

Annexure E

The Principles (Parts A and B)

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Part A

CSC Principles

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CSC Principles

Terms used in this Annexure are defined in either the ILUA or the Trust Deed.

1. Purpose of Principles

In order to be eligible to act as the CSC:

- (a) the corporation must act in accordance with these Principles at all times; and
- (b) the rule book of the corporation (**Rulebook**) must be consistent with these Principles and the corporation has the discretion to determine the manner in which the Rulebook satisfies the Principles.

2. Form of Rule Book

The Rulebook must be:

- (a) a comprehensive written document containing all of the internal governance rules (as that phrase is defined in section 63-1 of the CATSI Act) of the CSC;
- (b) substantially consistent with contemporary governance standards; and
- (c) consistent with the ILUAs, the Trust Deed and the CATSI Act.

3. Objects

The objects of the CSC must include, but are not limited to the following:

- (a) acting as the CSC if approved and appointed by the Trustee;
- (b) supporting the Regional Corporations and Noongar Community in the manner contemplated in the Trust Deed and ILUAs;
- (c) advancing and improving the situation of the Noongar Community with a view to overcoming disadvantage within the Noongar Community; and
- (d) assisting the Noongar Community in relation to the planning, management and use of land and waters to which they have a traditional connection or traditional responsibility,

provided that all of the objects must be for charitable purposes as defined in section 12 of the Charities Act 2013 (Cth).

4. Not for Profit

- (a) The CSC must be carried out without purpose of profit or private gain for its members.
- (b) In carrying out its objects, the CSC must ensure that no portion of its funds or property are paid or applied directly or indirectly by way of dividends, bonus or otherwise by way of profit to any member, except for the payment in good faith of reasonable and proper remuneration to any member, officer, agent, consultant, contractor or employee of the CSC for or in return for services rendered to the CSC.

- (c) The Rulebook must be structured in such a way that supports and maintains the CSC's eligibility for endorsement as a charity for tax purposes.

5. Prohibited Activities

- (a) The CSC is not permitted to be a Representative Body at any time whilst it is the CSC.
- (b) The CSC is not permitted to undertake Unrelated Commercial Activities unless those activities:
 - (i) are undertaken from within a separate legal entity; and
 - (ii) are not funded from Operations Funding sourced from the Trust.
- (c) The CSC is permitted to undertake Related Commercial Activities.
- (d) For the purposes of this item 5:
 - (i) **Representative Body** has the meaning effected by section 253 of the *Native Title Act 1993* (Cth);
 - (ii) **Related Commercial Activities** means activities that directly further the CSC's altruistic purposes, being the purposes for which the Commonwealth government grants the relevant income tax exemption (usually on the basis of the CSC's objects as outlined in its Rulebook); and
 - (iii) **Unrelated Commercial Activities:**
 - A. means activities that are not Related Commercial Activities; and
 - B. includes participation in commercial development or land development projects or activities.

6. Membership

- (a) Membership of the CSC must be open only to all members of the Noongar Community who are over the age of 18 years.
- (b) Eligibility of persons for membership must be determined by the board of directors.
- (c) There must be an appeals process for applicants in the event that the board of directors determines an applicant is not eligible for membership and refuses to accept their membership application.
- (d) There must be a mechanism for the board of directors to cancel a person's membership on the basis that their behaviour is contrary to the best interests of the CSC.

7. Board of Directors

- (a) The board of directors of the CSC must be between 6 and 8 persons who are confirmed as eligible in accordance with clause 7(d) and comprised of:
 - (i) not more than 6 directors who are members of the CSC and are elected by the members of each of the 6 Regions (**Wards**), by way of a postal voting system in accordance with a suitable election manual,

and confirmed by the members in a general meeting (**Member Directors**); and

- (ii) not more than 2 expert directors appointed by the Member Directors (**Expert Director**),

provided that:

