


Amendments to Rule Book
Yinhawangka Aboriginal Corporation RNTBC
2022 Annual General Meeting

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CATSI Act – Mandatory Changes

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Membership – Who can be a YAC Member

- ✓ PBCs must have eligibility requirements that provide for **all common law holders** to be represented within the PBC. A PBC may have either:

Direct Representation model

- Where each common law holder is directly represented as a member

Indirect Representation model

- Where common law holders are not all members, but are represented within the membership by a family member

- ✓ YAC is adopting a **Direct Representation Model**.

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Membership – Removing Board discretion

- The eligibility requirement for YAC membership are remaining the same.
- YAC must now allow all Yinhawangka People who are over 18 years old to be members

YAC Board **does not have the discretion** to reject a membership application if the person has applied correctly and is eligible



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Cancelling membership

- Previously, PBCs were able to create their own grounds for cancelling membership, in addition to grounds set out in the CATSI Act.
- Now, PBCs can only follow the grounds in the CATSI Act for cancelling membership:

Ineligible

Not contactable

Not an Aboriginal
or Torres Strait
Islander person

Misbehaviour

- The YAC Rule Book has been updated to use the same language as used in the CATSI Act.

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Dispute Resolution Clause

Before...

- PBCs were required to have a process in their Rule Book to resolve any disputes about the 'internal operation' of the PBC.
- The disputes only covered: **members, members and directors, or directors.**

Now...

- PBCs must have new rules that provide for the resolution of disputes between **YAC and a common law holder** (or a person who claims to be a common law holder).
- The disputes that are covered by the new rules are about:
 - ✓ whether or not the person is a common law holder; and
 - ✓ YAC's performance of its native title functions.



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Dispute Resolution Clause

New Informal and Formal Dispute Resolution Process



1. The parties must first try to **informally resolve it themselves within 14 days.**
2. If not resolved, then any party may give a written Dispute Notice to the other party and YAC.
3. The Board may refer the dispute to the **Council of Elders**, who can make a recommendation to the Directors.
4. If Directors are unable to resolve the dispute, then the Board must refer the matter to the next **General Meeting** for the Members to resolve.

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Governance and General Updates

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Application of funds to carry out Objectives

Expansion of not-for-profit rule

- Currently, this rule prevents YAC from providing benefits to its Members, except where those benefits promote YAC's objectives or if certain conditions are met.
- This rule has been extended to apply to Directors, as well as Members.
- Modern language has also been used which is consistent with best practice.

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Register of Yinhawangka People

- If a person claims that they are a Yinhawangka Person, but is not listed on the Register of Yinhawangka People, then:
 1. the person **must apply directly to YAC** to be recognised as a member of the Yinhawangka People; and
 2. the Directors must consider and decide the application as soon as practicable.

Previously, YAC was solely responsible for updating the Register if they became aware of a person claiming to be Yinhawangka, even without that person applying

- ✓ The Register must also now include the **apical ancestor** which a person is descendant from.
- ✓ There is a new requirement that a person on the Register of Yinhawangka People must update the Corporation if their details change.
- ✓ The Corporation is still required to allow people to inspect the Register, but it is not required to provide a copy.

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Membership Applications

- The following additional rules have been added:
 - ✓ Membership applications will be considered in accordance with a **policy** adopted by the Directors.
 - ✓ Membership applications must be decided within a **reasonable period** after they are received.
 - The previous rule stated that membership applications must be considered in the order which they were received.



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Membership Applications – Appeal

- If an application for membership is rejected, and the applicant appeals the decision, then:

There is a new rule that allows the Directors to seek the views of the **Council of Elders** (if any) to determine whether to accept or reject the appeal.



