

Reconciliation Australia Limited

ABN 76 092 919 769

CONSTITUTION

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**PART 2 – NAME, PREAMBLE,
OBJECT AND POWERS**

2. Name

- (1) The name of the company is “Reconciliation Australia Limited” (in this constitution “Reconciliation Australia”).
- (2) The company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3. Preamble

In National Reconciliation Week 2000 the Council for Aboriginal Reconciliation presented this Australian Declaration Towards Reconciliation:

Australian Declaration Towards Reconciliation

We, the peoples of Australia, of many origins as we are, make a commitment to go on together in a spirit of reconciliation.

We value the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of lands and waters.

We recognise this land and its waters were settled as colonies without treaty or consent.

Reaffirming the human rights of all Australians, we respect and recognise continuing customary laws, beliefs and traditions.

Through understanding the spiritual relationship between the land and its first peoples, we share our future and live in harmony.

Our nation must have the courage to own the truth, to heal the wounds of its past so that we can move on together at peace with ourselves.

Reconciliation must live in the hearts and minds of all Australians. Many steps have been taken, many steps remain as we learn our shared histories.

As we walk the journey of healing, one part of the nation apologises and expresses its sorrow and sincere regret for the injustices of the past, so the other part accepts the apologies and forgives.

We desire a future where all Australians enjoy their rights, accept their responsibilities, and have the opportunity to achieve their full potential.

And so, we pledge ourselves to stop injustice, overcome disadvantage, and respect that Aboriginal and Torres Strait Islander peoples have the right to self-determination within the life of the nation.

Our hope is for a united Australia that respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.

4. Object

The object of Reconciliation Australia is to give effect to the Australian Declaration Towards Reconciliation through building an equitable, just and reconciled nation, where Aboriginal and Torres Strait Islander peoples participate equally and equitably in all areas of life, experience respectful relationships and have their history accepted in our nation’s story, by:

- (1) providing a national focus and national leadership in working towards reconciliation;
- (2) working with reconciliation partners to actively support the provision of programs in the core areas of reconciliation;
- (3) building support in the Australian community for reconciliation and empowering all members of the Australian community to do the work of reconciliation by:
 - (a) facilitating partnerships to achieve social and economic equality for Aboriginal and Torres Strait Islander Australians;
 - (b) providing information, education and encouraging discussion on Australia’s shared history to build historical acceptance of our nation’s past;
 - (c) bringing together Aboriginal and Torres Strait Islander and non-Indigenous interests in a non-partisan manner;
 - (d) working co-operatively with other organisations with similar aims; and
 - (e) supporting local and regional reconciliation initiatives;
- (4) monitoring and reporting on progress towards reconciliation;
- (5) providing a forum for discussion about reconciliation; and
- (6) raising money to fund these activities.

5. Specific Powers

Without limiting clause 6, Reconciliation Australia has specific power:

- (1) to disseminate information;
- (2) to develop and publish educational materials;

- (3) to conduct research;
- (4) to give advice; and
- (5) to act as a resource centre and information referral service.

6. Legal Capacity and General Powers

- (1) Reconciliation Australia has:
 - (a) the legal capacity and powers of an individual, and
 - (b) all the powers of an incorporated body,
 as provided by section 124 of the Corporations Act.
- (2) Reconciliation Australia may only exercise its powers for its object.

7. Use of Income, Assets and Profit

- (1) Reconciliation Australia may only use its income, assets and profit for its object.
- (2) Reconciliation Australia must not distribute any of its profit, income or assets directly or indirectly to its members.
- (3) Subclause 7(2) does not prevent Reconciliation Australia from paying its members (including its directors):
 - (a) reimbursement for expenses properly incurred by them, and
 - (b) for goods supplied and services provided by them,
 if this is done in good faith on terms no more favourable than if the member were not a member.