- (iii) there shall not be a Member Director appointed in respect of a Ward which does not have a registered ILUA; and
 - (iv) a director of the CSC must not during their term of office also be a director of a Regional Corporation.
- (b) The CSC must have such minimum eligibility requirements for the directors that:
 - (i) will ensure the board of directors comprises a mix of persons with appropriate skills, expertise, experience, integrity, commitment and standing within the Noongar Community; and
 - (ii) are otherwise consistent with contemporary governance standards.
 - (c) 2 or more Directors cannot be family members of one another which in relation to a person means:
 - (i) a child of the person (adopted or biological); or
 - (ii) a parent of the person (adopted or biological); or
 - (iii) a brother or sister of the person (adopted or biological); or
 - (iv) the spouse or de facto partner of the person.
 - (d) The eligibility of director candidates must be assessed and confirmed (i.e. pre-qualified) by the Nominations Committee of the Trust and the CSC may rely upon a decision of the Nominations Committee as to eligibility.
 - (e) The CSC must encourage all directors to undertake ongoing and appropriate governance training and provide them with necessary support.
 - (f) As far as practicable, the election of the Member Directors must occur at the same time as the election of member directors of the Regional Corporations.
 - (g) The CSC must have a procedure to resolve voting deadlocks in the board of directors.

8. Noongar Capacity Development

- (a) The CSC is intended to play an important role in overcoming disadvantage within the Noongar Community and in progressing the Noongar Community towards successful self-governance and independence.
- (b) Having regard to item 8(a), the CSC must:
 - (i) develop and act in accordance with an Aboriginal employment strategy or policy;

- (ii) identify and engage with Noongar Community members that may be suitable for employment or committee positions within the CSC; and
- (iii) support strategies that will encourage capacity building within the Noongar Community including training and educational opportunities.

9. Relationship with the Trust

In recognition that the Trust is a primary source of the CSC's operational funding, the Rulebook must include provisions that will enable the board of directors to readily identify the CSC's obligations to the Trustee and the CSC's relationship with the Trust, as provided for in the Trust Deed, including but not limited to the following matters:

- (a) a Code of Conduct and Policy and Procedures Manual;
- (b) attendance by the Trustee at CSC meetings;
- (c) preparation and provision to the Trustee of annual reports, annual plans and budgets;
- (d) participation in the Noongar Relationship Committee; and
- (e) the manner in which the CSC will administer benefits and CSC Services amongst the Regional Corporations.

10. Relationship with the Regional Corporations

- (a) The CSC must establish and maintain a committee to be known as the Noongar Corporations Committee comprising from time to time:
 - (i) the following CSC representatives:
 - A. the chair of the board of directors; and
 - B. the chief executive officer; and
 - (ii) the following representatives from each Regional Corporation:
 - A. the chair of the board of directors; and
 - B. the chief executive officer.
- (b) The Rulebook must set out rules for the operation of the Noongar Corporations Committee including:
 - (i) a requirement that it undertake the specific functions included in the Trust Deed; and
 - (ii) guidance to the Noongar Corporations Committee on its additional purposes which may include consideration of ILUA implementation, policy development, partnership development, knowledge sharing, CSC Service provision, funding sources, cost/resource sharing and minimisation.

11. Consultation on Cultural Matters

The CSC and the Noongar Corporations Committee must jointly develop and maintain policies and procedures for the CSC to consult with relevant Noongar People regarding matters affecting Traditional Laws and Customs.

12. Amending the CSC Principles

Given the perpetual nature of the Settlement and the restrictions on amending this ILUA, the CSC Principles contained in this Annexure E may be amended or substituted by deed between the Trustee and the State following consultation with, and subject to the written consent of a majority of, the Regions which must comprise in respect of each Region:

- (a) written consent of the Regional Corporation; or
- (b) where there is no Regional Corporation, an Agreement Group Endorsement from the relevant Native Title Agreement Group.

Part B

Regional Corporation Principles

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Regional Corporation Principles

Terms used in this Annexure are defined in either the ILUA or the Trust Deed.

1. Purpose of Principles

In order to be eligible to act as a Regional Corporation:

- (a) the corporation must comply with these Principles at all times; and
- (b) the rule book of the corporation (**Rulebook**) must be consistent with these Principles and the corporation has the discretion to determine the manner in which its Rulebook satisfies the Principles.

2. Form of Rule Book

The Rulebook must be:

- (a) a comprehensive written document containing all of the internal governance rules (as that phrase is defined in section 63-1 of the CATSI Act) of the CSC;
- (b) consistent with contemporary governance standards; and
- (c) consistent with the ILUAs, the Trust Deed and the CATSI Act.