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Members' Responsibilities

- Member's responsibilities have now been clarified and extended in the YAC Rule Book.
- Currently, the responsibilities that Members have are:

Follow YAC's rules

Advise of changes to
contact details

Treat other members
with respect

Attend General
meetings

- It is proposed that Members must, **in addition**:

Comply with the
CATSI Act

Comply with any
Code of Conduct

Not behave in a way
that significantly
interferes with YAC or
meetings

Not make any public
statement unless
authorised

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Membership Suspension

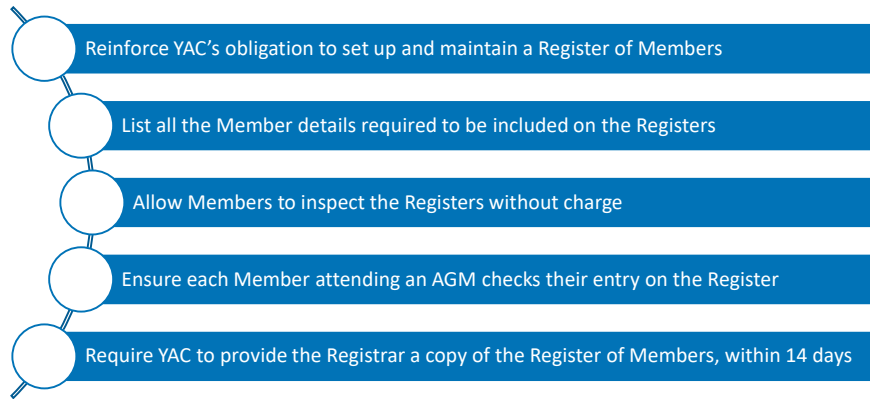
- A new power allowing the **YAC Board** to suspend a member has been added.
- Under the new rule, the YAC Board can suspend a member if they have:
 - failed to comply with this Rule Book; or
 - behaved in a way that significantly interfered with the operations YAC or of YAC meetings.
- A member has the right to prepare submissions to the Board to object to their suspension.
- During a period of suspension, a member loses their membership rights (e.g. voting at the AGM).
- A suspension lasts until the end of the next General Meeting.

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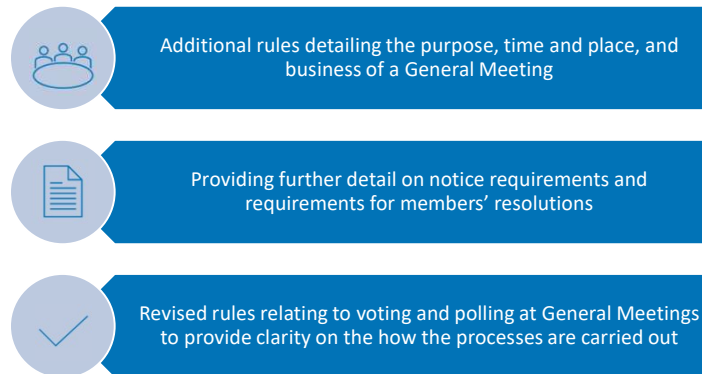
Register of Members

- Rules relating to YAC’s obligation to maintain its Register of Members and Former Members has been revised in order to directly align to the CATSI Act provisions.
- Detailed rules have been added to:



General Meetings and AGMs

- Changes have been made to the rules relating to General Meetings and AGMs.
- The processes relating to these meetings have been clarified and more detail has been added.
- **Amended rules** include:



Entitlement to Vote

- The rules relating to voting at General Meetings have been clarified.



Each member has one vote at a General meeting, **both on a show of hands and a Poll**



If the Chairperson is a member, they are entitled to vote at a General Meeting **in their capacity as a Member**



A resolution (other than a Native Title Decision) is passed if it receives **more than 50% of the votes** cast by the Members present

- The Chair will continue to have one vote **plus a casting vote**.

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Disruptions to General Meetings and Suspension Clause

Verbal Notice and Removal

There are new rules that provide the Chairperson or Directors with the power to give **verbal notice and remove a person** who is disrupting a General Meeting.



Suspension

In addition, if a person is removed, the Directors may **suspend the person's entitlements and rights as a Member** until the end of the next General meeting.