PART 3 – MEMBERSHIP

8. Categories

- (1) Reconciliation Australia has 2 primary categories of members:
 - (a) voting members, and
 - (b) non-voting members.
- (2) The Board may by regulation create secondary categories of non-voting members, including corporate, organisational and individual members.

9. Voting Members

- (1) The directors of Reconciliation Australia for the time being are its voting members.
- (2) If a director ceases to be a director or is removed by general meeting in accordance

with the terms of this constitution, they will automatically cease to be a voting member.

- (3) The Board must ensure that a register of members, who are members of the company for the purposes of the Corporations Act, is kept as required by section 169 of the Corporations Act in which are entered:
 - (a) the name of each voting member,
 - (b) the address for notices last given by the member,
 - (c) the date of becoming a member, and
 - (d) in the case of former members – the date of ceasing to be a member.
- (4) The Board must give current members access to the register of members.
- (5) Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.
- (6) There are no subscriptions, joining fees or other amounts to be paid by voting members in respect of their membership of Reconciliation Australia.
- (7) The liability of voting members is limited to the amount specified in clause 55(1).

10. Non-Voting Members

- (1) Any person who supports the object of Reconciliation Australia is eligible to be a non-voting member.
- (2) In subclause 10(1) “person” includes an individual, incorporated body or unincorporated body, and part of an incorporated or unincorporated body, subject to subclause 10(3).
- (3) An unincorporated body, or part of an incorporated or unincorporated body may only become a non-voting member by nominating an individual or incorporated body to be the non-voting member on its behalf.
- (4) The Board must by regulation provide for:
 - (a) the making of applications for non-voting membership; and
 - (b) the approval of applications for non-voting membership.
- (5) The Board may by regulation set subscriptions, joining fees and other

amounts to be paid by non-voting members.

- (6) The amount of any subscription, joining fee or other amount, and the date for payment may vary according to criteria set by the Board in the regulation, including the category of membership.
- (7) Non-voting members are not members of the company for the purposes of the Corporations Act and Part 4 of this constitution.

PART 4 – GENERAL MEETINGS

11. Annual General Meeting

- (1) The Board must convene an annual general meeting to be held:
 - (a) at least once in each calendar year, and
 - (b) within 5 months after the end of the company's financial year.
- (2) The Board must send voting members copies of the reports referred to in subclause 11(3) with the notice of the annual general meeting .
- (3) The Board must lay before the annual general meeting any annual financial report, directors' report and auditor's reports that have been prepared for the last financial year.
- (4) The ordinary business of the annual general meeting is:
 - (a) to verify the minutes of:
 - (i) the last annual general meeting, and
 - (ii) any special general meetings since the last annual general meeting; and
 - (b) to consider financial reports, directors' reports and auditor's reports.
- (5) The annual general meeting may only consider other business of which notice has been given in accordance with clause 13(2)(c).

12. Special General Meetings

- (1) The Board may by resolution convene a special general meeting.

- (2) Special general meetings may only consider business of which notice has been given in accordance with clause 13.

13. Notice

- (1) At least 21 days' notice in writing of general meetings must be given to:
 - (a) each voting member,
 - (b) the company's auditor, and
 - (c) any other person required by law.
- (2) The notice must state:
 - (a) the date, time and place (or places) of the meeting,
 - (b) if the meeting is to be held at more than 1 place – the technology that will be used,
 - (c) the general nature of each item of business to be considered, and
 - (d) if a special resolution is to be proposed:
 - (i) the proposed resolution, and
 - (ii) that it is intended that the resolution be proposed as a special resolution.
- (3) The notice must also include a statement that:
 - (a) all voting members have the right to appoint a proxy to attend, speak and vote instead of the member in accordance with clause 14, and
 - (b) proxies must be voting members.
- (4) The notice may (but need not) include a form of appointment for the purposes of subclause 13(3) and clause 14.
- (5) If a general meeting is adjourned for 1 month or more, new notice of the resumed meeting must be given.
- (6) Despite subclause 13(1), the accidental omission to give notice of the meeting to a voting member or members, or the non-receipt by a voting member or members of notice of the meeting does not invalidate the meeting or any resolution passed, except as provided by section 1322(3) of the Corporations Act.

