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Ngadju Native Title Aboriginal Corporation RNTBC

Corporate Governance and Benefits Management Overview

May 2017

This document has been developed by the Board of Directors of the *Ngadju Native Title Aboriginal Corporation (NNTAC) RNTBC*.

It is designed to provide an overview of the structure, governance and operations of the *Ngadju Native Title Aboriginal Corporation*, and describe how funds and non-financial considerations received by *Ngadju Aboriginal Corporation* arising out of native title agreements, compensation payments, grants, endowments and other benefit are managed through the *Ngadju Corporate Management Structure* to achieve the principle for which the Corporation was established objectives as outlined in The Rule Book of the Ngadju Native Title Aboriginal Corporation RNTBC.

- a) To promote the relief of poverty, sickness, destitution, serious economic disadvantage, distress, dispossession, suffering and misfortune of the Ngadju People;
- b) to carry out the functions of a Prescribed Body Corporate under the Native Title Act;
- c) to be a registered native title body corporate as a Trustee within the meaning of the Native Title Act for any native title determination made in favour of the Ngadju People;
- d) to protect and promote the laws, culture and traditional rights and interests of the Ngadju People; and
- e) to oversee a Member Benefits Program in accordance with the requirements of the Income Tax Assessment Act 1997, Trust laws and associated Legislation.

This document is available to be provided to Government and Private stake-holders in the context of negotiations over compensation payable to the Ngadju people for access to the Native Title Determination Area for all purposes including the potential extinguishment of Ngadju native title rights and interests.

Note:

For the purposes of this document the word “Benefits” does not imply that proposed compensation for the taking of native title, provides a net ‘benefit’ to the Ngadju people.

Monetary and other payments and projects arising out of any proposed agreement constitute compensation payable at law.

“Corporate governance” describes “the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies, and those in control, are held to account.” - ASX Corporate Governance Principles

The Ngadju Governance Corporate Management Structure

The Ngadju Governance Corporate Management Structure (CMS) was established to demonstrate compliance with the required governance principles as prescribed by associated Legislation and Regulations and for this purpose of managing the Ngadju Peoples' rights and interests.

The Ngadju Native Title Aboriginal Corporation RNTBC's role in the Ngadju Corporate Management Structure

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) is the Registered Native Title Prescribed Body Corporate (RNTBC) for the Ngadju People.

It is the Aboriginal Corporation established to hold and manage the Ngadju native title rights and interests for the benefit of the Ngadju people. For the purpose of this document the Ngadju people are the people who are identified as being Ngadju and who are listed on the Ngadju Membership Register.

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) main function is to protect the Native Title Rights and Interests of the Ngadju People within the Native Title Determination Area as prescribed.

It is mandated to operate in the best interests of the Ngadju community and is governed in accordance to the Ngadju Prescribed Body Corporate (PBC) Constitution and Commonwealth Regulations.

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) is governed by a Board of twelve Ngadju Directors that are elected at The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) AGMs.

The Board determines The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) Strategic priorities in accordance with the Strategic Plan and corporate policy and compliance.

In terms of The Ngadju Governance Corporate Management Structure (CMS), The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) is required to hold regular meetings as a Board and meetings with the broader Ngadju Community to discuss and decide on Native Title matters, agreements and any other significant matters concerning future proposals.

The Ngadju Governance Corporate Management Structure (CMS) is required to will operate in accordance with:

- The Strategic Plan (s)
- The approved Annual Budget;
- The PBC Policies and Procedures;
- The Rule Book;(The Rule Book of the Ngadju Native Title Aboriginal Corporation RNTBC - ICN 8297)
- The Risk Management Strategy
- Compliance requirements and
- An annual review program

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) CEO reports to the Board on all strategic, tactical and operational matters and oversees the conduct of the organisation's affairs including the appointment of staff and contractors.

The Ngadju Prescribed Body Corporate

The Ngadju Prescribed Body Corporate (PBC) is managed by a Board of Directors in accordance with the Native Title Act and its governance Rule Book as endorsed by the Office of the Registrar of Indigenous Corporations.

