



**WAITOC**  
Western Australian Indigenous  
Tourism Operators Committee

**WAITOC ASSOCIATION INC**

# **CONSTITUTION AND RULES**

**Amended by Special Resolution of the AGM held on 19 November 2010**

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# RULES OF INCORPORATION FOR THE WAITOC ASSOCIATION INC

## 1. TITLE

The name of the body is **WAITOC Association Incorporated** and hereinafter it shall be referred to as the Organisation.

## 2. DEFINITIONS

These Rules shall be interpreted in accordance with the Association Incorporation Act 1987 ("the Act") and any conflict between the provisions of these Rules and the Act shall be determined as required by the Act.

In these rules, unless the contrary intention appears-

"Board" shall mean the Board of Management of the Organisation as constituted under these Rules.

"Chief Executive Officer" (CEO) shall mean the senior employee of the Organisation.

"Executive Officer" (EO) shall mean an employee of the Organisation.

"Affiliated Body" shall mean an association having an objective or objectives complementary to those of this Organisation.

"External Body" shall mean a key tourism industry organisation or business activity participating in directing tourists into Western Australia.

"Stakeholder" shall mean organisations including Australian State and Local Government agencies as well as affiliated and external bodies with a financial interest in the Organisation.

"ordinary resolution" means resolution other than a special resolution;

"special resolution" has the meaning given by section 24 of the Act;

"the Act" means the Associations Incorporated Act 1987;

"the Organisation" means the Association referred to in rule 1;

"member" means member of the Association;

## 3. OBJECTS

The objects of the Organisation are-

- a. To promote and raise the profile of Western Australia Indigenous Tourism on a State, National and International level.
- b. To encourage and support new and emerging Indigenous tourism operators in Western Australia.
- c. To encourage greater collaboration between Indigenous tourism operators and non-Indigenous tourism operators including the promotion of joint ventures.
- d. To encourage the development of existing Indigenous tourism businesses.
- e. To encourage employment of Indigenous people by the wider tourism industry.

- f. To encourage and develop a better relationship between Indigenous tourism operators and State, Federal and private tourism organisations.

#### **4. PROPERTY AND INCOME**

The assets and income of the Organisation shall be applied solely towards the promotion of the objects of the Organisation and no part of the assets or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

#### **5. MEMBERSHIP**

**5.1** Membership of the Organisation is open to –

- Full membership is open to existing Indigenous tourism operators in Western Australia. Only Indigenous tourism operators can be nominated for the Board.
- Associate membership is open to –
  - Non-Indigenous tourism operators with an Indigenous component.
  - Indigenous and non-Indigenous individuals/organisations who wish to support the Western Australia Indigenous Tourism industry.
- An Associate member does not have any voting rights.

**5.2** Any natural person or body corporate may become a member of the Organisation by notice in writing to the Board and upon payment of the prescribed subscription.

**5.3** Approval of applications may be delegated to the authority of the Chief Executive Officer (CEO), and will be subject to subsequent formal approval of the Board.

**5.4** The Board has absolute power to approve or reject membership applications.

#### **6. SUBSCRIPTIONS**

**6.1** The Board shall from time to time determine the amount of the subscription to be paid by each member.

**6.2** Each member shall pay to the Organisation, annually on or before 1 July or such other date as the Board from time to time determines, the amount of the subscription determined under subrule 6.1.

**6.3** Subject to subrule 6.4, a member whose subscription is not paid within 3 months after the relevant date fixed by or under subclause (2) ceases on the expiry of that period to be a member, unless the Board decides otherwise.

**6.4** A member is a financial member for the purposes of these rules if his or her subscription is paid on or before the relevant date fixed by or under subrule 6.2 or within 3 months thereafter.

## **7. CESSATION OF MEMBERSHIP**

**7.1** A member who delivers notice in writing of his or her resignation from the Organisation to the CEO ceases on that delivery to be a member.

**7.2** A person who ceases to be a member under subrule 7.1 remains liable to pay to the Organisation the amount of any subscription due and payable by that person to the Organisation but unpaid at the date of that cessation.

**7.3** A person ceases to be a member if the member is expelled or suspended in accordance with Rule 8.

## **8. SUSPENSION OR EXPULSION OF MEMBERS**

**8.1** If the Board considers that a member should be suspended or expelled from a membership of the Organisation because of his or her conduct detrimental to the interests of the Organisation, the Board shall communicate, either orally or in writing, to the member-

- (a) Notice of the proposed suspension or expulsion and of the time, date and place of the Board meeting at which the question of that suspension or expulsion will be decided; and
- (b) Particulars of that conduct,

Not less than 30 days before the date of the Board meeting referred to in paragraph (a).

