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Rules of Nairm Marr Djambana



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Rules of Nairm Marr Djambana

1 Name

The name of the incorporated association is Nairm Marr Djambana (in these Rules called “the Association”).

2 Definitions and interpretation

2.1 Definitions

In these Rules, unless the context otherwise requires:

Act	means the <i>Associations Incorporation Reform Act 2012</i> .
Associate Member	means each person who is registered as an Associate Member in the register of Members.
Board	means the committee of, or other body having management of, the Association established under Rule 20 and fulfilling the role of the Committee for the purposes of the Act.
Board Code of Conduct	means the code of conduct for Board Members created and amended by the Board from time to time and which is signed by each Board Member upon election.
Board Member	means a member of the Board elected or appointed under Rules 20 or 21.
Chairperson	means the person elected in accordance with Rule 20 or 21 who fills the role of the President for the purposes of the Act and in relation to a General Meeting or Board meeting, means the person chairing the meeting as required under these Rules.
Code of Conduct	means the code of conduct for Members created and amended by the Board from time to time and which is signed by each person applying for membership.
Commissioner	means the Commissioner of Taxation, a second Commissioner of Taxation or a Deputy Commissioner of Taxation or other delegate of the Commissioner of Taxation for the purposes of the Tax Act.
Confirmation of Membership Category Form	means a document distributed to all continuing Members for the purposes of confirming membership category in accordance with clause 6.2(d).

Co-Chair	means the person elected in accordance with Rule 20 or 21 who fills the role of Vice-President for the purposes of the Act.
Circle of Elders	means the group of between 3 and 10 Full Members who are recognised as Aboriginal Elders and will meet according to their own processes and procedures to make recommendations to the Board in accordance with these Rules.
Eligible Charity	means a fund, authority or institution: <ul style="list-style-type: none"> (a) which is charitable at law; (b) gifts or contributions to which are deductible under item 1 of the table in section 30-15 of the Tax Act; and (c) if required under the Tax Act, has purposes similar to the purposes of the Association and which are not carried on for the profit or gain of its Members.
Financial Year	means each period of 12 months ending on 30 th June.
Full Member	means each person who is registered as a Full Member in the register of Members.
Full Member Eligibility Requirement	is the requirement that the person is accepted by the Circle of Elders <ul style="list-style-type: none"> (a) to be of Aboriginal and Torres Strait Islander descent; (b) to identify as an Aboriginal and/or Torres Strait Islander person; and (c) to be accepted by the community as an Aboriginal and Torres Strait Islander community member.
General Meeting	means a general meeting of Members convened in accordance with Rule 18 and includes an annual general meeting and a special general meeting.
GST	has the meaning given to that term by section 195-1 of the GST Act.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
Joining Fee	means the fee payable upon applying to become a Member of the Association as determined in accordance with clause 8.1
Member	means each person who is recorded as a Member, whether Associate or Full Member, in the register of members.
Membership	means the contractual right of a person to membership of the Association.
Present	means present in person or by audio or audio-visual technology

Regulations	means regulations under the Act.
Relevant Documents	has the meaning given by the Act.
Secretary	means the person elected or appointed in accordance with either Rule 20 or 21 to perform the duties of a secretary of the Association.
Security Interest	means any mortgage, lien, charge (whether fixed or floating), bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance and includes any "security interest" within the meaning of section 12 of the <i>Personal Property Securities Act 2009</i> (Cth).
Tax Act	means the <i>Income Tax Assessment Act 1997</i> (Cth).
Treasurer	means the person elected or appointed in accordance with either Rule 20 or 21 to perform the duties of a Treasurer of the Association.

2.2 Words and expressions

In these Rules, unless the context requires otherwise:

- (a) a reference to these Rules and any other document or agreement includes a reference to these Rules or that document or agreement as amended, novated, supplemented, varied or replaced from time to time and includes rules, regulations and by-laws made thereunder;
- (b) a reference to any legislation or to any provision of any legislation includes:
 - (i) any modification or re-enactment of the legislation;
 - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
 - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (c) a reference to "\$", "A\$" or "dollar" is a reference to Australian currency;
- (d) the singular means the plural and vice versa;
- (e) words denoting any gender include all genders;
- (f) words and expressions denoting natural persons include bodies corporate, partnerships, associations, institutions, firms, bodies and entities (whether incorporated or not), governments and governmental authorities and agencies and vice versa;
- (g) headings are for convenience and do not affect interpretation;
- (h) a reference to these Rules includes any schedules or annexures; and

- (i) words or expressions contained in these Rules shall be interpreted in accordance with the provisions of the *Interpretation of Legislation Act 1984* and the Act as in force from time to time unless otherwise defined in these Rules.

2.3 Model rules

To the extent permitted by law, the model rules contained in the Act do not apply to the Association.

3 Purposes

3.1 Principal purposes

The Association is established to support the Aboriginal and Torres Strait Islander Community in the Frankston area by providing benevolent relief of:

- (a) disadvantage, suffering, distress, misfortune and helplessness by way of referrals to appropriate housing bodies and by providing permanent, temporary and emergency housing;
- (b) sickness and distress by way of a community-based, locally-owned, culturally appropriate and adequately resourced primary health service;
- (c) sickness, suffering and misfortune by developing strategies and programs to improve the health of the community;
- (d) sickness, distress and misfortune by providing access to programs and support services to combat the effects of drugs and alcohol;
- (e) sickness, distress and helplessness by way of targeting the social disintegration of the Aboriginal community by strengthening and fostering identity and culture;
- (f) poverty and helplessness by building a strong cultural identity for Aboriginal people;
- (g) sickness by raising awareness within the community about the health problems that affect Indigenous communities; and
- (h) poverty and helplessness by providing education, training and employment services.

