



ELECTION RULES FOR ALL ENTITIES

Coordinating Committee

Western Cape Communities Trust

Central Sub-Regional Trust

Northern Sub-Regional Trust

Southern Sub-Regional Trust

Western Cape Communities Property Trust

Western Cape Centre Ltd.

Introduction:

Traditional Owner Group and Community representation on all Boards and Entities associated with the Western Cape Communities Co-Existence Agreement (WCCCA) is vital in ensuring the effectiveness and sustainability of these entities into the future. The WCCCA Coordinating Committee is tasked with overseeing the rights and responsibilities of all parties to the agreement.

The Boards of the Western Cape Communities Trust, the three Sub-Regional Trusts, the Western Cape Communities Property Trust, the Investment Committee and the Western Cape Centre are tasked with management and governance of the incomes received from mining and investment activities and delivering long term sustainability and independence and to ensuring that future generations benefit from mining activities on ML 7024 long after mining has ceased. In addition the Sub-Regional Trusts utilise funds from the Main Trust for Community Development and Community Support for each Community and for charitable purposes for Traditional Owners within those communities.

Elections are required to be held every two years to appoint the members of the Coordinating Committee and to appoint the directors of the Sub-Regional trusts.

These elections are conducted by the Australian Electoral Commission (AEC) and will be in accordance with the Election Rules that form part of this document.

Once members of the Coordinating Committee are elected, further appointments are made from these elected members, to various Sub-Committees of the Coordinating Committee.

Once directors of the Sub-Regional Trusts are elected, further appointments are made from these elected directors, to form the Boards of the Main Trust, the Investment Committee, the Property Trust and Western Cape Centre Ltd.

These Election Rules will provide the specifics of this whole process.

ELECTION RULES

Coordinating Committee:

Membership

The composition of the membership of the Coordinating Committee is specified in the Western Cape Communities Co-Existence Agreement (WCCCA) at Clause 24.

Clause 24.1.1 specifies that there will one (1) Traditional Owner from each of two (2) separate families in each of the Traditional Owner Groups elected to the Coordinating Committee.

The Definitions that form part of the WCCCA (Definitions) list the eleven (11) Traditional Owner Clans who are signatories to the Agreement.

Clause 24.1.2 specifies that a representative from each of the Four (4) Communities as specified in the Definitions will be facilitated by the relevant Council.

Clause 24.3.1 specifies that the Representatives as described in Clauses 24.1.1 and 24.1.2 will be appointed to the Coordinating Committee for a period of 2 years.

Additional representatives on the Coordinating Committee are specified in Clauses 24.1.3 to 24.1.6 and these will include one representative from each of Rio Tinto Weipa, Cape York Land Council and the State of Queensland as well as the WCCT Executive Officer.

In addition, there will be an invitee who is a resident of Weipa Township who has no voting rights and whose appointment is facilitated by Rio Tinto Weipa.

Role

The role of the Coordinating Committee is to monitor the progress of the WCCCA and the interaction between Rio Tinto Weipa, the Communities and the Indigenous Land Use Agreement (ILUA) and in particular, to oversee the Cultural Site Protection System as specified in Schedule 5 of the WCCCA.

Because of the need for close communication with the ILUA land and the Communities, it is desirable that the Traditional Owner representatives as elected and the Community representatives as appointed by the Councils reside in reasonably close proximity to the Communities and the ILUA area.

Residential requirements

As the Role of the Coordinating Committee requires close interaction with the Communities, only those Traditional Owners who ordinarily reside within the following Post Code areas are eligible to stand for election.

4874	Weipa, Napranum and Mapoon
4892	Aurukun
4876	Northern Peninsula Regional Council (NPARC) area
4895	Hopevale
4870	Cairns
4878, 4879	Cairns – Northern Beaches
4865, 4868 and 4869	South Cairns Area

Western Cape Communities Trust (Main Trust):

The Board for the Main Trust is specified in the Constitution of Western Cape Communities Trust Pty Ltd (Clause 7.1) and is to comprise the following:

- a) Three (3) Directors appointed by each A Class Shareholder. The A Class Shareholders are the Sub-Regional Trusts
- b) One (1) Director appointed by each of the B Class Shareholders. The B Class Shareholders are specified (Clause 17.1) as being:

Aurukun Shire Council

Napranum Shire Council

New Mapoon Aboriginal Council

Mapoon Aboriginal Council

Because Mapoon Aboriginal Council has now changed its name to Mapoon Aboriginal Shire Council and because New Mapoon Aboriginal Council no longer exists due to amalgamation into Northern Peninsula Regional Council, the Constitutions of both the Western Cape Communities Trust Pty Ltd and the NSRT will be amended to reflect these changes.

- c) An Independent Director appointed by the Trustee Directors and the Council Directors by majority vote.

Clause 7.2 states that the term of office is to be two (2) years.

Sub-Regional Trusts:

Southern Sub-Regional Trust (SSRT)

The Traditional Owner Group in the SSRT is the Wik and Wik-Way Peoples.

Clause 8.1 of the Constitution states that the Board must comprise six (6) Directors being:

- a) 5 Directors appointed by the Traditional Owner Group; and
- b) 1 Director appointed by the B Class Member (Aurukun Shire Council).

Clause 8.2 states that a Director must be an A Class Member.

Central Sub-Regional Trust (CSRT)

The Traditional Owner Groups in the CSRT are the following:

- The Alngith People
- The Anathangayth People
- The Peppan People
- The Thanikwithi People
- The Wathayn People

Clause 8.1 of the Constitution states that the Board must comprise six (6) Directors being:

- a) 1 Director appointed by each Traditional Owner Group; and
- b) 1 Director appointed by the B Class Member (Napranum Aboriginal Council).

