

Tiwi Land Council Members Governance Framework

METHOD OF CHOICE

(s29(1) *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth))

TERMS & CONDITIONS OF MEMBERSHIP

(s29(1) *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth))

MEETING RULES

(s31(7) *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth))

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PART A – DEFINITIONS

Unless the contrary intention appears, the following defined terms apply to the Parts B, C and D of this document:

‘Aboriginals’ has the same meaning as “Aboriginals” in the Act.

‘Act’ means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

‘area of the Land Council’ has the same meaning as “area” in the Act.

‘conflict of interest’ includes any financial conflict, non-financial conflict, actual conflict and perceived conflict.

‘Land Council member’ means a person who holds office under subsection 29(1) or subsection 29(2) as a member of the Tiwi Land Council established under the Act.

‘Land Council’ means the Tiwi Land Council established under the Act.

‘Land Trust’ means the Tiwi Aboriginal Land Trust established under the Act.

‘land owning group’ means one (1) or more (as the context permits) of the eight (8) groups in the area of the Land Council.

‘Land Trust member’ means a person appointed by the Minister, to the Tiwi Aboriginal Land Trust established by or under the Act, under subsection 7(2) or subsection 7(8) of the Act.

'Minister' means the minister of the Parliament of Australia whose portfolio includes the functions and/or powers given to "the minister" in the Act.

PART B - METHOD OF CHOICE

I, Linda Burney, Minister for Indigenous Australians, hereby approve the Method of Choice of Council members for the Tiwi Land Council.

This approval is granted under subsection 29(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)

1. NUMBER OF MEMBERS

1.1 The Council is to be constituted by 40 members representing the land owning groups in the area of the Land Council, as follows:

a.	Malawu	5
b.	Mantiyupwi	5
c.	Mirrakawuyanga	5
d.	Munupi	5
e.	Tikilaru	5
f.	Wulirankuwu	5
g.	Wurankuwu	5
h.	Yimpinari	5

1.2 Each land owning group is to have a minimum of two female Council members representing the land owning group on the Land Council.

1.3 Where five (5) or less Land Council member positions reserved for female Land Council members remain unfilled following an election, the Land Council shall exercise the discretion in accordance with subsection 29(2) of the Act to co-opt the requisite number of female members to fill the Land Council member position(s).

1.4 Following a co-opting in accordance with clause 1.3 above any remaining Land Council member positions to be filled shall be filled by the relevant land owning group in accordance with clauses 3.3 to 3.15 (inclusive) below. Any Land Council member position filled pursuant to this clause must comply with the requirement that the land owning group is to have a minimum of two (2) female Council members.

2. ELIGIBILITY REQUIREMENTS OF LAND COUNCIL MEMBERS

2.1 Subject to the requirements of the Act, the Land Council members shall be:

- a. Aboriginals living in the area of the Council, or whose names are set out in the register of traditional Aboriginal owners as being traditional Aboriginal owners of Aboriginal land in the area of the Council.
- b. Chosen by Aboriginals living in the area of the Land Council in accordance with such method or methods of choice and holding office on such terms and conditions as is or are approved by the Minister from time to time.
- c. Not subject to a disqualifying event as defined at subsection 29(5) of the Act.

3. ELECTION OF LAND COUNCIL MEMBERS

Land Trust members

3.1 A person appointed by the Minister, to the Land Trust under subsection 7(2) or subsection 7(8) of the Act shall, subject to:

- a. A disqualifying event(s) under section 29 of the Act
- b. Compliance with the Terms and Conditions of Membership of the Land Council

simultaneously serve as a Land Council member for the period of their tenure as Land Trust member.

3.2 For the avoidance of doubt, if a person who is a Land Trust member ceases to be a Land Trust member, then that person also ceases to be a Land Council member.

Nominations for the remaining 32 member positions

3.3 Nominations for Land Council membership shall be sought at separate land owning group meetings.

3.4 Nominations are not limited to the number of places available for membership on the Land Council.

3.5 Nominations are not limited to male Aboriginals living in the area of the land owning group or males whose names are set out in the register of traditional Aboriginal owners of the land owning groups area of land.

3.6 Unless other rules for nomination are published by the Land Council at the time that the Land Council calls for nominations, nominations for Land Council membership shall:

- a. Be discussed and approved at a meeting of the land owning group.
- b. Include an equal number of male and female nominees.
- c. Be in writing signed by two (2) members of the land owning group and the persons nominated.
- d. Given to the Land Council in any way approved by the Land Council for the receipt of nominations.
- e. If the nomination(s) is being made with the support of the majority of the land owning group present at a meeting where the nomination was approved, include the approved minutes of the meeting from the land owning group meeting that the nomination(s) were agreed by the land owning group.