14. Proxies

- (1) Voting members may only appoint other voting members as proxies.

(2) Appointments of proxies must be:

- (a) in writing, naming the member (or members, in order) to hold the proxy;
- (b) signed by the member; and
- (c) given to a Co-Chair (or, if neither is present, the director appointed to chair the meeting) before or at the commencement of the meeting.

(3) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

(4) Unless Reconciliation Australia receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:

- (a) dies
- (b) is mentally incapacitated; or
- (c) revokes the proxy's appointment.

15. Use of Technology

General meetings may be held at more than 1 place, provided that the technology used enables each voting member present at all places the meeting is held to clearly and simultaneously communicate with every other such member.

16. Quorum

- (1) The quorum for general meetings is the presence in person or by proxy of a majority of the voting members at the time.
- (2) If a quorum is not present within 30 minutes of the time of which notice has been given, the meeting must not proceed.
- (3) If a general meeting is held by audio or audio-visual technology:
 - (a) a member is treated as present if the member is able to hear and be heard by all others attending; and
 - (b) unless the meeting chair is notified that a member is leaving the meeting, the member will be assumed to have been present for the duration of the meeting.
- (4) If a general meeting is held using any other technology consented to by all members, the Board must determine the basis on which members are treated as present.

17. Chairing

General meetings are to be chaired in the same way as meetings of the Board under clause 40.

18. Voting

- (1) Each voting member has 1 vote.
- (2) Voting members may vote in person or by proxy.
- (3) Unless a poll is demanded, voting is by show of hands.
- (4) On a show of hands, voting members who have been appointed as proxies may cast their votes as proxies, as well as their votes as members.
- (5) If an equal number of votes are cast for and against a proposed resolution or amendment, the chair of the meeting must declare the proposed resolution or amendment lost.
- (6) A challenge to a right to vote:
 - (a) may only be made at the meeting; and
 - (b) must be determined by the chair of the meeting, whose decision is final.

19. Poll

- (1) Any voting member (including the chair of the meeting) may demand a poll on any resolution, other than a resolution concerning:
 - (a) the election of the chair of the meeting, or
 - (b) the adjournment of the meeting.
- (2) The poll may be demanded:
 - (a) before a vote is taken,
 - (b) before the voting results on a show of hands are declared, or
 - (c) immediately after the voting results on a show of hands are declared.
- (3) The poll must be taken when and in the manner the chair of the meeting directs.
- (4) On a poll, voting members who have been appointed as proxies:
 - (a) need not cast any or all of their votes as proxies, unless they are the chair of the meeting;

- (b) may cast their votes in different ways; and
- (c) if:
 - (i) they do cast votes as proxies; and
 - (ii) the appointment of proxy specifies the way the proxy is to vote on a proposed resolution;
 must vote that way.

- (5) A demand for a poll may be withdrawn.

PART 5 – DIRECTORS

20. Number and Type

- (1) Reconciliation Australia has no less than 9 directors and no more than 11 directors.
- (2) Reconciliation Australia does not have:
 - (a) alternate directors, or
 - (b) a managing director.

21. Eligibility

- (1) A majority of the directors of Reconciliation Australia must have a degree of responsibility to the general community.
- (2) At least 5 of the directors of Reconciliation Australia must be Aboriginal and Torres Strait Islander Australians.
- (3) At least 1 of the 5 Aboriginal and Torres Strait Islander directors must be a Torres Strait Islander.
- (4) Directors must not be appointed to hold office for more than 2 consecutive full terms of office, subject to clause 22(2).
- (5) Directors who have held office for 2 consecutive full terms must not be appointed to hold office again until at least 1 year after the end of their second term of office, subject to clause 22(2).