3.2 Ancillary purposes

To achieve the principal purposes set out in Rule 3.1, the Association may, among other things:

- (a) create a safe and welcoming cultural space to gather, connect and heal;
- (b) encourage safe ways to practice culture;
- (c) work to address the overrepresentation of Aboriginal and/or Torres Strait Islander people in the family violence, criminal justice child protection and out-of-home care systems;

- (d) conduct public programs including education program for children, youth, elders men, and women, social and community programs and research programs;
- (e) establish and run social enterprise/s to create training and employment opportunities for Aboriginal and/or Torres Strait Islander community;
- (f) disseminate information relating to education and community programs and to produce, edit, publish, issue, sell, circulate and preserve such papers, periodicals, books, circulars and other literary matters as are conducive to these objects;
- (g) encourage and promote and generally to create greater community awareness in the knowledge and understanding of the purposes of the Association;
- (h) provide or attract funds for the facilitation of any of the purposes of the Association;
- (i) do all such other things as are incidental or conducive to the attainment of the purposes and aims of the Association.

The purposes of the Association will be pursued principally in Australia.

3.3 No profit or gain to Members

- (a) The Association will not be carried on for the purpose of profit or gain to its Members and the income and property of the Association, however and wherever derived, will be applied solely towards the promotion of the purposes of the Association.
- (b) No portion of the income or property of the Association will be paid or transferred, directly or indirectly, to the Members of the Association but nothing contained in these Rules will prevent the payment in good faith of remuneration to any officers or servants of the Association or to any Member of the Association in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual course of business.

4 Powers

- 4.1 The Association has, subject to the Act, power to do all things necessary or convenient to be done for, or in connection with, the attainment of its purposes.
- 4.2 Without limiting the generality of Rule 4.1, the Association has all the rights, powers and privileges and the legal capacity provided under the Act including, but not limited to, the powers to:
 - (a) accept gifts, devises, bequests or assignments made to the Association, whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Association on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be;
 - (b) make available (whether in writing or in any other form and whether by sale or otherwise) information relating to the Association and its functions;

- (c) to occupy, use and control any land or building owned or held under lease by any other person made available to the Association;
- (d) acquire, hold and dispose of real and personal property;
- (e) lease the whole or any part of any land or building for the purposes of the Association;
- (f) occupy, use and control any other land or building owned or held under lease by any other person and made available to the Association;
- (g) enter into contracts;
- (h) erect buildings;
- (i) employ managers and other staff to implement the purposes of the Association and pay such fees, salaries, emoluments and expenses as the Board considers reasonable to such persons;
- (j) purchase or take on hire, or to accept as a gift or on deposit or loan, and to dispose of or otherwise deal with furnishings, equipment and other goods;
- (k) act as trustee of moneys or other property vested in the Association on trust; and
- (l) do anything incidental to any of the Association's purposes.

4.3 Notwithstanding anything contained in these Rules, any money or other property held by the Association for the Association on trust or accepted by the Association for the Association subject to a condition, will not be dealt with except in accordance with the obligations of the Association as trustee or as the person who has accepted the money or other property subject to the condition, as the case may be.

5 Alteration of Rules

These Rules shall not be altered except in accordance with the Act.

6 Membership

6.1 Minimum number

- (a) Subject to these Rules and the Act, there must be at least five Full Members.
- (b) The Board may, from time to time, prescribe a maximum number of Members.

6.2 Continuing Membership and Transitional Provisions for continuing Members

- (a) This Rule 6.2 only applies to Members who are continuing as Members at the date of adoption of these Rules.
- (b) Every person who, at the date of adoption of these Rules, is an Associate Member of the Association and has paid the annual subscription (if any)

continues to be an Associate Member following the date of adoption of these Rules.

- (c) Every person who, at the date of adoption of these Rules, is a Member other than an Associate Member of the Association and has paid the annual subscription (if any) continues to be a Member and will be recorded as a Full Member following the date of adoption of these Rules.
- (d) Following the adoption of these Rules, the Board must provide all continuing Members with a Confirmation of Membership Category Form as soon as is reasonably possible.
- (e) Once they have been provided with a Confirmation of Membership Category Form all continuing Members will have three months to complete the Confirmation of Membership Category Form to enable the Board to confirm their record of that Member as a Full Member or an Associate Member. If a Member has not completed the form within that time they will be recorded on the Register as Associate Members but can apply to change that to Full Member at any time by following the process in clause 6.4.
- (f) All Members confirming their Membership as Associate Member will be recorded on the Register as Associate Members and will have the rights and obligations of an Associate Member.
- (g) All Members confirming their Membership category as Full Member will:
 - (i) be included on the Register as a Full Member;
 - (ii) within 12 months of confirming their Membership category as Full Member, or such extended time as is approved by the Board, , provide to the Secretary evidence that they are eligible to be Full Members; and
 - (iii) within a reasonable time as deemed necessary by the Board, have had their eligibility to be a Full Member assessed by the Circle of Elders who will make a decision as to whether the person is eligible to be a Full Member.
- (h) If a Member selects the Full Member category under clause 6.2 and the Circle of Elders confirms their eligibility to be a Full Member, this confirmation will be noted on the register of Members and they will remain a Full Member with the rights and obligations of a Full Member.
- (i) If a Member selects the Full Member category under clause 6.2 and they fail to provide supporting information within the relevant time frame or the Circle of Elders determines the Member is not eligible to be a Full Member that person will be recorded as an Associate Member.
- (j) Before the Circle of Elders makes a decision that a Member is not eligible for Full Membership they must give that person:
 - (i) a reasonable opportunity to speak to the Circle of Elders or an Elder from the Circle of Elders representing the Circle of Elders, about their eligibility; and
 - (ii) a reasonable opportunity to provide any further evidence to the Circle of Elders about their eligibility.

