtual or digital attendance at members meetings	In reviewing this clause the Lawyers also identified that the quorum requirements were not practical if the corporation had less than 20 members	Edits to Definitions: Definition of Virtual Meeting Definition of Virtual Meeting Te Edits to clauses: 5.5 Virtual Meetings to replace meetings

			<p>5.7 Contents of notice of general meeting to include technology to be used</p> <p>5.11 Contents of notice postponing general meeting to include technology to be used</p> <p>7.1(a)(ii) effecting number for quorum if ordinary members less than 20</p> <p>7.1(b) clarification of Representative of a Member</p> <p>7.1(c) edits if only 1 ordinary member</p> <p>7.4 (a)(ii) quorum for adjourned meeting</p> <p>7.12 voting on show of hands clarifying subject to 5.5(c)(iii)</p>
8.3 Retirement and Election of Directors	Re-write to include a full spill of the board needs to occur at the First AGM. Thereafter there should be a rotational system. So that at the first election 6 directors are appointed for 3 years and 5 for 2 years with all rotating in 3 year terms from this point on.	Edits to clauses provided	<p>Edits to Clauses:</p> <p>8.3 Retirement and election of Directors</p> <p>8.3(a) First AGM procedure (<i>to be changed to first General Meeting</i>)</p> <p>8.3(b) procedure for subsequent AGMS (preferential voting system)</p> <p>8.3(c) originally 8.3(a)</p> <p>8.4 clarification of Retiring Directors office held until conclusion of meeting</p>

CASWA Consultations – Constitutional changes

Consultation on 18 July 2022

Community Organisational Attendees:

Keith	Bodman	Exec Secreatry	West Australian Stolen Generations Aboriginal Corporation
Leanne	Kickett	Chief Executive Officer	Keedac
Wayne	McDonald	Chief Executive Officer	Bundiyarra Aboriginal Community Aboriginal Corporation

Clause	Request	Advice from Lawyers	Outcome
Definitio n	Portfolio: edit disability to disability/aged care Portfolio: edit 'art and culture' to 'language, art and culture'	Edits do not create any further legal advice	Edits to Definition affected
Definitio n	Portfolio: edit 'such other portfolios as the directors determine from time to time' To include.... 'and are aligned with the Closing the gap Priority areas'	Edits do not create any further legal advice	Edits to Definition affected
4.14 Suspens ion of Member ship	Question raised if Member that nominated a Director is Suspended what is the effect on the Director?	Advice - No effect on Directorship unless clauses introduced to require the Director to resign (sample provided)	No changes effected
5.1 First AGM	Question raised if the first AGM is called within 6 months of the organisation being registered (to hold election of Directors) under the Act the financial statements should be presented to members. How can this be addressed?	Advice instead call an Extraordinary General Meeting for the purposes of replacing the board instead of an AGM. The first AGM occurring within the 18 month period when financials are available.	No changes effected
7.14 Poll	Request for inclusion of clauses requiring the Directors to engage a Returning Officer for all votes by Poll	New clauses provided	Edits to Definitions: Definition for Returning Officer <i>(Further request for independent Returning officer made at 25 July consultation)</i> Edits to clauses:

			7.14(a)(i) A and B allowing for auditor or Secretary to act as Returning Officer ( <i>Further edits requested at 25 July consultation</i> ) 7.14(b) new clause relating to the conduct of the poll
8.6(c) Casual Vacancy or additional Director	Changes requested in line with changes requested to 8.3 Casual Director to hold office until the conclusion of the original Directorship	New clause provide	Edits to Clauses: 8.6(b)(i) including need to demonstrate relevant Portfolio experience 8.6(c)(i) casual vacancy Director appointed to the end of the expiry of vacating Director

21 July 2022 Consultation cancelled as worldwide unavailability of MSTeams – participants invited to attend following 2 consultations.