The Strategic Plan has been developed by The Ngadju Prescribed Body Corporate (PBC) to identify the proposed outcomes and benefits to Ngadju People from any funds and non-financial considerations received by *Ngadju Aboriginal Corporation* arising out of native title and associated agreements.

A Trust Structure has been established by Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) to accept and invest monies at the discretion of the Ngadju Prescribed Body Corporate (PBC).

Subsidiary entities established at any time by the Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) will report directly to the Ngadju Prescribed Body Corporate (PBC) and maintain compliance with its constitution, which is required to be endorsed by the Ngadju Prescribed Body Corporate (PBC) and Australian Securities and Investment Commission (ASIC), in accordance with the Ngadju Native Title Aboriginal Corporation RNTBC Strategic Plan and associated investment strategies. Funds are committed to achieve the outcomes as so defined.

The Ngadju Native Title Aboriginal Corporation RNTBC's reporting obligations to the Office of the Registrar of Indigenous Corporations (ORIC)

The Office of the Registrar of Indigenous Corporations (ORIC) holds similar, or arguably greater, power than Australian Securities and Investment Commission (ASIC) in its ability to take over the administration of a Prescribed Body Corporate if it fails to uphold its obligations under its constitution and the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI).

Pursuant to the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI), The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) is required to abide by a constitution and keep ongoing proper accounts and records including accounts and records of its financial affairs, names and addresses of its Directors and Corporate Officers, a registered address and records of meetings, including meetings, notices, register of members and former members.

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) is a 'registered corporation' as defined by the Act, which means it must lodge annually:

- A General Report (and a notification of any changes to NNTAC's Corporate Officers);
- A Financial Report;
- An Audit Report (by a registered auditor); and
- A Director's Report.

The financial statements and notes must be in accordance with the Corporations (Aboriginal and Torres Strait Islander) Regulations 2007. They are required to comply with the accounting standards and must provide a true and fair view of the financial position and performance of the corporation.

The Ngadju Native Title Aboriginal Corporation RNTBC's corporate governance compliance obligations

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) corporate governance compliance obligations are detailed by the Department of Premier and Cabinets 'Governance Principles for Native Title Agreements'.

The Governance Principles for Native Title Agreements identify the appropriate corporate governance arrangements that must be in place to enable the benefits arising out of native title agreements/arrangements to be managed responsibly and sustainably for all Beneficiaries.

The key 'Corporate Governance Principles' are used in the determination of appropriate corporate governance arrangements.

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) also complies the Australian Securities Exchange (ASX) Corporate Governance Principles & Recommendations' which are recognised as best practice in the area of corporate governance.

The Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) has also adopted the 'ASX Corporate Governance Principles & Recommendations' *"If not, why not"* methodology for reporting the Ngadju Native Title Aboriginal Corporation RNTBC (NNTAC) organisational compliance with the Department of Premier and Cabinets 'Governance Principles for Native Title Agreements'.

The *"If not, why not"* reporting methodology states that *"If a board of a listed entity considers that a recommendation is not appropriate to its circumstances, it is entitled not to adopt but must explain why it has not adopted the recommendation"*.

APPENDIX A

Appendix 'A' contains a summary commentary of the compliance of The Ngadju Native Title Aboriginal Corporation (NNTAC) and The Ngadju Governance Corporate Management Structure (CMS) with The Department of Premier and Cabinet Governance Principles for Native Title Agreement. It as identifies how the principles align with the Australian Securities Exchange (ASX) Corporate Governance Principles & Recommendations.