6.3 Eligibility for Membership

- (a) A person is only eligible to apply for **Full Membership** if they:
 - (i) have strong links to the Frankston Aboriginal and/or Torres Strait Islander community;
 - (ii) support the purposes of the Association;
 - (iii) have been considered by the Circle of Elders and approved as eligible for Full Membership in accordance with Clause 6.5.; and
 - (iv) are over 18 years of age.
- (b) A person is eligible to apply for **Associate Membership** if they:
 - (i) have strong links to the Frankston Aboriginal and/or Torres Strait Islander community;
 - (ii) support the purposes of the Association;
 - (iii) are over 18 years old; and
 - (iv) are not eligible for Full Membership because they:
 - (A) identify as Aboriginal and/or Torres Strait Islander but have not yet established Full Membership; or
 - (B) are non-Indigenous, including non-Indigenous kin and non-Indigenous friends of the community.

6.4 Application for Membership

- (a) A person who is not a Member of the Association at the time of the adoption of these Rules (or who was such a Member at that time but has ceased to be a Member) shall not be admitted to Membership unless:
 - (i) the person applies for Membership in accordance with Rule 6.4(b);
 - (ii) the person's admission as a Member is approved by the Board.
- (b) An application of a person for Membership of the Association must:
 - (i) be made in writing in the form provided by the Board from time to time; and
 - (ii) accompanied by the Joining Fee; and
 - (iii) accompanied by a statement of commitment to abide by the Code of Conduct; and
 - (iv) accompanied by such further information in relation to eligibility as the Board may reasonably require from time to time, including as set out in Rule 6.3 and 6.5; and
 - (v) shall be lodged with the Secretary.

- (c) As soon as practicable after the receipt of an application, the Secretary must refer the application to the Board.
- (d) Upon an application being referred to the Board, the Board shall determine, in its absolute discretion, whether to approve or to reject the application.
- (e) Upon an application being approved by the Board, the Secretary must, as soon as practicable:
 - (i) notify the applicant in writing that the applicant has been approved for Membership; and
 - (ii) request payment within the period of 28 days after receipt of the notification of the sum payable (if any) under these Rules as the first year's annual subscription.
- (f) The Secretary must, as soon as practicable after notice is given under Rule 6.4(e)(i) or if any amounts are payable under Rule 6.4(e)(ii), within 28 days after receipt of the amounts referred to in Rule 6.4(e)(ii), enter the applicant's name in the register of members.
- (g) An applicant for Membership becomes a Member and is entitled to exercise the rights of their specific Membership when the applicant's name is entered into the register of members.
- (h) Upon an application being rejected by the Board, the Secretary must, as soon as practicable, notify the applicant in writing that the application has been rejected. No reason need be given for the rejection of an application.

6.5 Proof of Full Membership Eligibility

- (a) The Association acknowledges that:
 - (i) identity is a complex emotional, social and political issue for Aboriginal and/or Torres Strait peoples;
 - (ii) because it may be an extremely sensitive issue for individuals, all consideration of these matters must be handled in a respectful and professional manner; and
 - (iii) while all applicants for Full Membership are encouraged to furnish proof that they are Aboriginal and/or Torres Strait Islander to meet the Full Membership Eligibility Requirements, the Association also seeks to support individuals on their journey of identification.
- (b) Any person who wants to apply for Full Membership must complete a Full Membership Eligibility Form in the form provided by the Board and submit it to the Association for consideration by the Circle of Elders to determine if they meet the Full Membership Eligibility Requirements.
- (c) The Association must provide the form and any supporting documents to the Circle of Elders who will meet according to their own procedures to determine whether the person meets the Full Membership Eligibility Requirements.
- (d) The Circle of Elders will inform the Association of its decision as to eligibility for Full Membership in writing.

- (e) Before the Circle of Elders makes a decision that a person does not meet the Full Membership Eligibility Requirements, they must give that person:
 - (i) a reasonable opportunity to speak to the Circle of Elders or an Elder from the Circle of Elders representing the entire Circle of Elders, about their eligibility; and
 - (ii) a reasonable opportunity to provide any further evidence to the Circle of Elders about their eligibility.

7 Circle of Elders

- (a) The Board must use its best endeavours to establish and maintain a Circle of Elders.
- (b) If at any time:
 - (i) there is no Circle of Elders in existence; and
 - (ii) the Board has used its best endeavours to establish and maintain a Circle of Elders,then the role of the Circle of Elders under these Rules can be performed by the Board.
- (c) If the Board performs the role of the Circle of Elders in accordance with this clause, they must disclose that to the Members at the next AGM.

8 Joining Fee and annual subscription

- 8.1 The Joining Fee is the amount determined by the Board from time to time and unless another amount is specified by the Board, is \$1.00.
- 8.2 The annual subscription may be fixed at the annual general meeting and unless so fixed is the amount determined by the Board, payable in advance on or before 1 July in each year.
- 8.3 The Board is entitled to determine that different fees or subscriptions are payable in respect of any Membership and as between Members or that no fees or subscriptions are payable by one or more Members.
- 8.4 If the first year of Membership applicable to the person seeking admission to Membership is comprised of less than 365 days, the first year's fees or subscription payable by that person is to be apportioned according to the number of days remaining in that year of Membership.
- 8.5 All payments that are required to be made by a Member under these Rules (including but not limited to subscriptions) are exclusive of GST.
- 8.6 If any payment referred to in Rule 8.5 is for, or is in connection with, a supply made by the Association under these Rules on which the Association is liable to pay GST, then such payment will be increased by the prevailing rate of that GST and the Member will pay that increased amount to the Association at the same time and in the same manner as all other payments required to be made.