21 July 2022 Additional edits suggested by Lawyers:

4.2 Application	Lawyers identified some disparity in the language in this clause around Ordinary Members vs Associate Members	Edits to clause: 4.2 (a) Defining ACCO may apply to Ordinary membership Associate Organisation may apply to Associate membership
7.11 Casting vote for chairperson	Lawyers identified lack of clarification of those eligible to vote	Edit to Clause: 7.11 Clarification: Representative of an Ordinary member
8.5 Eligibility for election as Director	Lawyers identified some areas of improvement: 8.5(a)(ii) use of the word 'competence' which is subjective and could be challenged 8.5(a)(ix) Director discretion to add further eligibility too subjective and could be challenged	Edit to clauses: 8.5(a)(ii) removal of words 'and the competence' 8.5(a)(ix) inclusion of 'reasonable' eligibility criteria 'connected to the objects'  Requested further edits: 8.5 Must agree to comply with this Constitution; agree to have a police background check; and agree to comply with Code of Conduct for Directors. Police Check: if criminal check reveals any adverse results, then a risk assessment must be completed by no less than 3 Directors.
Schedule 2 Membership rights	Updates to rights to include clause 8.3	Inclusion of clause 8.3
Schedule 3 Membership eligibility	Small edits to wording for clarity	Ordinary Member 'be an' ACCO Dot point – submit a valid application form Associate Member inclusion of dot point – submit a valid application form.

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Consultation on 25 July 2022

Community Organisational Attendees:

Andrew	Amor	Chief Executive Officer	Milliya Rumurra
Barbara	Henry	Executive Director	Noongar Family Safety and Wellbeing Council
Knut	Olawsky	Chief Executive Officer	Mirima Council Aboriginal Corporation
Laurel	Sellers	Chief Executive Officer	Yorgum Healing Services
Tracey	Brand	Chief Executive Officer	Derbarl Yerrigan Health Service

Clause	Request	Advice from Lawyers	Outcome
Name	Change Coalition to Council	Awaiting legal advice	<i>To be approved by Committee</i>
Definition	Cultural Governance – include	Slight change to wording from 'is' to 'meaning'	<i>Definition to be approved by Committee</i>
Definition	Portfolio – include definition of each portfolio	KWM ask if the reference to Closing the Gap is sufficiently certain?	<i>In progress – to be workshopped with the Committee</i>
Definition	Include early childhood in Definition of Social Determinants affecting Life Outcomes for Aboriginal people	Edits do not create any need for further legal advice	Edits to definition of Social determinants affecting Life Outcomes for Aboriginal People accepted.
Definition	Include Definition of Social Support Services	Definition provided	Edit to Definitions: Social Support Services <i>Definition to be approved by Committee</i>
2.2 Principal Objects	Edit ... established to relieve 'and address' ... Edit ... social and physical wellbeing, 'early childhood development', legal...	Slight change to wording	Edits to clause: 2.2 Principal object ... established to address and relieve the poverty....
2.3 Other Objects	Insert new objects (b), (c), and (d) and (e)(vi)	Edits do not create any need for further legal advice	Edits to clause: 2.3 inserted (b), (c) and (d) and (e)(iv)
4.7 Annual Subscripti on Fee	Insert the words 'if applicable' to (b), (c)(i), and (c)(ii)	Legal advice not necessary as duplication of wording	No change to clauses 4.7(b) or 4.7(c)