22. Appointment

- (1) The Board must by resolution:
 - (a) before 31 December each year – appoint 3 individuals to be directors of Reconciliation Australia from the following 1 January; and
 - (b) within 3 months of a vacancy in directors arising – appoint an

individual to fill the vacancy for the remainder of the term of office;

subject to clause 21 and subclause 22(2).

- (2) Despite clauses 21(4) and 21(5), the Board may appoint a director:
 - (a) for a third consecutive full term of office - by resolution passed with at least 75% of directors voting in favour (excluding the director concerned); and
 - (b) for a fourth and any subsequent consecutive full term of office - by resolution passed with 100% of directors in favour (excluding the director concerned).
- (3) The validity of decisions of the Board and the acts of directors is not affected by failure to comply with this clause or clause 21.

23. Term of Office

- (1) Directors appointed under clause 22(1)(a) hold office from the 1 January following their appointment for 3 years, subject to subclauses 23(3) - 23(6).
- (2) Directors appointed under clause 22(1)(b) hold office from the time of their appointment for the remainder of the term of office of the director whose vacancy they are filling, subject to subclauses 23(3) to 23(6).
- (3) Directors may be re-appointed, subject to clauses 21(4), 21(5) and 22(2).
- (4) Directors may resign by writing to the Board.
- (5) Directors cease to hold office if they:
 - (a) are absent for 3 consecutive meetings of the Board without prior approval from the Board;
 - (b) receive any payment from Reconciliation Australia otherwise than in accordance with this constitution; or
 - (c) become disqualified under Part 2D.6 of the Corporations Act, subject to sections 206F(5) and 206G of the Corporations Act or the ACNC Act; or
 - (d) die.

(6) Directors may be removed by general meeting in accordance with section 203D of the Corporations Act. The resulting vacancy may be filled at the general meeting.

(7) The Board may continue to act despite any vacancy in directors.

24. Notification

Reconciliation Australia must notify the regulator under the Applicable Act within 28 days of any change in its directors or Secretary, or their personal details as required by the Applicable Act.

25. Remuneration

The Board may by regulation set reasonable remuneration to be paid to directors (including reimbursement for expenses), subject to section 211 of the Corporations Act.

26. Duties

Each director must comply with their duties under legislation and common law including those of:

- (1) reasonable care and diligence;
- (2) good faith and proper purpose;
- (3) proper use of position;
- (4) proper use of information;
- (5) responsible management of financial affairs; and
- (6) not to trade while insolvent.

PART 6 – OFFICE-BEARERS

27. Positions

- (1) The office-bearers of Reconciliation Australia are:
 - (a) 2 Co-Chairs, and
 - (b) Secretary,
 subject to subclause 27(2).
- (2) The Board may by regulation establish other office-bearer positions.

28. Appointment

- (1) The Board must at its first meeting after 1 January each year appoint the office-bearers (other than the Secretary) from among the directors.
- (2) Of the 2 Co-Chairs:

(a) 1 must be an Aboriginal and Torres Strait Islander Australian; and

(b) 1 must be a non-Indigenous Australian.

29. Term of Office

- (1) Office-bearers hold office from the time of their election until their successor is appointed, subject to subclauses 29(2) – 29(4) .
- (2) Office-bearers may resign by writing to the Board.
- (3) Office-bearers who cease to be directors, other than by the expiry of their term of office, cease to be office-bearers.
- (4) Office-bearers may be removed by resolution passed by an absolute majority of the Board.
- (5) The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.
- (6) This clause does not apply to the Secretary.

30. Secretary

- (1) The Board must appoint a Secretary of the company in accordance with Part 2D.4 of the Corporations Act.
- (2) Unless the Board otherwise resolves, the chief executive officer of Reconciliation Australia is to be appointed Secretary.

PART 7 – THE BOARD

31. Membership

The members of the Board are the directors of Reconciliation Australia.