- 8.7 The Association must issue to the Member a tax invoice for the increased amount referred to in Rule 8.6 within 14 days from the date that the increased amount is required to be paid by the Member.

9 Rights of members

9.1 Privileges of Membership

Subject to these Rules, the Members are entitled to all the rights and privileges of Membership of the Association.

9.2 Associate Members

- (a) Associate Members do not have the right to vote.
- (b) Associate Members are not eligible to be appointed as Board Members.

9.3 Rights not transferable

A right, privilege, or obligation of a person by reason of the person's Membership:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates on cessation of Membership whether by death or resignation or otherwise as set out in Rule 12.

10 Register of Members

- 10.1 The Secretary must keep and maintain a register of Members containing:
- (a) the name and address of each Member;
 - (b) the date on which each Member's name was entered in the register;
 - (c) in the case of each former Member, the date of ceasing to be a Member; and
 - (d) any other information which the Board considers necessary.
- 10.2 The register shall be available for inspection at a reasonable time, free of charge, by any Member upon request.
- 10.3 Subject to the Act, a Member may make a copy of entries in the register unless otherwise determined by the Board.
- 10.4 The Secretary may restrict access to the personal information of a person recorded as a Member in accordance with the Act.

11 Default by members

- 11.1 If a Member fails to pay that Member's subscription, in whole or in part, in any year of Membership for more than 60 days after the due date for payment:

- (a) all of the rights and privileges of that Member will be automatically suspended until the subscription, or such part which is payable and remains outstanding, is paid or until the Member's Membership has been determined in accordance with Rule 11.2; and
- (b) the Secretary will give notice to that Member requiring payment of the subscription, or such part of the subscription which is payable and remains outstanding.

11.2 If any Member fails to pay that Member's subscription in accordance with Rule 11.1, or any part which is payable and remains outstanding for more than 60 days after service of the notice to the Member in accordance with Rule 11.1(b), the Member will automatically cease to be a Member pursuant to Rule 12 and the Secretary must notify that Member accordingly.

12 Ceasing Membership

- 12.1 A Member who has paid all moneys due and payable to the Association may resign as a Member by written notice to the Association or a Board Member.
- 12.2 A Member ceases to be a Member on resignation, expulsion or death.
- 12.3 The Secretary must record in the register of members the date on which the Member ceased to be a Member.

13 Discipline, suspension and expulsion of Members

- 13.1 Subject to these Rules and the Act, if the Board is of the opinion that a Member has refused or neglected to comply with these Rules, or has been guilty of a breach of the Code of Conduct or of other conduct unbecoming a Member or prejudicial to the interests of the Association, the Board may by resolution:
 - (a) suspend that Member from Membership of the Association for a specified period; or
 - (b) expel that Member from the Association.
- 13.2 A resolution of the Board under Rule 13.1 does not take effect unless:
 - (a) at a meeting held in accordance with Rule 13.3, the Board confirms the resolution; and
 - (b) if the Member exercises a right of appeal to the Association under this Rule, the Association confirms the resolution in accordance with this Rule.
- 13.3 A meeting of the Board to confirm or revoke a resolution passed under Rule 13.1 must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the Member in accordance with Rule 13.4.
- 13.4 For the purposes of giving notice in accordance with Rule 13.3, the Secretary must, as soon as practicable, cause to be given to the Member a written notice:
 - (a) setting out the resolution of the Board and the grounds on which it is based; and

- (b) stating that the Member, or the Member's representative, may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that Member; and
 - (c) stating the date, place and time of that meeting; and
 - (d) informing the Member that the Member may do one or more of the following:
 - (i) attend that meeting;
 - (ii) give to the Board before the date of that meeting a written statement seeking the revocation of the resolution;
 - (e) informing the Member that, if at that meeting, the Board confirms the resolution, the Member may not later than 48 hours after that meeting, give the Secretary a notice to the effect that the Member wishes to appeal to the Association in General Meeting against the resolution.
- 13.5 At a meeting of the Board to confirm or revoke a resolution passed under Rule 13.1, the Board must:
- (a) give the Member, or the Member's representative, an opportunity to be heard; and
 - (b) give due consideration to any written statement submitted by the Member; and
 - (c) determine whether to confirm or to revoke the resolution.
- 13.6 If at the meeting of the Board, the Board confirms the resolution, the Member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that the Member wishes to appeal to the Association in General Meeting against the resolution.
- 13.7 If the Secretary receives a notice under Rule 13.6, the Secretary must notify the Board and the Board must convene a General Meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- 13.8 At a General Meeting of the Association convened under Rule 13.7:
- (a) no business other than the question of the appeal shall be conducted; and
 - (b) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and
 - (c) the Member, or the Member's representative, must be given an opportunity to be heard; and
 - (d) the Members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 13.9 If at the General Meeting:
- (a) two thirds of the Full Members present vote in favour of the resolution - the resolution is confirmed; and
 - (b) in any other case - the resolution is revoked.

14 Disputes and mediation

- 14.1 The grievance procedure set out in this Rule 14 applies to disputes under these Rules between:
- (a) a Member and another Member; or
 - (b) a Member and a Board Member; or
 - (c) a Member and the Association.
- 14.2 The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 14.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days following the meeting, hold a further meeting in the presence of a mediator.
- 14.4 The mediator must be:
- (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement:
 - (i) in the case of a dispute between a Member and another Member - a person appointed by the Board; or
 - (ii) in the case of a dispute between a Member and the Board or the Association - a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- 14.5 A Member of the Association can be a mediator but must not be a person who has a personal interest in the dispute or is biased in favour of or against any party to the dispute.
- 14.6 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 14.7 The mediator, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties by any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 14.8 The mediator must not determine the dispute.
- 14.9 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

15 Annual general meeting

- 15.1 Subject to the Act, the Board must convene an annual general meeting within five months after the end of each Financial Year.
- 15.2 The Board may determine the date, time and place of the annual general meeting of the Association.
- 15.3 The notice convening the annual general meeting must specify that the meeting is an annual general meeting.
- 15.4 To the extent applicable to the Association, the ordinary business of the annual general meeting shall be to:
- (a) confirm the minutes of the preceding annual general meeting and of any General Meeting held since that meeting;
 - (b) receive and consider the annual report of the Board on the activities of the Association during the preceding Financial Year and the financial statements of the Association for the preceding Financial Year submitted by the Board in accordance with the Act;
 - (c) elect the Board Members and
 - (d) confirm or vary the amounts (if any) of the Joining Fee and the annual subscription.
- 15.5 The annual general meeting may conduct any special business of which notice has been given in accordance with these Rules.