**8.2** At the Board meeting referred to in a notice communicated under subrule 8.1, the Board may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board, expel/suspend or decline to expel/suspend that member from membership of the Organisation and shall, forthwith after deciding whether or not so to expel/suspend that member, communicate that decision in writing to that member.

**8.3** Subject to subrule 8.5, a member who is expelled/suspended under subrule 8.2 from membership of the Organisation ceases to be a member 14 days after the day on which the decision so to expel him or her is communicated to him or her under subrule 8.2.

**8.4** A member who is expelled/suspended under subrule 8.2 from membership of the Organisation shall, if he or she wishes to appeal against that expulsion, give notice to the CEO of his or her intention to do so within the period of 14 days referred to in subrule 8.3.

**8.5** When notice is given under subrule 8.4-

- (a) The Organisation in a general meeting may, after having afforded the member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Organisation in the general meeting, confirm or set aside the decision of the Board to expel/suspend that member ; and
- (b) the member who gave that notice does not cease to be a member unless and until the decision of the Board to expel/suspend him or her is confirmed under this subrule.

## **9. MEETINGS**

### **9.1 ANNUAL MEETINGS**

**9.1.1** The Annual General Meeting (AGM) shall be held prior to the end of October in each year.

**9.1.2** The annual report and audited financial statements for the preceding Financial Year shall be submitted to members at the AGM.

**9.1.3** The order of business for an AGM shall be:

**9.1.3.1** Welcome

**9.1.3.2** Apologies

**9.1.3.3** Minutes of last Annual General Meeting

**9.1.3.4** Minutes of any Special General Meetings since the last AGM

**9.1.3.5** Matters arising from the minutes

**9.1.3.6** Chairman's Report

**9.1.3.7** Financial Report for the preceding Financial Year

**9.1.3.8** Matters arising from the Financial Report

**9.1.3.9** Announcement of Elected Members to the Board

**9.1.3.10** Special Business about which advice was included in the notice of meeting

**9.1.3.11** General Business

### **9.2 SPECIAL GENERAL MEETINGS**

**9.2.1** Special General Meetings of the Organisation may be called by the Board or by at least fifteen (15) financial members giving a request to the CEO indicating the matter to be decided.

**9.2.2** In either case, the CEO shall arrange for a Special General Meeting to be held within thirty (30) days of receipt of the request by giving appropriate notice to members as prescribed in Rule 11.

**9.2.3** The other provisions of this Rule relating to AGMs shall be applied with suitable modification to the Special General Meeting, provided that no matter other than that described in the request may be dealt with.

## **10. MEETING PLACE & FREQUENCY**

The CEO shall, by notice to the Board, advise the location and time of meetings of the Board, and:

**10.1** meetings of the Board shall not be fewer than four per annum, at intervals to be determined by the members of the Board.

**10.2** meetings can be attended by any Board Member using tele-conference or videoconference facilities.

**10.3** subject to approval by the Board, wherever possible meetings will be held in various locations throughout the Region.

**10.4** Urgent Board matters can be addressed via circular out-of-session subject to a majority of eligible Board members voting in affirmation of the matter.

## **11. NOTICE OF MEETING**

Notice of the AGM or any Special General Meeting shall be advised in writing to members, not more than thirty five (35) days nor less than twenty (20) days prior to the meeting. Any other meetings can be advertised at the Board's discretion.

## **12. QUORUM AT MEETINGS**

At all Board meetings, five (5) board members and at all General Meetings 10% of members present in person or by remote means and eligible to vote shall constitute a quorum and if within 30 minutes of the time appointed for the meeting, a quorum is not present, the meeting shall stand adjourned to the following meeting.

## **13. CHAIRPERSON OF MEETINGS**

The Chairman or in his/her absence, the Vice-Chairman shall preside at every Board, Special General Meeting and Annual General Meeting and in the absence of the Chairman and Vice-Chairman, those present shall elect one of their number to be Chairman for that meeting.

## **14. VOTING**

### **14.1 RESOLUTIONS**

**14.1.1** Resolutions must be carried by a majority of the members present at any meeting. In the case of equality of votes, the Chairman shall have the casting vote.

### **14.2 PASSAGE OF RESOLUTION & DIVISIONS**

**14.2.1** Except as otherwise provided for in these Rules, voting on any matter before the meeting shall be by show of hands by those entitled to vote, with the matter being determined by a simple majority. The Chairman shall declare the result.

**14.2.2** In the event of at least five (5) attending members disagreeing with the declaration of the Chairman, the matter shall be decided by a poll.