3.7 A land owning group must first consider the following matters before nominating a person for Land Council membership:

- a. Land Council members must be at least 18 years of age at the time that they first hold office as a Land Council member.

- b. Land Council members will have a good knowledge of the Land Owning Group, its land area and land rights matters.
- c. The person's character and reputation within the community.
- d. Any prior criminal charges and/or criminal record.
- e. Prior experience on boards and/or work experience in a role that required an understanding of good governance and accountability.
- f. Prior experience and conduct as a Land Council member or Land Trust member.
- g. Whether the nominated person agrees to accept the nomination.

Notice of meetings to receive nominations for the remaining 32 member positions

- 3.8 The Land Council is to facilitate a meeting of each land owning group for the purpose of receiving nominations for Land Council membership.
- 3.9 Notice of a land owning group meeting for the purposes of receiving nominations in accordance with clause 3.8 above must:
- a. Be prepared by an employee of the Land Council.
 - b. Be authorised by the Chief Executive Officer of the Land Council.
 - c. Be legible and written in plain English.
 - d. State the date, time, and location of the meeting.
 - e. State the purpose of the meeting (receive nominations for Land Council membership and/or hold elections)
 - f. Include a copy of the Method of Choice approved by the Minister.
 - g. Be published.
- 3.10 The location of the meeting must be a location accessible to the Aboriginals eligible to participate in the nomination process.
- 3.11 A copy of the notice shall be published by:
- a. Affixing a copy of the notice to not less than three (3) public places where the notice will be brought to the attention of the Aboriginals eligible to participate in the nomination process.
 - b. Posting a copy of the notice on the Land Council's Facebook page.
 - c. Uploading a copy of the notice on the homepage of the Land Council's website.
 - d. Any other method deemed necessary and reasonable by the Chief Executive Officer of the Land Council, in addition to the methods listed at clause 3.11. a. – c. (inclusive) directly above.

Elections for Council member positions (for the remaining 32 member positions)

- 3.12 From the nominations made by each land owning group, elections are to be held so that each land owning group can vote, by way of an independent, democratic, and transparent election process, for the persons to hold office as Land Council members.
- 3.13 Elections are not required where the number of nominations are less than or equal to the number of vacancies on the Land Council to be filled by the land owning group.
- 3.14 For the avoidance of doubt, representatives of a land owning group are only entitled to vote in the election for their nominated Land Council members.
- 3.15 The election is to be conducted by an independent third party such as the Northern Territory Electoral Commission or the Australian Election Company or a consultant with knowledge and experience in managing

fraud, risk and advising regarding good governance, engaged on behalf of the Land Council on instructions from the Chief Executive Officer of the Land Council or such other Land Council employee authorised by the Chief Executive Officer of the Land Council.

- 3.16 Each person elected shall then hold office as a member of the Land Council and his/her/their name(s) shall be recorded in the Register of Council Members.

PART C - TERMS AND CONDITIONS OF MEMBERSHIP

I, Linda Burney, Minister for Indigenous Australians, hereby approve these Terms and Conditions of Membership for the Tiwi Land Council. This approval is granted under subsection 29(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

1. THE ACT PREVAILS

- 1.1 Nothing in these Terms and Conditions of Membership is intended to replace any terms and conditions of membership contained in the Act. For the avoidance of doubt, if there is any inconsistency between the Act and these Terms and Conditions of Membership, the Act shall prevail.

2. TERM OF OFFICE

- 2.1 Subject to the earlier replacement, resignation, or disqualification of a Land Council member, a Land Council member shall hold office for a term of three (3) years.
- 2.2 A Land Council member's term commences on the first date immediately following the end of the last Land Council members' term.
- 2.3 For the avoidance of doubt, if a person who is a Land Trust member ceases to be a Land Trust member, then that person also ceases to be a Land Council member.
- 2.4 Land Council members other than the Chair hold office on a part-time basis.
- 2.5 The Chair of the Land Council holds office on a full time basis.

3. REMUNERATION

- 3.1 Remuneration and allowances are payable to Land Council members only in accordance with section 77 of the Act and as determined by the Remuneration Tribunal.

4. LEADERS IN THE COMMUNITY

- 4.1 A member of the Land Council shall:
- a. Conduct himself or herself in a professional and courteous manner at all times while representing the Council.
 - b. Exercise reasonable care and skill in the exercise and performance of his or her role on the Land Council.
 - c. Observe good faith and fidelity towards the Land Council and Tiwi people.