16 Special general meeting

- 16.1 In addition to the annual general meeting, any other General Meetings may be held in the same year.
- 16.2 All General Meetings other than the annual general meeting are special general meetings.
- 16.3 The Board may, whenever it thinks fit, convene a special general meeting of the Association.
- 16.4 If, but for this Rule, more than 15 months would elapse between annual general meetings, the Board must convene a special general meeting before the expiration of that period.
- 16.5 The Board must, on the request in writing of Full Members representing at least 10% of the total number of Full Members, convene a special general meeting of the Association.
- 16.6 The request for a special general meeting must:
- (a) be in writing;
 - (b) state the business to be considered at the meeting and any resolutions to be proposed;

- (c) include the names, and be signed by, the Full Members requesting the meeting;
and
 - (d) be given to the Secretary.
- 16.7 If the Board does not cause a special general meeting to be held within one month after the date on which the request is given to the Secretary, the Members making the request, or any of them, may convene a special general meeting to be held within 3 months after that date.
- 16.8 If a special general meeting is convened by Members in accordance with this Rule 16:
- (a) it must be convened in the same manner as far as possible as a meeting convened by the Board;
 - (b) all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses; and
 - (c) may only consider the business stated in the request.

17 Special business

All business that is conducted at a special general meeting and all business that is conducted at the annual general meeting, except for business conducted under these Rules as ordinary business of the annual general meeting, is deemed to be special business.

18 Notice of meeting

- 18.1 The Secretary of the Association must give each Member at least 14 days' notice, or if a special resolution has been proposed at least 21 days' notice, of a General Meeting in accordance with Rule 18.2.
- 18.2 A notice of a General Meeting must:
- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting);
 - (b) state the general nature of the meeting's business; and
 - (c) if a special resolution is to be proposed at the meeting, specify the intention to propose the resolution as a special resolution and set out in full the proposed special resolution.
- 18.3 Notice may be sent in accordance with Rule 31, including:
- (a) by prepaid post to the address appearing in the register of members; or
 - (b) if the Member requests, by electronic transmission.
- 18.4 No business other than that set out in the notice convening the meeting shall be conducted at the meeting.

- 18.5 A Member intending to bring any business before a meeting may notify, in writing or by electronic transmission, the Secretary of that business, who must include that business in the notice calling the next General Meeting.
- 18.6 The failure or accidental omission to send notice of a General Meeting to, or the non-receipt of a notice by, any person entitled to notice does not invalidate the proceedings or any resolution passed at the meeting.
- 18.7 Subject to the Act, the Board may at any time prior to the time at which a General Meeting is to be held, postpone or cancel any General Meeting or change the place of any General Meeting. Any such postponement, cancellation or change must be communicated to each Member and each other person to whom notice was given, in any manner permitted under Rule 31.

19 Proceedings at General Meetings

- 19.1 No business shall be conducted at any General Meeting unless a quorum of Members entitled under these Rules to vote is present.
- 19.2 10% of Full Members present constitute a quorum for the conduct of the business of a General Meeting. Each Full Member present at a General Meeting may only be counted once toward a quorum.
- 19.3 If, within half an hour after the notified time for the commencement of a General Meeting, a quorum is not present:
- (a) in the case of a meeting convened by, or at the request of, Full Members - the meeting must be dissolved; and
 - (b) in any other case - the meeting must be adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- 19.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting will be cancelled.
- 19.5 The Chairperson, or in the Chairperson's absence, the Co-Chair, shall preside as Chairperson at each General Meeting of the Association.
- 19.6 If the Chairperson and the Co-Chair are both absent from a General Meeting, or are unable to preside, the Members present must select one of their number to preside as Chairperson.
- 19.7 The Chairperson of a General Meeting may, with the consent of a majority of Full Members present at the meeting, adjourn the meeting from time to time and place to place.
- 19.8 No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- 19.9 If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given in accordance with Rule 18.

- 19.10 Except as provided in Rule 19.9, it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned meeting.
- 19.11 Subject to these Rules and any rights or restrictions imposed on any Member, every Member who is present at a General Meeting and entitled to vote, has one vote.
- 19.12 All votes must be given personally.
- 19.13 A resolution of Members must be passed by a majority of the votes cast by Members entitled to vote on the resolution unless otherwise required under the Act or these Rules.
- 19.14 In the case of an equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 19.15 A Member is not entitled to vote at any General Meeting unless all moneys due and payable by that Member to the Association have been paid, other than the amount of the annual subscription payable in respect of the current Financial Year.
- 19.16 If a question arising at a General Meeting of the Association is determined on a show of hands:
- (a) a declaration by the Chairperson that a resolution has been:
 - (i) carried; or
 - (ii) carried unanimously; or
 - (iii) carried by a particular majority; or
 - (iv) lost; and
 - (b) an entry to that effect in the minute book of the Association,
- is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

20 Board of management

- 20.1 Subject to the Act, the Board Members shall consist of up to seven people which must include:
- (a) a Chairperson;
 - (b) a Co-Chair;
 - (c) a Secretary; and
 - (d) a Treasurer;
- 20.2 The Board will elect Board Members to fill the roles of Chairperson , Co-Chair, Secretary and Treasurer.
- 20.3 In the event of a casual vacancy on the Board the Board may appoint a Full Member of the Association to fill the vacancy and the Member appointed shall hold office, subject to

these Rules, until the conclusion of the next annual general meeting following the date of the appointment.