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Directors – Eligibility Requirements

- Additional requirements for director eligibility have been included.
- Currently, the only eligibility requirements are:



- It is proposed that for eligibility as a Director, the person must **also**:
 - ✓ Demonstrate qualifications and skills such as financial literacy, leadership experience, experience with directorship and boards, and standing within the community;
 - ✓ Be able to produce a National Police Certificate; and
 - ✓ Not be disqualified from managing incorporated associations and from being a responsible person for the purposes of the ACNC Act

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Yinhawangka Directors – Additional Eligibility Requirements

- A nominee may be appointed as a Yinhawangka Director even if they do not meet all the qualifications and skills. **However**, the Director must:
 - ✓ Express a willingness to learn and attain that qualification
 - ✓ Undertake appropriate training to attain that qualification within 12 months
- Not more than one Yinhawangka Person from each immediate family are eligible to be a Director



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Independent Directors – Additional Eligibility Requirements

- In addition to the Director eligibility requirements, a person is only eligible for appointment as an **Independent Director** if they:

✓ are Independent

- Not a member of the Yinhawangka People
- Not a relative or spouse of the Yinhawangka Person
- Does not have a membership interest in a related entity
- Has not been an employee/service provider to the Yinhawangka people
- Has no material or business interest with any Member

✓ have completed a **Director's course** approved by the AICD

✓ have **expertise** in one or more of the following areas

- Financial Management, Legal Practice, Accounting, Indigenous community or business development

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Directors – Appointment Process

Yinhawangka Directors

1. Candidates nominate in writing.
2. The Board may recommend the most suitable nominees.
3. Appointed by the Members in a General meeting. There will be separate elections by the Members who are descendants from each of the 3 Yinhawangka apical ancestors.



Independent Directors

1. Candidates nominate in writing.
2. Appointed by the Directors at a Board meeting.

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Directors – Governance Training

- There are new requirements for Directors to undertake training (which YAC will fund):



✓ Ongoing corporate governance training



✓ Ongoing Director duties and responsibilities training

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Code of Conduct

The Board is responsible for developing a **Code of Conduct** to be complied with by all YAC members, Directors and officers.



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Directors – Duty to disclose Material Personal Interests

Rules relating to the Directors' duty to disclose a **potential conflict of interest** have been revised.

- Exceptions to this rule have been expanded, and additional notice and recording requirements have been added.
- These rules directly align with the CATSI Act.



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Related Party Benefits

Rules relating to the requirement to seek member approval to provide **related party benefits** have been revised and expanded.

- This rule now explain the **exact processes required** to receive member approval to provide a related party benefit.
- These rules directly align with the CATSI Act.



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Calling and giving notice of Directors' meetings

- There are additional rules and requirements relating to calling Directors' meetings.
- These include:

No less than **5 days' notice** must be given (unless otherwise agreed)

Notice must state the **general nature of the business** and proposed resolutions

Directors must make best efforts to **keep meeting costs low**

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Circulating Resolutions of Directors

All Directors may either sign a statement or deliver written electronic communication stating that they are in favour of the resolution.



- This will allow Directors to approve resolutions by email.

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Conduct at Directors' Meetings

Removal from meeting

- A majority of Directors can remove a Director from a meeting if their conduct is inappropriate, which includes:

Offensive or abusive language

Under the influence of drugs or alcohol

Interferes with meeting

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Chief Executive Officer (CEO)

- There are new rules relating to the eligibility requirements and appointment of a CEO.
 - The Board shall appoint and remove the CEO on such terms as the Board determine (e.g., remuneration)
 - The CEO must have:
 - Experience working with and some knowledge of **Aboriginal culture**; and
 - Expertise in 2 or more of the following: **Financial Management, Legal, Accounting, BD**
 - The CEO will be responsible for the day-to-day management of YAC
 - The CEO **must** deliver a written report on a twice a year regarding the activities, projects and financial position of YAC



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Finances

There are now more extensive requirements and procedures relating to YAC's obligation to keep **written financial records**.



- ✓ The Rule Book now says that YAC's financial reports must be prepared in accordance with the **Australian Accounting Standards**.
- ✓ A previous rule which referred to YAC acting as trustee of a trust has been removed

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Communication and Notice Requirements

A new rule has been added to detail the communication and notice requirements to Members and Directors.



- This section specifically sets out how notice may be given to a Member and states when notice is taken as being given.

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Gift Fund

YAC is not legally required to have a separate gift fund and this rule has been removed



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Post-Determination



There are changes throughout the Rule Book to remove references to the “Yinhawangka Claim” and other associated concepts, in light of the Yinhawangka People’s **determination of native title**.

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