**14.2.3** No member shall be entitled to vote, whether by show of hands, ballot or poll, unless that member is financial and has been a member for at least three months.

**14.2.4** Persons not being members and non-financial members may be invited to attend a meeting at the discretion of the Chairman, to speak on any matter before the meeting but have no vote determining a matter.

## **15. MINUTES**

The CEO/EO shall cause Minutes of Resolution of every AGM, Special General Meeting, and Board Meeting to be taken, entered and kept, and such Minutes signed by the Chairperson shall be conclusive evidence that the proceedings minuted therein were regular and actually took place as minuted at a meeting duly convened and held and shall be binding on all members of the Organisation except as to any irregular proceedings so declared and annulled at a Special General Meeting called for that purpose and held within three (3) months after the holding of the relevant AGM or Board Meeting.

## **16. BOARD**

**16.1** The business and affairs of the Organisation shall, subject to these Rules and the Associations Incorporated Act 1987, be under the management of a Board elected as detailed in Rule 19.

**16.2** Excepting as provided in Rule 16.4 Board members shall serve for a period of two (2) years.

**16.3** A Board member shall cease to be a member of the Board on becoming:

**16.3.1** a non financial member.

**16.3.2** or if as a co-opted representative, the person ceases to hold applicable office in the represented body.

**16.3.3** or on failing to attend more than three (3) consecutive meetings without leave of absence.

**16.4** Any casual vacancy occurring on the Board may be filled by a person representing the body of the absent elected member and be appointed by the Board. Any person so chosen shall hold office until the next Annual General Meeting.

**16.5** Board members may be paid a sitting fee as determined by the Board.

**16.6** Members who have been financial members for at least twelve months shall be eligible to fill a vacancy on the Board.

## **17. POWERS**

Subject to these Rules and the Associations Incorporated Act 1987, the Board shall have the following powers:

**17.1** To manage and conduct the affairs of the Organisation within the limits of its objects.

**17.2** To form committees to which specific powers are delegated. Such committees may contain financial members, advisers or employees of the Organisation provided that financial members shall always be in the majority and a member of the Board shall be Chairperson. The Board may cancel the appointment of committees so formed at any time.

**17.2.1** All committees shall report to, and be responsible to; the Board and no act of any committee shall be binding on the Board or the Organisation unless ratified by a Board meeting.

**17.3** To open and operate accounts at any Bank, as are required to enable proper management and investment of the Organisation's moneys.

**17.4** To nominate not less than three (3) persons who may sign properly authorised cheques or negotiable instruments on behalf of the Organisation; each cheque or instrument will require the signature of two of these persons, one (1) being from the Board and the other the CEO/EO.

**17.5** To engage and to delegate specific powers to any servant, employee, agent or professional adviser of or to the Organisation and to pay such remuneration as the Board deems fit to any person so engaged, whether a member of the Organisation or not, in return for services rendered or to be rendered to the Organisation.

**17.6** To make regulations, rules and/or by-laws as to the hiring or letting of property in the Organisation's control and to regulate fees and rental to be paid in respect of same.

**17.7** To do all or any other things considered necessary for the purpose of achieving the objects of the Organisation.

**17.8** To affiliate, become affiliated with or subscribe to anybody whose objects are deemed similar to those of the Organisation and, if thought fit, to detach the Organisation from such body.

## **18. COMPOSITION OF THE BOARD**

**18.1** The affairs of the Organisation shall be managed exclusively by the Board, consisting of twelve (12) members, comprised of:

**18.1.1** At least one (1) elected members each based on the geographical regions as identified by Tourism WA being Experience Perth, Australia's South West, Australia's North West, Australia's Golden Outback and Australia's Coral Coast.

**18.1.2** Seven (7) persons elected from throughout Western Australia as nominated.

**18.2** No proxies are permitted at Board meetings.

**18.3** A Tourism Western Australia representative may attend Board meetings as an observer with speaking rights.

## **19. ELECTION OF THE BOARD**

**19.1** The Board to which Rule 16 refers will be formed as follows:

**19.1.1** Except for the first Annual General Meeting after incorporation where the twelve positions are filled (six for one year, six for two years), six positions will become available at each Annual General Meeting.

**19.1.2** A call for nominations for Board members representing each of the regions shall be mailed not less than forty (40) calendar days prior to the AGM.

**19.1.3** All elections shall be by postal voting prior to the AGM; no voting will take place at the AGM. The results of the postal voting will be announced at the AGM.

**19.1.4** Postal votes shall be sent out not less than twenty one (21) calendar days prior to the AGM.

**19.1.5** Subject to Rule 18.1.9 nominations shall be received in writing by the CEO/EO not less than twenty five (25) calendar days prior to the AGM.