- 20.4 If the Casual Vacancy is in one of the roles of Chairperson, Co-Chair or Treasurer the Board will elect a person from the Board to fill that role.
- 20.5 If the office of Secretary becomes vacant, the Board must appoint another Board Member to the office of Secretary within 14 days after the vacancy occurs.
- 20.6 Subject to these Rules, each Board Member shall hold office until their position is declared vacant at the third annual general meeting following the date of their appointment, but is eligible for re-election.
- 20.7 A person can only hold the position of Secretary if they are resident in Australia.

21 Election of Board Members

- 21.1 Nominations of candidates for election as Board Members must be:
- (a) made only by Full Members of the Association;
 - (b) made in writing, signed by two Full Members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (c) be delivered to the Secretary not less than 7 days before the date fixed for the holding of the annual general meeting.
- 21.2 If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated shall be deemed to be elected and further nominations may be received at the annual general meeting.
- 21.3 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- 21.4 If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.
- 21.5 If a ballot is required, the ballot shall be conducted at the annual general meeting in such manner determined by the Board.
- 21.6 Upon election all Board Members must sign the Board Code of Conduct.
- 21.7 The office of a Board Member becomes vacant if the person:
- (a) comes to the end of their term of office in accordance with clause 20.6; or
 - (b) resigns from office by written notice to the Board; or
 - (c) dies; or
 - (d) is removed from office under Rule 25; or
 - (e) ceases to be a Full Member of the Association; or

- (f) becomes an insolvent under administration within the meaning of the *Interpretation of Legislation Act 1984*; or
 - (g) becomes a represented person within the meaning of the *Guardianship and Administration Act 1986*; or
 - (h) in the case of a Secretary who is Board Member, ceases to reside in Australia,
- and all Board Members cease to hold office if a statutory manager is appointed under the Act to conduct the affairs of the Association.

22 Powers and duties of Board

22.1 Management of the Association

- (a) The affairs of the Association shall be controlled and managed by, and under the direction of, the Board.
- (b) The Board:
 - (i) may, subject to these Rules, the Act and the Regulations, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules or the Act to be exercised by General Meetings of the Members of the Association;
 - (ii) subject to these Rules, the Act and the Regulations, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association; and
 - (iii) shall perform all other duties imposed from time to time by resolution of Members at a General Meeting.

22.2 Specific powers

Without limiting the generality of Rule 22.1, the Board may exercise all the powers of the Association to:

- (a) raise and legally borrow any moneys in any manner as it seems fit;
- (b) grant Security Interests in relation to any of the Association's property or business to secure any debt, liability or obligation of the Association or any other person;
- (c) guarantee, indemnify or otherwise become liable for the payment of money or the performance of any obligation by or of any other person; and
- (d) pay out of the Association's funds all expenses of the promotion, formation and registration of the Association and the vesting in it of the assets acquired by the Association,

on any terms determined by the Board.

22.3 Duties under the Act

A Board Member must comply with the Act and fulfil any duties prescribed in it.

22.4 Disclosure of interests

If required by the Act, a Board Member must disclose to the Board any material personal interest the Board Member has in a matter relating to the affairs of the Association. The Secretary must record details of any such disclosures in the minutes of the relevant Board meeting.

22.5 Conflict of interest

Except as provided in the Act or Rule 22.6, a Board Member who has a material personal interest in a matter being considered at a Board meeting:

- (a) must disclose the nature and extent of that interest to the Board;
- (b) must not be present while the matter is being considered at the Board meeting; and
- (c) must not vote on the relevant matter.

22.6 Voting if Board Member has an interest

If a Board Member discloses a material personal interest in a matter being considered at a Board meeting but the interest is not one which requires disclosure under the Act or which prevents the Board Member participating at the meeting while the matter is being considered:

- (a) the Board Member may vote on matters that relate to the interest and may be counted towards a quorum;
- (b) any transactions that relate to the interest may proceed and the Board Member may participate in the execution of any relevant document; and
- (c) if disclosure is made before the transaction is entered into:
 - (i) the Board Member may retain benefits under the transaction; and
 - (ii) the Association cannot avoid the transaction merely because of the existence of the interest.

22.7 Obligation of secrecy

Every Board Member and other agent or officer of the Association must:

- (a) keep the transactions and affairs of the Association confidential, except:
 - (i) to the extent necessary to enable the person to perform that person's duties to the Association;
 - (ii) as required by the Board or the Members in general meeting; and
 - (iii) as required by law; and

- (b) if requested by the Board, sign a confidentiality undertaking consistent with this Rule 22.7.

23 Delegation of Board's powers

23.1 Power to delegate

The Board may delegate any of its powers to:

- (a) a subcommittee of its members;
- (b) a Board Member;
- (c) an employee or adviser of the Association; or
- (d) an agent or attorney,

with the exception of this power to delegate or any duty imposed on the Board by the Act or any other law.

23.2 Terms of delegation

A delegation of powers under Rule 23.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including the power to delegate further) and subject to any restrictions that the Board determines.

A document of delegation may contain provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

23.3 Delegate to comply with directions

A delegate under Rule 23.1 must exercise its powers subject to any direction from the Board.

23.4 Board may revoke delegation

The Board may revoke a delegation of its powers at any time.

