

| Present Clause | Clause Following Proposed Amendment | Reasons for Proposed Change |
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| Corporations Law of Western Australia | Corporations Act of Western Australia | When the Constitution of the Foundation was drafted the statutory enactment controlling companies was the <i>Corporations Law</i> but since 2001 it has been the <i>Corporations Act</i> . |
| Clause 1.1Corporations Law | Corporations Act | |
| Clause 1.2 No applicable provision | Definition of “ Independent Director ” | The Board has resolved to create the position of an Independent Director whose position will effectively replace the position formerly known as a “ Woodside Director ”. |
| Clause 1.2 “ Ngarluma people ” means persons of Aboriginal descent who are accepted by members of that group as being Ngarluma people | "Ngarluma people" means persons of Aboriginal descent who are accepted by the Ngarluma Aboriginal Corporation as being Ngarluma people and a Ngarluma Person is one of the Ngarluma People shown in the Register of Members as a member of that group. | This now creates a definition of individual people who are members of the Ngarluma Group known as the Ngarluma people so that the definition can be used in relation to appointments from that group. |
| Clause 1.2 " Register of Members " means the register of members of the Foundation to be kept in accordance with the Corporations Law | " Register of Members " means the register of members of the Foundation to be kept in accordance with the Corporations Act and showing whether the relevant member is a Ngarluma Person or is a Yindjibarndi Person. | In view of the decision by the Board to require Members to be one of either the Ngarluma people or the Yindjibarndi people the register will need to be amended to show that status. |
| Clause 1.2 “ Woodside Director ” means a Director appointed in accordance with Clause 6.6 | Definition deleted | Woodside no longer feels it needs to be involved in the administration of the affairs of the Foundation, including the appointment of a Woodside-appointed director – therefore there is the need to remove this definition |

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| Clause 1.2 “Woodside Nominee Director” means a Director appointed in accordance with Clause 6.7. | Definition deleted | Woodside no longer feels it needs to be involved in the administration of the affairs of the Foundation, including the appointment of a Woodside Nominee-appointed director – therefore there is the need to remove this definitionn21 |
| Clause 1.2 "Yindjibarndi people" means a group of persons of Aboriginal descent who are accepted by members of that group as being Yindjibarndi people | "Yindjibarndi people" means a group of persons of Aboriginal descent who are accepted by the Yindjibarndi Aboriginal Corporation as being Yindjibarndi people and a Yindjibarndi Person is one of the Yindjibarndi People shown in the Register of Members as a member of that group | This now creates a definition of individual people who are members of the Yindjibarndi Group known as the Yindjibarndi people so that the definition can be used in relation to appointments from that group. |
| Clause 2.2 (a) ...Corporations Law... | ...Corporations Act... | |
| Clause 2.2 (b) (i) ..Corporations Law... | ...Corporations Act... | |
| Clause 3.3 (a) (iii) members of both the Ngarluma people and the Yindjibarndi people | Definition Deleted | Refer previous clauses |
| Clause 3.4 Application for Membership 3.4(b)(iii) indicate whether the applicant is a member of the Ngarluma people or a member of the Yindjibarndi people or a member of both the Ngarluma people and the Yindjibarndi people. | 3.4(b)(iii) indicate whether the applicant is a member of the Ngarluma people or a member of the Yindjibarndi people. Persons who claim to be of both Ngarluma People and Yindjibarndi People must specify in the application whether they are accepted as a Ngarluma Person or a Yindjibarndi Person (but cannot be registered as both). | It is intended that in future Members will be either members of the Ngarluma People group or members of the Yindjibarndi People group and that if a person claims to be a member of both groups he or she will be required to be registered as one or the other. |