The table below outlines:

1. The Department of Premier and Cabinet Governance Principles for Native Title Agreement.
2. The Australian Securities Exchange (ASX) Corporate Governance Principles & Recommendations that each of the eight Cabinet Governance Principles for Native Title Agreement is aligned with.
3. The key measures of compliance of each of the eight Cabinet Governance Principles for Native Title Agreement.
4. The status of the Ngadju Native Title Aboriginal Corporation RNTBC level of compliance with all key measures for each principle of the eight Cabinet Governance Principles for Native Title Agreement.
5. The evidence supporting the reported status of the Ngadju Native Title Aboriginal Corporation RNTBC level of compliance.

Compliance of The Ngadju Native Title Aboriginal Corporation with the Department of Premier and Cabinet Governance Principles for Native Title Agreement		
Government Governance Principles	Comparable ASX Governance Principle	Compliance Status / Evidence /Comments
Principle 1 – Accountable and responsible management and oversight	Principle 1 - Lay solid foundations for management and oversight	The Ngadju CMS is fully compliant
Does the structure adequately support the various functions required to manage the native title benefits and any specific outcomes any Native Title Agreement?	ASX does not incorporate organisational design or structure.	The Ngadju CMS is fully compliant
Are the respective roles and responsibilities of the various Boards, committees and management clearly defined?	Consistent	Yes. As defined in the NNTAC Constitution (Rule Book).
Is there a clear process for evaluating the performance of the Board, committees and management?	Consistent	The Ngadju Strategic Plan defines the key performance indicators, performance measures and review processes.
Principle 2 – Board to provide independence and expertise	Principle 2 - Structure the board to add value	NAC is committed to excellence in governance and in the training of all Directors
Does the size and composition of the board provide for effective fulfilment of its commitments, duties and responsibilities?	Consistent	Yes. The NNTAC Boards is of sufficient size, and has the requisite independence requirements, to bring the required knowledge, diversity and independence. All Directors undergo governance training.
Are there a suitable number of independent directors?	Consistent	Yes, however the appointment of Independent Directors is discretionary.
Does the structure provide adequate independence between the board and the daily operations of the organisation?	Consistent	Yes. There is separation of governance from the Board executive level to the operational functions of the Corporation
Is there an agreed process for nominating and appointing Board members?	Consistent	Yes, as per the NNTAC Rule Book
Principle 3 – Integrity in financial management and reporting	Principle 4 – Safeguard integrity in financial reporting	Same intent. ASX guidelines are more about process structure and role of audit committee. NAC is consistent with Government and the ASX.
Are there reporting guidelines, requirements and timeframes in place?	Consistent	Yes. The NNTAC Board meets as required under the Constitution with the CEO reporting at each Board meeting.
Is there an independent structure responsible for verifying the integrity of financial reports?	Consistent (Audit Committee for larger organisations, or Board function for smaller)	Independent audits of the NNTAC and Trust financial report.

Compliance of The Ngadju Native Title Aboriginal Corporation with the Department of Premier and Cabinet Governance Principles for Native Title Agreement		
Government Governance Principles	Comparable ASX Governance Principle	Compliance Status / Evidence /Comments
Are there specific criteria against which financial reports will be assessed?	ASX sets some requirements and matters against which to report. Auditor overlay too.	As per audit checklists. Financial reports of both NAC and the Trust are provided in standard format at the NAC AGM. NAC Constitution stipulates the broad requirements.
Principle 4 – Recognise and manage risk	Principle 7 – Recognise and manage risk	
Has the organisation a system for identifying and managing risk to the organisation and ensuring the sustainability of native title benefits?	The first part of the question is consistent with ASX. The second part (sustainability) goes into operational matters.	Yes, financial audits include comprehensive risk analysis and independent Risk Assessment provides further governance oversight on financial risk.
Are there mechanisms in place aimed at maintaining internal control and accountability?	Consistent.	Clear accountability as per the NNTAC organisational structure and reporting to the NNTAC Board by both the NNTAC CEO and the Independent Trustee.
Are there processes in place for addressing a disruption in the operations of the organisation?	Consistent.	Yes.
Principle 5 – Equitable and responsible management of native title benefits	Principle 6 – Respect the rights of shareholders	
Are there processes in place to ensure that all members of the native title group have equitable access to agreement benefits?	Consistent, in the broad sense of equitable owner/member share of benefits	Yes, as mandated under the NNTAC Constitution and Trustee Deeds, including the requirement for changes in policy or processes to be approved by the NNTAC Board and for benefits to be approved at the AGM.
Are there clearly defined purposes and protocols for managing benefits?	Consistent insofar as protocols of benefit distribution. ASX Principles do not go into purposes of benefit distribution (company strategy).	Yes, defined in the Strategic plan
Are the purposes and protocols consistent with the purposes and intended outcomes of any agreement?	NA	The compliance framework is governed in accordance with the NNTAC Constitutions and Trust Deeds
Have all members of the native title group had the opportunity to provide input to the establishment of these processes?	Consistent. Participation at general meetings and the rights of shareholders and procedures for voting/change of Board as per ASIC, ASX guidelines and Constitution.	Yes. General procedural requirements in regards to members as per the NNTAC Constitution (including specification of required agenda items at an AGM or Community meeting).