**19.1.6** Nominations must be signed by the nominee as indication of willingness to accept nomination to the Board.

**19.1.7** Where no more than the required number of candidates is nominated for any office, those so nominated shall be elected.

**19.1.8** In the case of no nominations for any of the Board positions or in the case the Board member ceases to be a Board Member, the Board has the power to appoint a member from the vacant precinct to that position to serve until the end of the vacating member's term.

**19.1.9** Ballot papers received by the CEO/EO less than seven (7) calendar days prior to the AGM will be declared invalid.

**19.1.10** Where there are more nominees for available positions:

**19.1.10.1** The First Past the Post voting method shall be used. The ballot paper should be marked by putting the name of the candidate whom the elector wishes to elect in order of preference.

**19.1.10.2** To determine the result of the ballot the returning officer shall total the number of marks placed against each nominee of valid ballot papers. The nominee receiving the highest total shall be deemed duly elected.

## **20. MEETING OF THE BOARD**

**20.1** The Board shall meet together for the dispatch of business at least 4 (4) times per year, with the timing at the discretion of the Board.

**20.2** If the incumbent Chairperson's term as Chairperson has expired, then at the first

Board meeting after the AGM, the Board shall elect a member of the Board as Chairperson. The Chairperson shall hold office until the first Board meeting after the AGM in the second year of the Chairperson's term of office or for the remainder of that board member's term on the Board, whichever is the lesser.

**20.3** A board member can only serve two consecutive terms (4 years) as Chairperson. A new Chairperson will be elected at the first Board meeting after the AGM.

**20.4** At the first Board meeting after each AGM, the Board shall elect members of the Board as Vice-Chairperson and Treasurer. The Vice-Chairperson and Treasurer shall hold office until the first Board meeting after the AGM or for the remainder of that Board member's term on the board, whichever is the lesser.

**20.5** If the office of Chairperson, Vice-Chairperson or Treasurer becomes vacant prior to the election of office bearers at the first Board meeting after each AGM as determined in 19.2 and 19.3, then the Board shall elect a Board member to fill each vacancy for the period remaining until the first Board meeting after the next AGM.

**20.6** Except as otherwise provided in these Rules or the Act, matters before the Board shall be decided by simple majority vote. The Chairperson shall have a casting vote.

**20.7** Urgent Board matters can be addressed via circular out-of-session subject to a majority of eligible Board Members voting in affirmation of the matter.

**20.8** Subject to this Constitution and the Act, the Board may determine its own procedures.

## **21. DISCLOSURE OF INTEREST**

A Board member having any direct or indirect pecuniary interests referred to in Section 21 or 22 of the Act shall declare it in compliance with the relevant Section of the Act.

## **22. CHIEF EXECUTIVE OFFICER/EXECUTIVE OFFICER (CEO/EO) AND STAFF**

The Board, acting on behalf of the Organisation, shall employ a CEO/EO on such terms and conditions as the Board may, in its absolute discretion, think fit and, subject to the terms of any contract of employment, may revoke or terminate the employment of the CEO/EO and appoint or employ any other person as CEO/EO.

### **22.1 GENERAL DUTIES OF THE CHIEF EXECUTIVE OFFICER**

The CEO/EO shall, during the term of the appointment:

**22.1.1** with the authority of the Board, employ such staff that may be necessary to assist the CEO/EO on terms and conditions approved by the Board.

**22.1.2** act as the Public Officer for the organisation and provide such notices to the Commissioner as are required by the Act.

**22.1.3** assume any responsibilities articulated in the Act as required of the Secretary.

**22.1.4** attend and take part in all meetings of the Board and of the membership of the Organisation unless given leave by the Chairperson.

**22.1.5** supervise the day-to-day running of the Organisation in compliance with all directions from time-to-time given by the Board.

**22.1.6** comply with and fulfil the duties of the CEO/EO as specified by the Board in the CEO/EO's duty statement, and as provided by the Board to the CEO/EO from time-to-time.

**22.1.7** advise the Board as to the best means of administering and promoting the affairs of the Organisation.

**22.1.8** coordinate all correspondence relating to the Organisation, the Board and members of the Organisation.

**22.1.9** be the returning officer for Board elections and business, unless otherwise determined by the Board.

**22.1.10** be responsible for keeping all the proper records of the organisation, in accordance with the requirements of the Act, including:

**22.1.10.1 MINUTES**

The CEO/EO shall cause proper minutes of all proceedings of all general meetings, special general meetings and Board meetings to be taken kept in accordance with Rule 15.