24 Proceedings of Board

- 24.1 The Board must meet at least four times in each year at the dates, times and places as the Board may determine.
- 24.2 Special meetings of the Board may be convened by the Chairperson or by any four Board Members.
- 24.3 Written notice of each Board meeting must be given to each Board Member at least two business days before the date of the meeting, or, if all Board Members are able to attend upon shorter notice, then such shorter notice as is provided.

- 24.4 Written notice must be given to Board Members of any special meeting specifying the general nature of the business to be conducted and no other business shall be conducted at such a meeting.
- 24.5 A Board meeting may be held using any audio, audio-visual or other technology:
- (a) that enables the participating Board Members to simultaneously hear each other and participate in discussion; or
 - (b) to which all Board Members have consented.
- A minute certified by the Chairperson of such a meeting will be conclusive evidence of the proceedings at that meeting and the observance of all necessary formalities.
- 24.6 A majority of Board Members constitute a quorum for the conduct of the business of a meeting of the Board.
- 24.7 No business shall be conducted unless a quorum is present.
- 24.8 If within half an hour of the time appointed for the meeting a quorum is not present:
- (a) in the case of a special meeting - the meeting lapses;
 - (b) in any other case - the meeting shall stand adjourned to the same place and at the same time and day in the following week.
- 24.9 At meetings of the Board:
- (a) the Chairperson or, in the Chairperson's absence, the Co-Chair presides; or
 - (b) if the Chairperson and the Co-Chair are both absent, or are unable to preside, the Board Members present must choose one of their number to preside.
- 24.10 Questions arising at a meeting of the Board, or of any meeting of any sub-committee appointed by the Board, shall be decided by a majority of votes.
- 24.11 Each Board Member present at a meeting of the Board, or at a meeting of any sub-committee appointed by the Board (including the person presiding at the meeting), is entitled to one vote and, in the event of an equality of votes on any question, the person presiding will not have a second or casting vote.

25 Removal of Board Member

- 25.1 The Association in General Meeting may, by special resolution:
- (a) remove a Board Member before the expiration of that member's term of office; and
 - (b) appoint another person in that Board Member's place to hold office until the expiration of the term of the Board Member removed.
- 25.2 A Board Member who is the subject of a proposed resolution referred to in Rule 25.1 may make representations in writing to the Secretary or Chairperson of the Association (not exceeding a reasonable length) and may request that the representations be provided to the Members of the Association.

- 25.3 The Secretary or the Chairperson may give a copy of the representations to each Member of the Association or, if they are not given, the Board Member may require that they be read out at the meeting.
- 25.4 Where the Board determines that a Board Member has breached the Board Code of Conduct it can, at its discretion, suspend that Board Member pending the outcome of the General Meeting to be held in accordance with clause 25.1, and the General Meeting must be held within 6 months of any such suspension.

26 Minutes of meetings

- (a) The Secretary must prepare and keep accurate minutes of:
- (i) each General Meeting of Members and each Board meeting;
 - (ii) the names of persons present at each Board meeting;
 - (iii) any resolutions passed by Members at any General Meeting and any resolutions passed by members of the Board;
 - (iv) any disclosures or notices of interests; and
 - (v) any other matters for which the Act requires minutes to be kept.
- (b) In accordance with and subject to the Act, the Association must ensure that the minutes of General Meetings of Members (including accounting records and financial statements) are available for inspection by Members without charge unless otherwise permitted under the Act.
- (c) A Member entitled to have access to minutes of General Meetings (including accounting records and financial statements) may ask the Association, in writing, for a copy of any minutes of General Meeting (including accounting records and financial statements).
- (d) A Member is not entitled to have access to, or to obtain copies of, any minutes of Board meetings unless otherwise determined by the Board either generally or in any particular case or unless otherwise required under the Act.

27 Funds

- 27.1 The Treasurer of the Association must:
- (a) collect and receive all moneys due to the Association and make all payments authorised by the Association; and
 - (b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.
- 27.2 The funds of the Association shall be derived from Joining Fees, annual subscriptions, donations, fundraising activities, interest, grants and such other sources approved by the Board.

28 Cheques

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two members of the Committee.

29 Seal and execution of documents

- 29.1 The Association may have a common seal.
- 29.2 If the Association has a common seal, it shall be kept in the custody of the Secretary.
- 29.3 The common seal must not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal shall be attested by the signatures either of two Committee Members or, if the Secretary is not a Board Member, by one Board Member and the Secretary.
- 29.4 If a document is not required at law to be executed under the common seal, it will be binding on the Association if signed by:
- (a) the persons referred to in Rule 29.3; or
 - (b) by some other person or persons appointed by the Board for that purpose in accordance with the Act.

30 Financial statements

30.1 Obligations

The Association must keep written financial records in accordance with the Act and prepare any statements required by the Act.

30.2 Review or audit

The Board must, if required under the Act, appoint an independent person to review the financial statements of the Association or appoint an auditor in accordance with the Act.

31 Notices

31.1 Method

A notice is properly given by the Association to a person if it is:

- (a) in writing signed on behalf of the Association (by original or printed signature); and
- (b) either:
 - (i) delivered personally;
 - (ii) sent by post to that person's registered address or an alternative address nominated by that person; or

- (iii) sent electronically or by fax to an electronic address or fax number nominated by that person.

31.2 Receipt

A notice given in accordance with Rule 31.1 is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post either:
 - (i) on the day on which the relevant postal service estimates delivery will occur; or
 - (ii) on the first day of the period during which the relevant postal service estimates delivery will occur,

based on the most recent estimate published by the relevant postal service as at the date on which the Notice is sent.

- (c) if transmitted by e mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice,

but if the delivery or transmission is not on a business day or is after 5.00 pm (recipient's time) on a business day, the notice is taken to be received at 9.00 am (recipient's time) on the next business day.