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| <p>3.9 Breach of Agreement by Member</p> <p>(a) If Woodside is of the view that a Member has failed to comply with clauses 3.9, 4.2, 4.4, 4.6, 4.6, 6.3, 7.4, 7.6 and/or 12.1 of the Agreement, then Woodside may send a written notice to the Foundation advising that a Member has breached the Agreement. If the Foundation receives a notice in accordance with this clause then at the next meeting of the Board the Board must consider the notice and resolve to take whatever steps necessary to investigate the alleged breach of the Agreement</p> <p>Clause 4.1 (a) (iii) members of both the Ngarluma People and the Yindjibarndi people</p> <p>Clause 4.2 Application for Child Membership 4.2(b)(iii) indicate whether the applicant is a member of the Ngarluma people or a member of the Yindjibarndi people or a member of both the Ngarluma people and the Yindjibarndi people.</p> | <p>Definition deleted</p> <p>Definition deleted</p> <p>4.2(b)(iii) indicate whether the applicant is a member of the Ngarluma people or a member of the Yindjibarndi people. Persons who claim to be of both Ngarluma People and Yindjibarndi People must specify in the application whether they are accepted as a Ngarluma Person or a Yindjibarndi Person (but cannot be registered as both).</p> | <p>Woodside no longer feels it needs to be involved in the administration of the affairs of the Foundation – therefore there is the need to remove this definition</p> <p>It is intended that in future Members will be either members of the Ngarluma People group or members of the Yindjibarndi People group and that if a person claims to be a member of both groups he or she will be required to be registered as one or the other.</p> |
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| <p>Clause 5.2 Special General Meeting</p> <p>There must be a Special General Meeting held each year in addition to the Annual General Meeting. This Special General Meeting must be held at least three months after the Annual General Meeting and within nine months of the Annual General Meeting.</p> | <p>“5.2 Progress Report Meeting</p> <p>(a) There must be a Progress Report Meeting held each year in addition to the Annual General Meeting. This Progress Report Meeting must be held at least three months after the Annual General Meeting and within nine months of the Annual General Meeting.</p> <p>(b) The Notice requirements in Clause 5.4 apply to a Progress Report Meeting as if it were a General Meeting.</p> <p>(c) The Board must not conduct any business at a Progress Report Meeting apart from reporting to the members present at a Progress Report Meeting the matters listed in Clause 5.5(a) since the previous General Meeting.</p> <p>(d) As the business to be conducted at a Progress Report Meeting is</p> | <p>It has been decided by the Board that there is no requirement for the routine holding of a Special General Meeting after the Annual General Meeting. This provision having been approved and replaced at the AGM of 20 September 2008 by provision for a Progress Report Meeting.</p> |

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| | | limited to the matters outlined in Clause 5.2(c), the quorum requirements contained in Clause 5.6 shall not apply to a Progress Report Meeting. ” | |
| <p>Clause Business</p> <p>5.5 (a) At the Special General Meeting and the Annual General Meeting the Board must report on:</p> <ul style="list-style-type: none"> (i) funding applications or projects considered by the Foundation; and (ii) expenditure by the Foundation; and (iii) activities of the Foundation, since the previous General Meeting. | <p>5.5 (a) At the Annual General Meeting the Board must report on:</p> <ul style="list-style-type: none"> (i) funding applications or projects considered by the Foundation; and (ii) expenditure by the Foundation; and (iii) activities of the Foundation, since the previous Annual General Meeting. | Having deleted provision for a Special General Meeting to be held annually the Constitution now requires amendment to ensure that the information which would have otherwise have been presented at that meeting should be presented to the AGM. | |
| Clause 5.11 Proxies | | | |
| 5.11(b)A Member who has been appointed a proxy for another Member may only | Subclause deleted. | | The Board has resolved that it is inappropriate to limit a member’s right to |

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| <p>hold one proxy to vote at a General Meeting.</p> | | <p>represent only one other member as a proxy when voting at a General Meeting.</p> |
| <p>5.11(d) The form appointing a proxy must be signed by:</p> <ul style="list-style-type: none"> (i) the Member appointing the proxy; and (ii) a person other than the person appointed proxy who witnessed the Member's signature. | <p>5.11(d) The form appointing a proxy must be signed by:</p> <ul style="list-style-type: none"> (i) the Member appointing the proxy; and (ii) a person other than the person appointed proxy who witnessed the Member's signature <p>and must be received by the Foundation not less than 48 hours before the meeting for which the proxy is appointed.</p> | <p>For administrative reasons as well as matching the provisions of the Corporations Act Section 250B proxies must be received not less than 48 hours before the meeting – and the consequence is the removal of clause 5.11(f).</p> |
| <p>5.11(e) The form appointing a proxy confers authority on the proxy to demand or join in demanding a poll. A proxy must vote in accordance with the instructions of the appointor and not otherwise.</p> | <p>5.11(e) The form appointing a proxy confers authority on the proxy to demand or join in demanding a poll but does not confer authority on the proxy to vote on a show of hands. A proxy must vote in accordance with the instructions of the appointor and not otherwise.</p> | <p>For practical reasons a proxy would not be in a position to vote on a show of hands if he or she represented more than one Member by proxy.</p> |
| <p>5.11(f) The form appointing a proxy must be presented to the Convener at the beginning of the meeting for which the proxy was appointed.</p> | <p>Subclause deleted.</p> | <p>The deletion of subclause 5.11(f) is necessary as a consequence of the amendment to clause 5.11(d) which requires proxies to be lodged not less than 48 hours before a meeting (see above).</p> |