3. Objects

- (a) A Regional Corporation must have objects that are substantially consistent with the following:
 - (i) to directly assist the Native Title Agreement Group to:
 - A. maintain, protect, promote and support their culture, customs, language and traditions;
 - B. manage and use the land and waters within the Region to which they have a traditional connection;
 - (ii) to directly assist and support the Native Title Agreement Group to manage their native title benefits arising under this ILUA including to:
 - A. exercise the rights and comply with the obligations of a Regional Corporation under this ILUA and the Noongar Boodja Trust Deed if the Regional Corporation is appointed by the Trustee to be the Regional Corporation for the Region;
 - B. if the Native Title Agreement Group assigns its contractual rights and obligations under this ILUA to the Regional Corporation, exercise its rights and comply with its obligations under the ILUA; and
 - (iii) to only act in a manner that is for charitable purposes.
- (b) In pursuing its objects, a Regional Corporation:

- (i) may work with the broader population of Noongar People across all Noongar Lands to achieve and advance the aspirations of the Noongar Settlement;
- (ii) may benefit members of the Noongar People other than the Native Title Agreement Group provided such benefits are incidental to and consistent with the objects; and
- (iii) must not pay or apply any of its funds or property in dividends, bonus or otherwise to any member, except for the payment in good faith of reasonable and proper remuneration to any member, officer, servant, agent, consultant, contractor or employees of the Regional Corporation.

4. Not for Profit

- (a) A Regional Corporation must be carried out without purpose of profit or private gain for its members.
- (b) The Rulebook must be structured in such a way that supports and maintains a Regional Corporation's eligibility for endorsement as a charity for tax purposes.

5. Prohibited Activities

- (a) A Regional Corporation is not permitted to undertake Unrelated Commercial Activities unless those activities:
 - (i) are undertaken from within a separate legal entity; and
 - (ii) are not funded from Operations Funding sourced from the Trust.
- (b) A Regional Corporation is permitted to undertake Related Commercial Activities.
- (c) For the purposes of this item 5:
 - (i) **Related Commercial Activities** means activities that directly further a Regional Corporation's altruistic purposes, being the purposes for which the Commonwealth government grants the relevant income tax exemption (usually on the basis of the Regional Corporation's objects as outlined in its rulebook); and
 - (ii) **Unrelated Commercial Activities** means activities that are not Related Commercial Activities.

6. Membership

- (a) Eligibility of persons for membership must be determined by the board of directors having regard to the definition of the Agreement Group.
- (b) A Regional Corporation must not unreasonably refuse to accept an individual who is an adult member of the Native Title Agreement Group as a member of the Regional Corporation, provided that the individual applies for membership in accordance with the Rulebook and either:

- (i) the individual has not been previously removed as a member of the Regional Corporation in accordance with the Rulebook; or
 - (ii) where the individual has been previously removed as a member of the Regional Corporation, with the endorsement of the members by special resolution in a general meeting.
- (c) There must be an appeals process for applicants in the event that the board of directors determines an applicant is not eligible for membership and refuses to accept their membership application.
 - (d) Members are permitted to be members of other Eligible Noongar Entities.
 - (e) There must be a mechanism for the board of directors to cancel a person's membership on the basis that their behaviour is contrary to the best interests of the Regional Corporation.

7. Board of Directors

- (a) The board of directors of a Regional Corporation must comprise between 4 and 6 individuals comprised of:
 - (i) up to 4 members of the Regional Corporation nominated by the members by way of a postal voting system in accordance with a suitable election manual, and confirmed by the members in a general meeting (**Member Directors**); and
 - (ii) not more than two expert directors appointed by the Member Directors (**Expert Directors**),provided that a director of the Regional Corporation must not during their term of office also be a director of another Regional Corporation or the CSC.
- (b) The Regional Corporation must have such minimum eligibility requirements for the directors that:
 - (i) will ensure the board of directors comprises a mix of persons with appropriate skills, expertise, experience, integrity, commitment and standing within the Noongar Community; and
 - (ii) are otherwise consistent with contemporary governance standards.
- (c) 2 or more Directors cannot be family members of one another which in relation to a person means:
 - (i) a child of the person (adopted or biological); or
 - (ii) a parent of the person (adopted or biological); or
 - (iii) a brother or sister of the person (adopted or biological); or
 - (iv) the spouse or de facto partner of the person.
- (d) The Expert Directors should demonstrate such qualifications as set out in any relevant expressions of interest for Expert Director vacancies.
- (e) The eligibility of director candidates must be assessed and confirmed (i.e. pre-qualified) by the Nominations Committee of the Noongar Boodja Trust, and a

Regional Corporation may rely upon a decision of the Nominations Committee as to eligibility.