31.3 Evidence of service

A certificate in writing signed by a Board Member or, if the Secretary is not a Board Member, the Secretary, that a notice was sent is conclusive evidence of service.

32 Winding up and cancellation

32.1 On the first to occur of:

- (a) the winding up or cancellation of the Association; or
- (b) if the Association is endorsed as a deductible gift recipient under subdivision 30-BA of the Tax Act, revocation of the Association's endorsement as a deductible gift recipient; or
- (c) if the Association is endorsed as an income tax exempt charity under subdivision 50-B of the Tax Act, revocation of the Association's endorsement as an income tax exempt charity,

all surplus assets of the Association, after satisfaction of all debts and liabilities of the Association, must be paid, distributed or transferred to:

- (d) one or more Eligible Charities; or

- (e) to the extent required or permitted by the Tax Act, funds, charitable at law, which comply with the requirements of item 2 of the table in section 30-15 of the Tax Act,

but if the Association is never endorsed as a deductible gift recipient under subdivision 30-BA of the Tax Act, paragraph (b) of the definition of Eligible Charity will not apply.

- 32.2 Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in subdivision 30-B of the Tax Act are satisfied, a transfer under this Rule 32 must be made in accordance with those conditions.
- 32.3 The identity of an Eligible Charity for the purposes of this Rule 32 will be determined by the Board and (if applicable) approved by the Commissioner and, in default, will be determined by the Supreme Court of Victoria.

33 Custody and inspection of books and records

- 33.1 Except as otherwise provided in these Rules, the Secretary must keep custody and control of all books, documents and securities of the Association.
- 33.2 Except as otherwise provided in these Rules and the Act all financial records, books, securities and any other Relevant Documents of the Association must be available for inspection free of charge to any Member on request.
- 33.3 A Member may make a copy of any accounts, books, securities and any other Relevant Documents of the Association.

34 Indemnity and insurance

34.1 Indemnity and insurance

Subject to and to the maximum extent permitted under the Act, the Association:

- (a) indemnifies each of its office holders; and
- (b) may enter into and pay premiums on a contract insuring any of its office holders,

against any liability incurred by an office holder in that capacity, including any legal costs incurred in defending an action for such a liability.

34.2 Survival of indemnity

The indemnity in Rule 34.1 will continue notwithstanding that an office holder ceases to be an office holder of the Association.

34.3 Indemnity and insurance subject to law

For the avoidance of doubt:

- (a) the indemnity in Rule 34.1 does not apply so as to indemnify an officer from any liability for which the Association is prohibited from indemnifying the office holder under the Act; and

- (b) the Association may not insure an office holder against any liability for which the Association is prohibited from indemnifying the office holder under the Act.



8 November 2023

Notice of Special Resolutions

To be proposed at the Annual General Meeting of Nairm Marr Djambana on 30 November, 2023.

Notice is hereby given that at the Annual General Meeting at Nairm Marr Djambana the following resolutions are to be put as **Special Resolutions**:

1. That the current Rules of Nairm Marr Djambana be repealed and the Rules marked "A", (which can be obtained in hard copy in the office and are attached by hyperlink to this notice), be adopted as the Rules of the Association in total substitution for and to the exclusion of all other constitutional documents of the Association.
2. That, for the purpose of giving effect to resolution 1, the Committee of the Association be authorised to do all such things as may be incidental or necessary and notify all relevant regulators.
3. That the Members acknowledge that the Committee has not yet undertaken the Confirmation of Membership Category process outlined in the Rules which has not placed any Members at disadvantage and the Committee will begin that process as soon as possible after the AGM.

The proposed new Rules is attached by the following link:

<https://www.djambana.org.au/Frankston/wp-content/uploads/2023/11/Draft-model-rules-November-2023-43879062-1.pdf>

Please come to the office if you would like a hard copy of the proposed new Rules

Background to the Special Resolutions

Nairm Marr Djambana replaced its Rules in October 2022. A number of changes were made, but in particular the changes clarified the classes of membership and added a role for a Circle of Elders to assist the Committee to determine Full Membership.

The Rules that were adopted at the meeting of 8 October 2022 included time frames for the Committee to send out Confirmation of Membership forms and included rules about the role of the Circle of Elders.

Since the new Rules were passed the Committee has not been able to meet the time frames set in the constitution or to establish a Circle of Elders even though it has tried its best and been working very hard. This means that the process to confirm everyone's eligibility for either Full or Associate Membership, which was agreed by Members last year, has not yet started. It also means that there have been no Full Members added since the constitution changed in October 2022. This has not disadvantaged any current Members. It means Members will have longer, overall, to confirm their eligibility to be Full Members.

The Committee is now ready to establish the Circle of Elders and start the process of confirming membership category as soon as the AGM has occurred. Because of this the Committee would like the Members to pass special resolutions to:

- (a) acknowledge that the Committee has not yet undertaken the confirmation of membership category process; and
- (b) amend the Rules.

The changes that the Committee proposes to the Rules are shown in tracked changes in the attached Rules marked "A". The purposes of the changes are:

- (a) to remove the time frames so the Committee can start the approval process now, and to give the Committee some more flexibility to finalise the membership confirmation process;
- (b) to add a clause in case there is an absence of a Circle of Elders at any time, which allows the Committee to perform the role of the Circle of Elders. The Committee can only do this if they have used their best endeavors to establish and maintain a Circle of Elders and if they do perform the role, they have to disclose that the Members at the next AGM to ensure ongoing transparency and accountability;
- (c) to clarify the definition of Associate Member; and
- (d) to change the language used for the Board and Board positions to the terms used by Nairm Marr Djambana. For example, President has been changed to Chairperson and Committee has been changed to Board.