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| <p>Clause 6 Directors</p> <p>6.1(d) The Woodside Nominee Directors must have experience in one or more of the following areas:</p> <ul style="list-style-type: none"> (i) financial management; (ii) Aboriginal culture; (iii) legal practice; (iv) accounting; (v) business development; or (vi) any other area of experience or expertise desirable for the advancement of the Foundation; | <p>6.1(d) The Directors who are not Ngarluma Directors or Yindjibarndi Directors must have experience in one or more of the following areas:</p> <ul style="list-style-type: none"> (i) financial management; (ii) Aboriginal culture; (iii) legal practice; (iv) accounting; (v) business development; or (vi) any other area of experience or expertise desirable for the advancement of the Foundation; | <p>The proposed amendments will remove the need for Directors to be Woodside Nominees. The amendment requires Directors who are appointed who are not Ngarluma Directors or Yindjibarndi Directors to have the experience in those areas formerly considered appropriate for Woodside Nominee Directors.</p> |
| <p>6.1(g) a Director cannot be an employee of the Foundation.</p> | <p>Subclause deleted.</p> | <p>The Board considers it essential that the Foundation be in a position to employ directors. In many cases directors have the experience and skill bases needed for the operations of the Foundation now that it is involved in commercial activities through its subsidiary companies. In such cases the <u>Board must be advised,</u> and appointments may only be for a <u>period of one year.</u></p> |

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| <p>Clause 6.3 Make-up of Board five years after Commencement of Expansion</p> <p>6.3(b) After the expiry of the first five years following Commencement of Expansion the Directors must also comprise:</p> <p>(i) one Woodside Director; and</p> <p>(ii) one Finance Director.</p> | <p>6.3(b) After the expiry of the first five years following Commencement of Expansion the Directors must also comprise:</p> <p>(i) one Independent Director; and</p> <p>(ii) one Finance Director.</p> | <p>This amendment is required in view of the planned withdrawal of Woodside from the affairs of the Foundation.</p> |
| <p>Clause 6.5 Election and term of Ngarluma Directors and Yindjibarndi Directors</p> <p>(a) The Ngarluma Directors and the Yindjibarndi Directors must be elected by secret ballot.</p> <p>(b) any Member who is a Ngarluma Member or both a Ngarluma and Yindjibarndi Member may nominate for election as a Ngarluma Director.</p> <p>(c) any Member who is an Yindjibarndi Member or both an Yindjibarndi and Ngarluma Member may nominate for election as an Yindjibarndi Director.</p> | <p>(a) The Ngarluma Directors and the Yindjibarndi Directors must be elected by secret ballot.</p> <p>(b) any Member who is a Ngarluma Person may nominate for election as a Ngarluma Director but may not nominate for election as a Yindjibarndi Director.</p> <p>(c) any Member who is an Yindjibarndi Person may nominate for election as an Yindjibarndi Director but may not nominate for election as a Ngarluma Director.</p> | <p>This amendment restricts and regulates the basis upon which a person is eligible to be appointed as a Ngarluma Director or a Yindjibarndi Director in line with the decision taken by the Board in that respect.</p> |
| <p>Clause 6.5(m)</p> <p>No provision in document.</p> | <p>(m) A Code of Conduct shall be adopted by the Board to be adhered to by Directors and Officers of the Company.</p> | <p>This provision was suggested and adopted as a practical requirement some years ago but the amendment to the Constitution was never formally proposed or adopted.</p> |