32. Responsibility and Powers

- (1) The Board is responsible for managing and directing the activities of the company to achieve the object(s) set out in clause 4.
- (2) The Board may exercise all powers of Reconciliation Australia on its behalf except any powers that are required by this constitution or the Corporations Act to be exercised by the company in general meeting.
- (3) Without limiting subclause 32(2), the Board may:
 - (a) establish committees with such membership and terms of reference as it thinks appropriate; and

(b) delegate its powers as it thinks appropriate.

(4) Delegations must be recorded in the company's minute book.

33. Patron

The Board may appoint (and remove) a patron or patrons of Reconciliation Australia.

34. Regulations

The Board may by resolution passed by an absolute majority make regulations to give effect to this constitution.

35. Public Statements

- (1) The Board may by regulation or resolution authorise an office-bearer, director or employee to make public statements on behalf of Reconciliation Australia.
- (2) No person may make any public statement on behalf of Reconciliation Australia unless authorised by the Board.

PART 8 – MEETINGS OF THE BOARD

36. Convening

- (1) The Secretary, a Co-Chair or any 3 directors may convene a meeting of the Board.
- (2) Ordinary meetings of the Board must be held at least 4 times each year.
- (3) At the first meeting after it is elected the Board must by resolution set the dates, times and places of ordinary meetings for its term of office.
- (4) The Secretary or a Co-Chair may subsequently give notice, in writing, to change the dates, times and places of ordinary meetings.

37. Notice

- (1) Each director must be given at least 7 days' notice in writing of meetings of the Board, subject to subclause 37(4).
- (2) Notice may be given of more than 1 ordinary meeting of the Board at the same time.
- (3) The notice must include the date, time and place (or places) of the meeting, but need not include the business to be considered.
- (4) In cases of urgency a meeting may be held without the notice required by subclause 37(1), provided that:

(a) as much notice as practicable is given by whatever means will reach each director soonest; and

(b) no resolution may be passed at the meeting except by an absolute majority.

38. Use of Technology

- (1) Meetings of the Board may be held at more than 1 place, provided that the technology used enables each director present at all places the meeting is held to clearly and simultaneously communicate with every other such director.
- (2) Without limiting subclause 38(1) and clause 37(4)(a), meetings of the Board may be convened and held by telephone.
- (3) By becoming and remaining a director, all directors are taken to consent to subclause 38(2).

39. Quorum

- (1) The quorum for meetings of the Board is the presence in person of a majority of the directors at the time.
- (2) If a Board meeting is held by audio or audio-visual technology:
 - (a) a director is treated as present if the director is able to hear and be heard by all others attending; and
 - (b) unless the meeting chair is notified that a director is leaving the meeting, the director will be assumed to have been present for the duration of the meeting.
- (3) If a Board meeting is held using any other technology consented to by all directors, the Board must determine the basis on which directors are treated as present.

40. Chairing

- (1) If both Co-Chairs are present, they must jointly chair the meeting.
- (2) If only 1 Co-Chair is present, she or he must chair the meeting.
- (3) If neither Co-Chair is present, the meeting must appoint a director to chair.
- (4) The chair of the meeting has a deliberative vote, but does not have a casting vote.

41. Voting

- (1) Each director has 1 vote.

- (2) There is no voting by proxy.
- (3) If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

42. Disclosure of Interest

- (1) Subject to subclause 42(2) each director who has a material personal interest in a matter that relates to the affairs of the company must as soon as practicable after becoming aware of the interest give the other directors notice of the interest at a meeting of the Board.
- (2) The director is not required to give notice of the interest in any of the circumstances listed in section 191(2) of the Corporations Act.
- (3) The notice required by subclause 42(1) must include details of:
 - (a) the nature and extent of the interest, and
 - (b) the relation of the interest to the affairs of the company;
 and these details must be recorded in the minutes of the meeting
- (4) Subject to subclause 42(5) each director who has a material personal interest in a matter that is being considered at a meeting of the Board:
 - (a) must not be present while the matter is being considered; and
 - (b) must not vote on the matter.
- (5) The director can be present and vote on the matter if:
 - (a) their interest does not need to be disclosed under subclause 42(2);
 - (b) ASIC makes an order allowing the director to vote on the matter; or
 - (c) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of Reconciliation Australia; and
 - (ii) says that those directors are satisfied that the interest should

not stop the director from voting or being present.