- (f) The Regional Corporation must encourage all directors to undertake ongoing and appropriate governance training and provide them with necessary support.
- (g) As far as practicable, the election of the Member Directors must occur at the same time as the election of member directors of all other Regional Corporations and the CSC.
- (h) The Regional Corporation must have a procedure to resolve voting deadlocks in the board of directors.

8. Noongar Capacity Development

- (a) Each Regional Corporation is intended to play an important role in overcoming disadvantage within a Region and in progressing the Noongar Community towards successful self-governance and independence.
- (b) Having regard to item 8(a), the Regional Corporation must:
 - (i) develop and act in accordance with an Aboriginal employment strategy or policy;
 - (ii) identify and engage with Noongar Community members that may be suitable for employment or committee positions within the Regional Corporation; and
 - (iii) support strategies that will encourage capacity building within the Noongar Community including training and educational opportunities.

9. Relationship with the Trust

- (a) In recognition that the Noongar Boodja Trust is a primary source of a Regional Corporation's operational funding, the Rulebook must include provisions that will enable the board of directors to readily identify the Regional Corporation's obligations to the Noongar Boodja Trustee and the Regional Corporation's relationship with the Trust, as provided for in the Noongar Boodja Trust Deed, including but not limited to the following matters:
 - (i) a Code of Conduct and Policy and Procedures Manual;
 - (ii) attendance by the Noongar Boodja Trustee at Regional Corporation general meetings;
 - (iii) preparation and provision to the Noongar Boodja Trustee of annual reports, annual plans and budgets; and
 - (iv) participation in the Noongar Relationship Committee and Noongar Corporations Committee.
- (b) In the interests of increasing efficiency and minimising unnecessary costs, each Regional Corporation must commit to utilising, as far as practicable, the CSC Services that have been funded by the Trust.

10. Relationship with the Eligible Noongar Entities

- (a) Each Regional Corporation must provide the following representatives to sit on the Noongar Corporations Committee:
 - (i) the chair of the Regional Corporation's board of directors; and
 - (ii) the chief executive officer of the Regional Corporation.
- (b) In recognition that the CSC will, during its early stages, be a service provider to all Eligible Noongar Entities at the same time, each Regional Corporation must commit to working cooperatively and collaboratively with the other Eligible Noongar Entities to ensure that each Regional Corporation is able to reasonably access the CSC Services.

11. Cultural Land Access

A Regional Corporation must develop appropriate policies and procedures for maintaining an interest in Cultural Land granted to it by the Noongar Boodja Trustee having regard to the:

- (a) protection, preservation and use of the Cultural Land as a place of cultural significance;
- (b) Title Protection Criteria; and
- (c) terms and conditions (if any) imposed by the Noongar Boodja Trustee on the grant of the interest in accordance with the Noongar Boodja Trust Deed.

12. Cultural Decisions

- (a) A Regional Corporation must have a process providing for cultural decisions to be made in accordance with the advice and recommendations of persons who have traditional connection and cultural authority under Traditional Laws and Customs over the land and waters the subject of the proposed cultural decision.
- (b) A Regional Corporation must have a mechanism to resolve cultural decisions which must include:
 - (i) the process for determining those persons who should advise and make recommendations to the Regional Corporation in relation to cultural decisions;
 - (ii) a requirement that the Regional Corporation will make a cultural decision in accordance with advice of those persons determined under item 12(b)(i);
 - (iii) the timeframe for resolution of a cultural decision;
 - (iv) the default outcome if there is no resolution via the cultural decision process; and
 - (v) a requirement to notify the outcome of a cultural decision to the Regional Corporation of any adjacent Region that will be affected by a cultural decision.

- (c) Cultural decisions by a Regional Corporation on a matter the subject of an ILUA must comply with any relevant obligations and timeframes on the Regional Corporation under the ILUA.

13. Amending the Regional Corporation Principles

Given the perpetual nature of the Settlement and the restrictions on amending this ILUA, the Regional Corporation Principles contained in this Annexure E may be amended or substituted by deed between the Trustee and the State following consultation with, and subject to the written consent of a majority of, the Regions which must comprise in respect of each Region:

- (a) written consent of the Regional Corporation; or
- (b) where there is no Regional Corporation, an Agreement Group Endorsement from the relevant Native Title Agreement Group.