- d. Not, at any time, conduct himself or herself in a manner that may reflect negatively on the Land Council and/or Tiwi people.
- e. Not act in conflict with the Land Council's interests.
- f. As soon as reasonably practicable and without delay disclose any-conflict of interest to the Land Council.
- g. Promote the interests of the Land Council and not do anything which may adversely affect the reputation or goodwill of the Land Council.
- h. Promote the interests of Tiwi people without personal benefit or gain.
- i. Familiarise himself or herself with the Land Council's Terms and Conditions of Membership as in force from time to time.
- j. Abide by the Terms and Conditions of Membership approved by the Minister from time to time.

5 REPLACEMENT OF LAND COUNCIL MEMBER BY REQUEST OF TRADITIONAL OWNERS

- 5.1 Subject to complying with the procedure set out below, a Land Council member may at any time be validly replaced by:
- a. Upon the written request of not less than two (2) senior traditional owners of the relevant land owning group for the assistance of the Land Council's Chief Executive Officer to convene a nomination meeting in accordance with clauses 3.8 to 3.11 (inclusive).
 - b. Nominations shall be obtained in accordance with clauses 3.3 to 3.7 (inclusive) above.
 - c. The subsequent election of a new member or members in accordance with clauses 3.12 – 3.15 (inclusive) above.
- 5.2 The member being replaced is not eligible to be re-elected at the election triggered by the steps taken to replace the member.

6 REQUEST BY THE COUNCIL THAT MEMBER BE REPLACED

- 6.1 The Land Council, by resolution (passed by majority), may request a land owning group to replace the land owning group's member on the Land Council for any of the following reasons:
- a. The Land Council member:
 - i. Does not comply with the Land Council's Terms and Conditions of Membership approved by the Minister under section 29(1) of the Act
 - ii. Does not comply with meeting rules approved by the Minister under subsection 31(7) of the Act.
 - iii. Has engaged in conduct that has or is likely to bring the Land Council into disrepute.
 - iv. Is the subject of a bankruptcy application.
 - v. Is under external investigation.
 - vi. Is convicted of a fraud related offence.
 - vii. Is convicted of an assault related offence (including family and domestic violence).
 - viii. Becomes mentally incapacitated.
 - ix. Conducts himself or herself in any manner which causes the Land Council and/or its accountable authority to be investigated.
- 6.2 Subject to the land owning group consenting to the subject member being replaced, the Land Council land owning group shall take steps to replace the subject member in accordance with clause 3.3 to 3.15 (inclusive) above.

- 6.3 The member being replaced is not eligible to be re-elected at the election triggered by the steps taken to replace the member.

7 STANDING DOWN LAND COUNCIL MEMBER

- 7.1 A Land Council member may be stood down from actively participating in Land Council meetings and Land Council work associated with the Land Council's functions under the Act, by resolution passed by the Council (majority vote), for reasons including but not limited to:
- a. The Land Council member is charged with a fraud related offence.
 - b. The Land Council member is charged with an assault related offence (including family and domestic violence).
 - c. The Land Council member has conducted themselves in a manner that may bring the Land Council into disrepute.
- 7.2 A Land Council member stood down in accordance with 7.1 above, may have the stand down lifted by resolution passed by the Land Council (majority vote), for reasons including but not limited to:
- a. The charges that led to the resolution by the Land Council to stand down the member are withdrawn or dismissed.
 - b. The Land Council member has taken remediation steps to satisfy the Council that the Land Council member's active participation in Land Council meetings and work is no longer a risk to the Land Council's reputation.
- 7.3 The Land Council shall not take steps pursuant to clause 7.1 to stand down a Land Council member unless the Land Council has conducted reasonable enquiries to satisfy itself, on the balance of probabilities, of the accuracy of the matters it relies upon to impose the stand down.

8 RESIGNATION & DISQUALIFICATION

- 8.1 A Land Council member may resign from the Land Council at any time.
- 8.2 A Land Council member who has resigned shall be replaced in accordance with the procedure set out in clauses 3.3 to 3.15 (inclusive) above.
- 8.3 A Land Council member must advise the Chair of any disqualifying event, as outlined in subsection 29(5) of the Act in relation to himself or herself as soon as is practical after the event and without delay.
- 8.4 Upon becoming aware that a Land Council member is subject to a disqualifying event the Land Council shall make arrangements for that member to be replaced in accordance with the procedures in clauses 3.3 to 3.15 (inclusive) above.

9 **VACANCY FILLING MEMBER**

9.1 Where a Land Council member is elected following the replacement, resignation or disqualification of a Land Council member:

- a. the incoming Land Council member's name must be recorded in the Register of Land Council members.
- b. The incoming Land Council member shall hold office as a member of the Land Council on the same terms and conditions as the other current Council members.

Date:15/11/23.....2023


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Minister for Indigenous Australians