



Australian Government

Office of the Registrar of Indigenous Corporations

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4 August 2017

The directors
Bawinanga Aboriginal Corporation
Lot 476, Maningrida
MANINGRIDA NT 0822

Bawinanga Aboriginal Corporation
C/- Ms Valda Bokmakarray
Secretary
PMB 102
MANINGRIDA NT 0822

Dear directors

Examination - management letter

As you are be aware, an examination of the affairs of the Bawinanga Aboriginal Corporation, under section 453-1 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act), was completed during August 2016 by Mr Jack James and Mr Elliot Wood (the examiners) from the Western Australian based firm of Palisade Business Consulting.

The purpose of the examination was to review the standards of corporate governance and financial management of the corporation since 1 July 2014. In particular, the examination checked whether the corporation had been governed in accordance with the CATSI Act and the rules of the corporation and whether the directors have complied with their obligations under the CATSI Act and rules of the corporation.

I am pleased to report that the examiners reported that the standard of corporate governance at the corporation is generally sound and that the corporation is being satisfactorily managed.

Despite the overall findings above, there are a number of matters set out below which require some attention by the directors of the corporation. In my opinion these matters can be adequately addressed by way of this management letter.

A management letter is a report from the Registrar to the directors of a corporation that makes recommendations for correcting weaknesses or minor matters identified during an examination. The weaknesses and issues are important enough to be brought to the attention of the directors but not so serious as to require a formal compliance notice to be issued by the Registrar under section 439-20 of the CATSI Act.

These matters include:

- The corporation has not maintained a register of former members who stopped being a member within the last seven years
- The directors of the corporation did not approve nine applications for membership. In addition, one rejected membership application has been included on the current membership register.
- The remuneration of the auditor was not determined by resolution at the 2014, 2015 and 2016 AGM's.
- 21 days' notice was not provided to members for a General Meeting held on 26 July 2016.
- Notice of the Special General Meeting to be held on 2 August 2016 did not contain the required information regarding the appointment proxies.
- Proper minutes were not kept of directors meetings. The minutes of meetings of directors held on 23 occasions over the period of review were not signed.
- The corporation did not obtain member approval prior to giving a financial benefit to two (2) related parties.
- the corporation does not operate a Gift Fund named "The Bawinanga Aboriginal Corporation Gift Fund".

I have attached a copy of the corporation's rule book and a summary of the instances of non-compliance identified by the examiners for your information. I recommend that the directors take action to address the above matters as soon as possible.

I would also like to take this opportunity to encourage the directors to visit ORIC's website and look at ORIC's "*Healthy corporations checklist*". This checklist allows directors to check the corporation's compliance with the rule book and the law. It has been specifically designed to help directors improve the standard of corporate governance at the corporation.

There are also links to important template documents (including the register of members, notices for meetings and minutes for meetings) and other forms that your corporation could put to good use. The checklist can be easily accessed by visiting www.oric.gov.au, select the "*resources*" tab on the homepage, then click on "*Healthy corporations checklist*" on the left hand side of that page.

If you want to speak to anyone at our office about this, please ring Mr Luke Evans using the free number 1800 622 431 (not free for mobile phones) or you can send an email to luke.evans@oric.gov.au.

Yours sincerely



Gerrit Wanganen
Manager
Regulation Section

SUMMARY OF INSTANCES OF NON-COMPLIANCE

Register of members and former members

- A.** Contrary to section 180-15 of the Act and rule 3.8 of the rule book, the Corporation has not maintained a Register of Former Members who stopped being a member within the last 7 years.¹

Applications for membership

- B.** Contrary to section 144-5 of the Act and Rule 3.2, 24 members did not submit an application for membership in writing to the Corporation.
- C.** Contrary to section 144-10 of the Act and Rule 3.2, the directors of the Corporation did not approve 9 applications for membership. In addition, one rejected membership application has been included on the current membership register.

Annual general meetings (AGMs) and general meetings

- D.** Contrary to section 201-1 of the Act, the directors did not pass a resolution to call for the AGM for the year ending 30 June 2014.
- E.** Contrary to Rule 4.2, the business of checking the register of members and register of former members was not conducted at the 2014, 2015 or 2016 AGM's.
- F.** Contrary to section 201-160(c) of the Act and Rule 7.1.3, the remuneration of the auditor was not determined by resolution at the 2014, 2015 and 2016 AGM's.
- G.** Contrary to Rule 4.3, there was no resolution to call the Special General Meeting on 26 July 2016.
- H.** Contrary to section 201-20(1) of the Act and Rule 4.5, 21 days' notice of a General Meeting was not provided to members.²
- I.** Contrary to Rule 4.5, notice of the Special General Meeting to be held on 2 August 2016 did not contain information regarding proxies.

Directors and Directors' meetings

- J.** An individual participated in voting at board meetings without formally being appointed as a temporary director by a resolution of directors at a board meeting. The Corporation failed to notify the Registrar of the appointment of a director.
- K.** Contrary to section 246-10 of the Act and Rule 5.5, an individual did not provide consent in writing to act as a director prior to being appointed.

¹ The corporation has provided a register of former members up to 2015.

² The corporation placed notices in the community in accordance with rule 4.5.

- L.** Contrary to section 246-20 and Rule 5.8, a non-director participated in voting at board a meeting held on 1 March 2015 without formally being appointed as a temporary director by a resolution of directors at a board meeting.
- M.** Contrary to section 212-5 of the Act and Rule 5.17, directors did not provide notice of a board meeting held on 28 April 2015.³
- N.** Contrary to section 212-20 of the Act and Rule 5.18, a quorum was not present at a board meeting held on 24 August 2016.⁴
- O.** Contrary to section 220-5(4) of the Act, the minutes of meetings of directors held on 23 occasions over the period of review were not signed.

Related party benefits

- P.** Contrary to section 284-1 of the Act and Rule 5.3, the Corporation did not obtain member approval prior to giving a financial benefit to two (2) related parties; being directors.⁵

Specific Matters

- Q.** Contrary to Rule 11, the Corporation does not operate a Gift Fund named “The Bawinanga Aboriginal Corporation Gift Fund”.

³ The corporation provided notice via email to non-member directors and through phone calls or personal contact with member directors.

⁴ The corporation recognised this and the event was re-named as a board information session.

⁵ The corporation confirmed that these benefits were given to the people as employees of the corporation and that most of the money had been paid back.