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| <p>Clause 6.6 Appointment and Term of Woodside Director</p> <p>(a) The Woodside Director is appointed by Woodside following consultation with the Ngarluma Directors and the Yindjibarndi Directors. The appointment of the Woodside Director must be made in writing and along with the written consent of the Woodside Director to accept the appointment, delivered to the Foundation Office before the first meeting of the Board.</p> <p>(b) The Woodside Director is appointed for a term to be decided by Woodside and may be replaced by Woodside at any time.</p> <p>(c) Woodside may at any time elect not to appoint a Woodside Director but such election does not preclude Woodside from making such appointment at a later date.</p> | <p>(a) The Independent Director is appointed by the Board following consultation with the Ngarluma Directors and the Yindjibarndi Directors. The appointment of the Independent Director must be made in writing and along with the written consent of the Independent Director to accept the appointment, delivered to the Foundation Office before the first meeting of the Board.</p> <p>(b) The Independent Director is appointed for a term to be decided by the Board such term to be subject to the provisions for removal of directors contained in S203D of the Corporations Act.</p> <p>(c) [deleted].</p> | <p>The decision by Woodside to withdraw from the affairs of the Foundation has led to the amendment of this clause so that the terms previously applicable to the appointment of the Woodside Director now apply to the Independent Director who will replace the Woodside Director on the Board.</p> |
| <p>Clause 6.7 Appointment and Term of Woodside Nominee Directors</p> <p>(a) The Woodside Nominee Directors is appointed by the Woodside Director, following consultation with the Ngarluma Directors and the Yindjibarndi Directors. The appointment of the Woodside Nominee Directors must be made in writing and along with the written consent of each of the Woodside Nominee Directors to accept the appointment, delivered to the</p> | <p>Clause deleted.</p> | <p>Woodside having decided to withdraw from the affairs of the Foundation no longer has a role in the appointment of additional directors which were known in the Constitution as “Woodside Nominee Directors”.</p> |

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| <p>Foundation Office before the first meeting of the Board.</p> <p>(b) The Woodside Nominee Directors are to be appointed for a maximum term of two years and are eligible for re-appointment.</p> | | |
| <p>Clause 6.8 Appointment, Termination and Term of Finance Director</p> <p>(a) The Finance Director is to be appointed or terminated upon unanimous resolution of the Ngarluma Directors, the Yindjibarndi Directors and the Woodside Director. If after two Board meetings there has been no unanimous resolution, the Board may appoint the Finance Director upon resolution by simple majority plus the Woodside Director.</p> <p>(b) the Finance Director is appointed for a maximum term of two years and is eligible for re-appointment.</p> | <p>(a) The Finance Director is to be appointed upon unanimous resolution of the Ngarluma Directors, the Yindjibarndi Directors and the Independent Director. If after two Board meetings there has been no unanimous resolution, the Board may appoint the Finance Director upon resolution by simple majority plus the Independent Director.</p> <p>(b) Subject to S203D of the Corporations Act the Finance Director is appointed for a maximum term of two years and is eligible for re-appointment.</p> | <p>The Finance Director is perceived by the Board as an important appointment requiring a role to be taken in that appointment by the Independent Director (replacing the Woodside Director). Termination of the Finance Director's appointment cannot be effected by unanimous resolution of the Directors as to do so is a breach of the Corporations Act hence the subclause deals with the appointment only of the Finance Director.</p> |
| <p>Clause 6.9 Alternate Directors</p> <p>(a) The Woodside Director may at any time appoint an alternate Director to exercise some or all of the powers of the Woodside Director for a specified period.</p> <p>(b) The Woodside Nominee Director may at any time appoint alternate Directors to exercise all or some of the powers of the Woodside Nominee Directors for a specified period.</p> | <p>Clause deleted.</p> | <p>The Board considers the provision for appointment of Alternate Directors as an unnecessary provision given the ability of the Foundation to hold Board meetings electronically.</p> |

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| <p>(c) When an alternate Director exercises a Director's powers, the exercise of the power is just as effective as if the powers were exercised by the Director.</p> <p>(d) The Woodside Director or a Woodside Nominee Director may terminate their respective alternate Director's appointment at any time.</p> <p>(e) An appointment or termination of an alternate Director must be in writing and a copy must be sent to the Foundation.</p> | | |
| <p>Clause 6.10 Vacancy</p> <p>In the event of a vacancy on the Board:</p> <p>(a) if the former Director was a Woodside Director then a replacement Director is to be appointed in accordance with Clause 6.6;</p> <p>(b) if the former Director was a Woodside Nominee Director then a replacement Director is to be appointed by in accordance with Clause 6.7;</p> | <p>In the event of a vacancy on the Board:</p> <p>(a) if the former Director was an Independent Director then a replacement Director is to be appointed in accordance with Clause 6.6;</p> <p>(b) if the former Director was a Finance Director then a replacement Finance Director is to be appointed in accordance with Clause 6.8;</p> | <p>These changes are necessary consequence on the decision to cease having Woodside or Woodside Nominee Directors.</p> |