Compliance of The Ngadju Native Title Aboriginal Corporation with the Department of Premier and Cabinet Governance Principles for Native Title Agreement		
Government Governance Principles	Comparable ASX Governance Principle	Compliance Status / Evidence /Comments
Principle 6 – Ethical and responsible decision making processes	Principle 3 – Promote ethical and responsible decision making	Yes.
Are there agreed decision making principles and protocols?	Consistent in terms of decisions required to be made by shareholders/community as per respective requirements of constitution/ASIC/ASX guidelines.	Yes. As per NNTAC Constitution. Changes to policies are subject to NNTAC Board approval.
Are there evaluative criteria against which decisions will be assessed?	Consistent	Yes. Proposed NNTAC decisions on agreements need to be justified and approved by the community.
Are decision-making processes inclusive of all members of the native title group?	Consistent in terms of decisions required to be made with shareholder / community approval. The Board devolves accountability for other decisions to management.	Yes. Execution of native title agreements are subject to community approval at a General Meeting.
Are there clear and transparent communication protocols for decision making about the benefits?	Consistent in the broad sense of disclosure of company activities.	The communication form is through a general meeting of members of NNTAC. At the more specific level, communication of benefits and costs is fit for purpose and generally guided by the Board and requisite external consultants.
Does this include consultation with the native title group and / or traditional law and culture advisers?	N/A	Yes. As above and as advised by the Community and Elders.
Principle 7 – Timely and balanced disclosure and communication	Principle 5 – Make timely and balanced disclosure	
Is there a process for ensuring that all decisions and matters relevant to the management of native title and the organisation are communicated in a transparent and timely manner?	Consistent with the principle of continuous disclosure to the extent of information being material information.	Yes. See above. As per NNTAC Constitution timely advice is provided to the NNTAC Board. Similarly, communication between NNTAC Board. In regards to discussion with the Community, unless a special general meeting is called then the main communication is through periodic newsletter and the AGM.
Are there processes in place to ensure all members of the native title group have the opportunity to be involved in and/or know the outcomes of meetings held?	Consistent with Principle 6.	Yes. The requirements of the AGM as defined in the NNTAC Constitution.

Compliance of The Ngadju Native Title Aboriginal Corporation with the Department of Premier and Cabinet Governance Principles for Native Title Agreement

Government Governance Principles	Comparable ASX Governance Principle	Compliance Status / Evidence /Comments
Principle 8 – Effective Dispute Resolution	In intent, consistent with Principle 3 (Ethical and responsible decision making)	Yes. Dispute resolution is detailed in the Constitution. Elders may also be consulted.
Are there clear and explicit internal dispute resolution processes?	Consistent in intent with ASX principles in regards to code of conduct and integrity, and legal obligations with Labour laws.	Yes. Detailed in the NNTC Constitution.
Are the dispute resolution processes transparent and accessible?	As above.	Yes. Detailed in the NNTAC Constitution which is accessible to all members.