43. Resolutions without Meeting

A resolution set out in a document (or documents) signed by all directors entitled to vote stating that they are in favour has the same effect as a resolution passed at a meeting of the Board.

PART 9 – FINANCIAL AND LEGAL

44. Financial Year

The financial year of Reconciliation Australia is from 1 July to 30 June, unless the Board otherwise determines.

45. Sources of Funds

The funds of Reconciliation Australia may be derived from donations, subscriptions, fund-raising activities, grants, interest and any other sources approved by the Board.

46. Public Fund

- (1) Reconciliation Australia may, and must if required by the *Income Tax Assessment Act 1997* (Cth), establish and maintain a public fund to be called the "Reconciliation Australia Fund" (in this clause "the Fund").
- (2) The public must be invited to make donations to the Fund.
- (3) The Board must ensure that as far as practicable a receipt in the name of the Fund is given to every person who:
 - (a) makes a donation to the Fund; and
 - (b) requests a receipt.
- (4) The receipt must comply with all requirements of the *Income Tax Assessment Act 1997* (Cth).
- (5) The Board must ensure that a register of all donations to the Fund is kept in which are entered:
 - (a) the date of the donation,
 - (b) the amount of the donation, and
 - (c) (unless the donation was anonymous) the name of the donor.
- (6) For the purposes of paragraph 46(5)(b) where more than 1 donation has been received from the public anonymously in cash on the same date, only the aggregate amount need be recorded.

- (7) The Board must ensure that members of the public are able to inspect the register of donations at all reasonable times.
- (8) The Board must ensure that donations to the Fund are kept separate from any other funds of Reconciliation Australia:
 - (a) in a separate bank account, and
 - (b) in separate financial records.
- (9) The Fund may only be used for the object of Reconciliation Australia.
- (10) The Board must manage the Fund in accordance with this constitution.
- (11) Without limiting subclause 46(10), clauses 47 and 49 apply to the Fund.
- (12) Clauses 55(4), 55(5), 56(2)(a) and 56(2)(b) also apply to the Fund.
- (13) In this clause “donation” means gift or contribution.
- (14) Clauses 46(1) to 46(13) (both inclusive) apply only if Reconciliation Australia is required to maintain the Fund by the *Income Tax Assessment Act 1997* (Cth) or if determined by the Board.

47. Financial Records

Reconciliation Australia must keep written financial records that:

- (1) correctly record and explain its transactions, and financial position and performance; and
- (2) would enable true and fair financial statements to be prepared and audited; as required by the Applicable Act.

48. Auditor

- (1) The Board must appoint an auditor unless the members at a general meeting have appointed an auditor or unless otherwise required or permitted by the Applicable Act.
- (2) Reconciliation Australia must have its annual financial report audited if required by and in accordance with the Applicable Act.

49. Payments

- (1) All payments must be signed or authorised by at least 2 persons who are:
 - (a) either directors or employees of Reconciliation Australia; and

- (b) nominated by the Board by regulation or resolution.

- (2) The Board may nominate a list of individuals or positions to be signatories for the purpose of subclause 49(1).

50. Common Seal

- (1) Reconciliation Australia may have a common seal.
- (2) A document may only be sealed with the common seal if authorised by resolution of the Board.
- (3) The sealing must be witnessed by the signatures of at least 2 directors nominated by the Board by regulation or resolution.
- (4) The Board may nominate a list of individuals or positions to be signatories for the purpose of subclause 50(3).
- (5) The Board must provide for the safe keeping of the common seal.
- (6) Reconciliation Australia may execute a document without using a common seal if the document is signed by:
 - (a) two directors of the company; or
 - (b) a director and the secretary.