**22.1.10.2 CONSTITUTION**

The CEO/EO shall keep and maintain in up-to-date condition the Constitution of the Organisation and upon request of any member of the Organisation or member of the Board shall make available the Constitution for the inspection of that member and the member may make a copy of the Constitution for that purpose but shall have no right to remove the Constitution for the purpose of copying or inspection.

**22.1.10.3 MEMBERSHIP REGISTER**

The CEO/EO shall keep and maintain an up-to-date register of members of the Organisation and their contact addresses which shall, upon request, be made available for inspection or copying to any member of the Organisation or member of the Board, but the register shall not be removed for the purpose of copying or inspection.

**22.1.10.4 RECORD OF OFFICE HOLDERS**

The CEO/EO shall maintain a record of the names and residential or postal addresses of persons or bodies that hold any office in the Organisation provided for by the Constitution, including all appointments held by persons or bodies that constitute the Board, and those who are authorised to use the Common Seal of the Organisation and, upon request of a member of the Organisation or member of the Board, make available the record for the inspection by that member and that member may make a copy of or take an extract from the record but shall have no right to remove the record for that purpose.

**22.1.10.5 FINANCIAL MANAGEMENT**

The CEO/EO shall be responsible to the Board for the proper financial management of the Organisation in accordance with Rule 23.2. Upon request of a member of the Organisation or member of the Board, the CEO/EO shall make available the statement of financial position for the inspection by that member and that member may make a copy of or take

an extract from the statement of financial position but shall have no right to remove the statement of financial position for that purpose.

## **23. FINANCE**

**23.1** A Treasurer shall be elected by the Board from one of its number to monitor the financial affairs of the Organisation and to report this to the Board.

**23.2** The CEO/EO will have responsibility for all other financial matters, and shall:

**23.2.1** be responsible for the receipt of all monies paid to or received by the Organisation and shall issue receipts for those monies when requested in the name of the Organisation.

**23.2.2** pay all monies referred to in Rule 23.2.1 into such account or accounts of the Organisation as the Board may, from time-to-time, direct.

**23.2.3** make payments from the funds of the Organisation with the authority of the Board and in doing so ensure that all cheques are signed in accordance with guidelines issued by the Board from time-to-time.

**23.2.4** have custody of all securities, books and documents of a financial nature and accounting records of the Organisation.

**23.2.5** prepare financial reports.

**23.2.6** prepare the budget.

## **24. AUDITOR**

The Auditor:

**24.1** shall be elected by the Board at the first meeting following each AGM.

**24.2** does not have to be a member of the Organisation.

**24.3** can not be a member of the Board.

**24.4** may be paid for his/her services.

**24.5** must make a report to the members upon the balance sheet and accounts for the Financial Year, to be submitted to every AGM.

## **25. FINANCIAL YEAR**

The Financial Year shall be from 1 July in any year to 30 June of the following year.

## **26. COMMON SEAL**

The Organisation shall have a common seal on which its corporate name shall appear in legible characters.

**26.1** The common seal of the Organisation shall be kept in the custody of the CEO/EO and shall be affixed to any deed, instrument or other document at a meeting and pursuant to a resolution of the Board and not otherwise.

**26.2** Any two of the Chairperson, Vice Chairperson and the CEO/EO to countersign the affixation of the seal and the CEO/EO shall keep a record of all documents to which the seal shall be affixed.

## **27. RULES & AMENDMENT**

**27.1** These shall be the only Rules of the Organisation and shall come into force forthwith.

**27.2** Copies of the Rules shall be available to members upon joining the Organisation, and on subsequent occasions upon application to the CEO/EO.

**27.3** In accordance with the Act and subject to the approval by a Special Resolution of the members of the Organisation, these Rules may be altered (including and alteration to name) or be rescinded and replaced by substitute rules.

**27.4** The notice specifying the intention to propose a Special Resolution to alter, add to or amend the Rules shall include the precise amendment, addition or alteration sought and a brief statement setting out the reason for seeking the amendment, addition or alteration.

## **28. WINDING UP**

Should the Organisation for any reason whatsoever cease to function, any member, affiliated body, or persons holding any Organisation monies or property shall forthwith pay the same to the Board.

Provided the Organisation is solvent, the Organisation may be wound up by a Special Resolution.

If upon the winding up of the Organisation there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, that property shall be distributed:

**28.1** to another incorporated association having objects similar to those of the Organisation, or

**28.2** for charitable purposes, which incorporated association or purposes, as the case required, shall be determined by resolution of the members when authorising and directing the Board under section 33(3) of the Associations Incorporation Act 1987 to prepare a distribution plan for distribution of the surplus property of the Organisation.