4.8(a) Membersh ip Renewal Notice	Change date 30 April to 30 March (allowing 90 days to EOFY to renew membership)	Edits do not create any need for further legal advice	Edit to clause 4.8(a) change April to March
7.14 Poll	Request for the Board to be able to appoint an Independent Returning Officer for the election of Directors (e.g. WA Electoral Commission)	Definition of Returning Officer required and changes to Clause 8.3	Edits to Definitions: Returning Officer Edit to Clauses 7.14(a) and (g) removed and replaced with 8.3(d)
8.3 Retiremen t and Election of Directors	Request to include requirement for nominations	New definitions for Nomination Committee and Nomination Form as well as changes to clauses 8.3 and 8.5	Edits to Definitions: Nomination Committee definition Nomination Form definition Edit to Clause 8.3(b) with full details of nomination process including ballot process (preferential voting system) Edit to clause 8.5(a)(v) requirement for police clearance no older than 1 month with nomination form. Edit to clause 8.5(a)(vii) demonstrate in a manner satisfactory to the nomination committee (acting reasonably) Edit to clause 8.5(a)(ix) provisions on additional eligibility criteria New clause 8.5(b) if not meeting 8.5(a)(ix) Edit to clause 8.5(c) relating to use of nomination form.
8.3(b) Details on process	To be rewritten and include nominations called in August each year, in writing on prescribed forms and signed by 2 Directors of an Ordinary Member. Also including portfolio nomination and statement of experience and eligibility.	Edits required to clauses 8.3 and 8.5	Edits to Definitions: Nomination Committee definition Nomination Form definition Edit to Clause 8.3(b) with full details of nomination process including ballot process (preferential voting system) Edit to clause 8.5(a)(v) requirement for police clearance no older than 1 month with nomination form. Edit to clause 8.5(a)(vii) demonstrate in a manner satisfactory to the nomination committee (acting reasonably) Edit to clause 8.5(a)(ix) provisions on additional eligibility criteria New clause 8.5(b) if not meeting 8.5(a)(ix) Edit to clause 8.5(c) relating to use of nomination form.
8.3(b)(iv) to (vii)	In considering the preferential voting system described a question arose as to how to guarantee an even spread of	Extensive discussions with lawyers and further research required as no precedence appears to be available to draw upon.	<i>In progress – to be workshopped with the Committee</i>  <i>(Consider clause 13.1(c) of National Congress Constitution).</i>

	representation against the portfolios		
8.5(a) Eligibility for election as a Director	To include: be nominated in writing to the Nominations Committee by at least one Ordinary Member in the way determined by the Directors from time to time	Updates to definition of nomination form	Edit to definition of Nomination form
8.5(a)(vii) Eligibility for election as a Director	To include: (B) a knowledge of, and commitment to, cultural governance policies and practices	Edits to clause 8.5(a) and 8.5(b)	Edit to clause 8.5(a)(vii) demonstrate in a manner satisfactory to the nomination committee (acting reasonably) Edit to clause 8.5(a)(ix) provisions on additional eligibility criteria New clause 8.5(b) if not meeting 8.5(a)(ix)



## CASWA Consultations – Constitutional changes

Consultation on 28 July 2022

Community Organisational Attendees:

Aila	Cox-Tanaka	Administration Assistant	West Kimberley Futures Empowered Communities
Peter	Mitchell	Chief Executive Officer	Mens Outreach Service Aboriginal Corporation
Lesley	Nelson	Chief Executive Officer	South West Aboriginal Medical Service
Quenten	Bruce	Director	Baada Aboriginal Corporation
Wesley	Morris	Coordinator	Kimberley Aboriginal Law and Culture Centre
Tania	Saggers-Clarke	General Manager Corporate Operations	Yinhawangka Aboriginal Corporation
Christy	Hawker	Chief Executive Officer	Binarri-binyja Yarrowoo Aboriginal Corporation
Donna	Nelson	Managing Director	Pioneers Aboriginal Corporation
Sarah	Tutolo	Chief Executive Officer	Moorditjabin Housing Aboriginal Corporation

Clause	Request	Advice from Lawyers	Outcome
Name	Consideration of “Federation” instead of Council Consideration of use of the word Services in title.		<i>To be discussed with Committee first</i>
2.2 Principal Objects	Consideration to remove “which support social services”	Awaiting Legal advice	<i>To be discussed with Committee first</i>
2.3 (d)	Consider to remove ..Aboriginal Community Controlled “social services specific” Peak bodies		<i>To be discussed with Committee first</i>
2.3 Other Objects	Insert non-competition object (i) In our pursuit to achieve the Objects, the Company shall not be a social support service provider in Western Australia, recognising that service delivery is undertaken by our Members only.	Edit to Clause 2.3 refined by legal team.	Edit to Clause 2.3 'For the avoidance of doubt, the Company shall not provide Social Support Services in WA in furtherance of the Objects as that service delivery is to be undertaken by the Members only.'4.

8.3(a) Retirement and election of Directors	Change from At first annual general meeting to First general meeting. And remove Inaugural AGM. Hold GM to spill board.	Edit to Clauses 8.3(a) and (b)	Edit to Clauses: 8.3(a) removal of AGM replaced with GM 8.3(b)(v) removal of AGM replaced with GM
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