51. Minutes

- (1) The Board must ensure that:
 - (a) minutes are taken and kept of all general meetings, meetings of the Board and resolutions without a meeting; and
 - (b) in the case of minutes of meetings – the minutes are signed within a reasonable time after the meeting by the chair of the meeting or the chair of the next meeting; or
 - (c) in the case of minutes of resolutions without a meeting – the minutes are signed by a director within a reasonable time after the resolution is passed.

52. Records

- (1) The Board must provide for the safe keeping of the records of Reconciliation Australia.
- (2) Directors have a right of access to the financial records of Reconciliation Australia at all reasonable times.

- (3) Directors also have a right of access to the non-financial records of Reconciliation Australia, subject to resolution of the Board.

53. Indemnity and Insurance

- (1) Subject to and to the maximum extent permitted under law, the Company:
- (a) indemnifies each of its officers; and
 - (b) may enter into and pay premiums on a contract insuring any of its officers,
- against any liability by an officer in that capacity including any legal costs incurred in defending an action for such a liability unless the liability arises out of conduct involving a lack of good faith.
- (2) In this clause, “officer” means a director or Secretary and includes a director or Secretary after they have ceased to hold that office.

54. Amendment of Constitution

- (1) This constitution may only be amended by special resolution, as provided by section 136(2) of the Corporations Act.
- (2) Within 28 days after passing a special resolution to amend this constitution, Reconciliation Australia must notify the appropriate regulator as required under the Applicable Act.

55. Winding Up

- (1) If Reconciliation Australia is wound up, each voting member undertakes to contribute up to \$1 to the property of the company.
- (2) In subclause 55(1) “member” includes a former member who was a member at any time during the year ending on the day of the commencement of the winding up, subject to subclause 55(3).
- (3) Former members need not contribute in respect of a debt or liability of Reconciliation Australia contracted after they ceased to be a member.
- (4) If Reconciliation Australia is wound up, its remaining assets must not be distributed to any member.
- (5) Instead the remaining assets must be given to an entity that:

- (a) has a similar object to Reconciliation Australia; and
- (b) also prohibits the distribution of profit, income and assets to its members to at least as great an extent as this constitution;

subject to clauses 56(1)(a) and 56(2)(a).

- (6) The entity referred to in subclause 55(5) must be decided by:

- (a) special resolution, or
- (b) resolution of the Board passed by a three-quarters absolute majority.

56. Tax Exemption and Deductibility

- (1) If the income of Reconciliation Australia is exempt from income tax:
- (a) on winding up the remaining assets of Reconciliation Australia may only be given to an entity that is also exempt from income tax.
- (2) If gifts and contributions to Reconciliation Australia are deductible for the purposes of income tax:
- (a) on winding up the remaining assets of Reconciliation Australia may only be given to an entity to which gifts and contributions are also deductible for the purposes of income tax; and
 - (b) on revocation of such deductible gift recipient endorsement (whether or not the company is to be wound up) any surplus gifts, contributions or money received because of such gifts or contributions, will be given to an entity which satisfies the criteria of subsections 55(5)(a) and 55(5)(b) and to which gifts and contributions are also deductible for the purposes of income tax as required by and in accordance with section 30-125(6) of the *Income Tax Assessment Act 1997* (Cth).

57. Notices

- (1) Voting members must give Reconciliation Australia their address for notices, and any change in that address.
- (2) The address for notices may include a fax number and an email address.
- (3) Reconciliation Australia must enter any change in the address of a voting member in the register of members.