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| <p>Clause 6.14 Company Secretary</p> <p>(c) The Company Secretary must keep and maintain at the Foundation Office a register of the Members of the Foundation ("the Register of Members") showing:</p> <p>(i) the name and postal or residential address of every Member;</p> <p>(ii) whether the Member is a member of the Ngarluma people, the Yindjibarndi people or both the Ngarluma people and the Yindjibarndi people;</p> | <p>(c) The Company Secretary must keep and maintain at the Foundation Office a register of the Members of the Foundation ("the Register of Members") showing:</p> <p>(i) the name and postal or residential address of every Member;</p> <p>(ii) whether the Member is a member of the Ngarluma people, or is a member of the Yindjibarndi people;</p> | <p>This amendment is necessary in view of the Board's decision to separate membership of the Foundation into Ngarluma People or Yindjibarndi People but not both.</p> |
| <p>Clause 6.17 Directors Fees and Expenses</p> <p>No provision in document.</p> | <p>(ba) where the appointment to a salaried office is first approved by unanimous resolution of the Board and is for a term not longer than 12 months, and where the office is not that of Chief Executive Officer;</p> | <p>Consequent on the decision to appoint Directors to a salaried office this additional provision regulates the terms of that appointment.</p> |
| <p>Clause 9.2 Quorum</p> <p>(a) The quorum necessary for the transaction of the business of the Board is a two-thirds majority of the total number of Directors as provided in Clause 6.2 or 6.3, as the case may be. However to constitute a quorum there</p> | <p>(a) The quorum necessary for the transaction of the business of the Board is a two-thirds majority of the total number of Directors as provided in Clause 6.2 or 6.3, as the case may be. However to constitute a quorum there must, in any event, be at least two</p> | <p>The decision by Woodside to withdraw from the affairs of the Foundation has led to the amendment of this clause.</p> |

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| <p>must, in any event, be at least two Ngarluma Directors and two Yindjibarndi Directors and either the Woodside Director or a Woodside Nominee Director.</p> | <p>Ngarluma Directors and two Yindjibarndi Directors and either the Independent Director or the Finance Director</p> | |
| <p>Clause 11 Accounts</p> <p>The Board must:</p> <p>(a) cause proper accounting and other records to be kept of:</p> <p style="padding-left: 20px;">(i) all sums of money received and expended by the Foundation and the matter in respect of which such receipt and expenditure takes place;</p> <p style="padding-left: 20px;">(ii) the property, credits and liabilities of the Foundation;</p> <p>(b) distribute copies of every profit and loss account and balance-sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditor's report thereon as required by the Corporations Law;</p> <p>(c) cause to be made out and laid before each Annual General Meeting a balance-sheet and profit and loss account made up to a date no more</p> | <p>(a) no change;</p> <p>(b) no change;</p> <p>(c) no change;</p> | |

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| <p>(d) than three months before the date of the meeting; cause to be made out and laid before each Special General Meeting management accounts showing income and expenditure made up to a date no more than three months before the date of the meeting.</p> | <p>Subclause (d) deleted.</p> | <p>The removal of the requirement for an annual Special General Meeting necessitates the removal of this clause.</p> |
| <p>Clause 12 Audit and Performance Review Report</p> <p>(a) A properly qualified auditor or auditors must be appointed and his or her or their duties regulated in accordance with section 327 of the Corporations Law.</p> <p>(b) At least once every year the accounts of the Foundation must be examined by one or more properly qualified auditor or auditors who must report to the Members in accordance with the provisions of the Corporations Law.</p> <p>(c) The Board must cause a performance review report to be conducted on the Foundation each year unless the Board unanimously decides that a performance review report is not necessary in any particular year.</p> <p>(d) The Woodside Director may report to Woodside on audits and performance reviews.</p> | <p>(a) no change;</p> <p>(b) no change;</p> <p>(c) no change;</p> <p>Subclause (d) deleted.</p> | <p>Since there is no longer a Woodside Director there is no need for the requirement that it reports to Woodside on the Audit and Performance Review.</p> |
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