- (4) Notice may be given to a voting member (including in their capacity as a director) by sending it to the address last given by the member.
- (5) In this constitution a period of notice of a meeting expressed in days:
- includes the day on which notice is given; but
 - does not include the day on which the meeting is held.
- (6) Notices sent by prepaid post are taken to have been received:
- on the day on which the relevant postal service estimates delivery will occur; or
 - 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.
- (7) Notices sent by fax or email are taken to have been given on the business day after sending.

58. Interpretation

- (1) In this constitution, unless the contrary intention appears:
- “absolute majority” means a majority of the votes of all directors entitled to vote at the time, whether or not those directors are present, and whether or not they vote;
 - “ASIC” means the Australian Securities and Investments Commission;
 - “ACNC Act” means the Australian Charities and Not-for-profits Commission Act 2012 (Cth)
 - “Applicable Act” means:
 - while the Company is a registered charity, the ACNC Act and the Corporations Act; or
 - if the Company is not, or ceases to be, a registered charity, even if it is still a charity, the Corporations Act.

- “Corporations Act” means the Corporations Act 2001 (Cth)
- “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
- “entity” includes body, trust and fund;
- “registered charity” means a charity registered with the Australian Charities and Not-for-profits Commission.
- “regulations” means regulations of Reconciliation Australia made under clause 34, and “regulation” has a corresponding meaning; and
- “special resolution” means a resolution at a general meeting:
 - of which notice has been given in accordance with clause 13; and
 - that is passed by at least 75% of the votes cast (in person or by proxy) by members entitled to vote on the resolution.

- The headings form part of this constitution.
- The Board is responsible for the interpretation of the constitution and regulations.

59. Transitional

On 6 December 2000:

- this constitution comes into effect;
- the directors of the company in office immediately before 6 December 2000 go out of office, subject to subclauses (3)–(5);
- Fred Chaney, Joseph Elu and Michael Long are to be taken to have been appointed as directors of Reconciliation Australia under clause 22(1)(a) with effect from 1 January 1999;
- Campbell Anderson, Dick Estens and Djiniyini Gondarra are to be taken to have been appointed as directors of Reconciliation Australia under clause 22(1)(a) with effect from 1 January 2000;
- Jackie Huggins, Mark Leibler and Shelley Reys are to be taken to have been appointed as directors of Reconciliation Australia under clause 22(1)(a) with effect

from 1 January 2001 (but hold office from 6 December 2000);

- (6) all persons who were members of the company immediately before 6 December 2000 cease to be members, subject to subclause (7);
- (7) the 9 persons nominated as directors of Reconciliation Australian under subclauses (3)–(5) become the voting members of Reconciliation Australia in accordance with clause 9(1); and
- (8) the register of members under clause 9(2) must be amended accordingly;

despite anything to the contrary in this constitution or the previous constitution of the company.

60. Reading this Constitution with the Corporations Act

- (1) To the extent permitted by law the replaceable rules in the Corporations Act do not apply to the Company.
- (2) While the company is a registered charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.
- (3) If the company is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.

61. Dispute Resolution

- (1) The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
 - (a) one or more members
 - (b) one or more directors, or
 - (c) the company.
- (2) Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- (3) If those involved in the dispute do not resolve it under clause 61(2), they must within 10 days:
 - (a) tell the directors about the dispute in writing;
 - (b) agree or request that a mediator be appointed; and

(c) attempt in good faith to settle the dispute by mediation.

- (4) The mediator must:
 - (a) be chosen by agreement of those involved; or
 - (b) where those involved do not agree be a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the Law Society of NSW.
- (5) The mediator:
 - (a) may be a member or former member of the company;
 - (b) must not have a personal interest in the dispute; and
 - (c) must not be biased towards or against anyone involved in the dispute.
- (6) When conducting the mediation, the mediator must:
 - (a) allow those involved a reasonable chance to be heard;
 - (b) allow those involved a reasonable chance to review any written statements;
 - (c) ensure that those involved are given natural justice; and
 - (d) not make a decision on the dispute.

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