Clause 8.2 states that a Director must be an A Class Member.

Northern Sub-Regional Trust (NSRT)

The Traditional Owner Groups in the NSRT are the following:

- The Ankamuthi People
- The Taepadhighi People
- The Tjungundji People
- The Warranggu People
- The Yupungathi People

Clause 8.1 of the Constitution states that the Board must comprise twelve (12) Directors being:

- c) Two (2) Directors appointed by each Traditional Owner Group; and
- d) 1 Director appointed by each B Class Member (Mapoon Aboriginal Council and New Mapoon Aboriginal Council).

Clause 8.2 states that a Director must be an A Class Member.

There is no mention in any documents as to why NSRT has two (2) Directors from each Traditional Owner Group compared to one for Central (5 in total) and the five (5) for Southern. Nor is there any mention as to where the two (2) elected Directors should reside.

The WCCCA does recognise the two (2) Communities of Mapoon and New Mapoon and the two (2) Councils.

Residential requirements

As the Role of the Sub-Regional Trust Boards requires close interaction with the Communities and Traditional Owners who live in these Communities, only those Traditional Owners who ordinarily reside within the following Post Code areas be eligible to stand for election.

4874	Weipa, Napranum and Mapoon
4892	Aurukun
4876	NPARC area
4895	Hopevale
4870	Cairns
4878, 4879	Cairns – Northern Beaches
4865, 4868 and 4869	South Cairns Area

Western Cape Communities Property Trust (Property Trust):

Western Cape Communities Trust Pty Ltd is the Trustee for both the Main Trust and the Property Trust. As such, the Board is common to both Trusts.

Western Cape Centre Ltd (WCCL):

Clause 5.1.2 of the Constitution of WCCL states that the Board shall consist of no more than six (6) Directors.

Clause 5.1.2.1 states that three Directors will be appointed from each of the Sub-Regional Trust Boards but these appointed Directors must not be Directors on either the Main Trust or the Property Trust Boards.

Clause 5.1.2.2 states that up to two (2) Directors will be appointed by the Trustee company of the Main Trust to the extent that they are independent persons who have relevant experience and competencies.

The sixth (6th) Director will be appointed by the Main Trust Board as the Main Trust is the only Member of WCCL and is the outright owner of WCCL.

THE ELECTION PROCESS:

The election process for these entities will be conducted by the AEC in accordance with Section 147 of the *Fair Work (Registered Organisations) Act 2009* and these Rules.

Definitions

The Act

Means the Fair Work (Registered Organisations) Act 2009.

Candidate

Means a person who seeks or is nominated for an office. Also known as a nominee.

Close of Roll Day

The day on which the roll of voters for the ballot is closed. This will be 30 April of the year in which the elections are held and will reflect all approved A Class shareholders as at 14 March in the election year. Any A Class Member who is eligible to vote on that day is included in the roll of voters. The Close of Roll Day is a day no earlier than 30 days and no later than 7 days prior to the day on which nominations open as prescribed in section 143(3) of the Act.

Collegiate electoral system

Means a method of election comprising a first stage, at which persons are elected to a number of offices by a direct voting system; and a subsequent stage (or subsequent stages) at which persons are elected by and from the body of persons elected at the preceding stage.

Direct voting system

Means a method of election at which all eligible members vote.

Irregularity

Has the same meaning as the definition contained in Section 6 of Schedule 1B of the Act.

Nominator

Means a person who nominates another person for office. An eligible Member can self-nominate but every nomination must be from two (2) eligible members within the Clan group. This means a recognised Class A shareholder of the relevant Clan Group and Sub-Regional Trust.

Nominee

Means the person nominated for office. Also known as a candidate.

Office and Officer

Has the same meaning as the definition contained in Section 6 of the Act.

Prescribed Officer

The office holder or employee within the organisation who is authorised by the committee of management to make available the register of members to the returning officer. In all cases, the prescribed officer will be the Executive Officer of the WCCT.

Returning Officer

Means, in relation to elections conducted by the Australian Electoral Commission, an employee of the Australian Electoral Commission.

Elections

Coordinating Committee and the Sub-Regional Trusts

As specified in the WCCCA at clauses 24.3.1 and 3.7.2 of Schedule 10, the anniversary date for appointment of Members and Directors is 14 March. Only those Members and Directors who are registered A Class Members as at this date are eligible to stand for election.

The Executive Officer of the WCCT will provide to the AEC a copy of the Shareholder database accurate as at this date in the election year.

The AEC will call for nominations from eligible A Class Members within each Clan group in accordance with the Election Policy described above. The AEC will ensure that all nominees satisfy all of the requirements as specified in the Election Policy.

Once nominations are confirmed, the AEC will conduct a secret postal ballot.

The term of office for successful candidates will commence with the Q4 meeting of the Coordinating Committee and the Sub-Regional Trusts in the election year. Candidates shall hold office for 2 years or until their successors are declared elected.

Returning Officer

Powers and Duties:

A returning officer not being the holder of any office in, or an employee of, the Coordinating Committee or the Sub-Regional Trusts shall be appointed by the Australian Electoral Commission to conduct each election for office for the Coordinating Committee and the Sub-Regional Trusts.

Where a returning officer is required to conduct an election for any position other than an office, the returning officer shall apply these election rules making any necessary changes and shall have the same powers and duties as apply under these rules to the conduct of an election for office.

The returning officer shall prepare and circulate a notice calling for nominations in accordance with these rules and the Election Policy.

After the close of nominations, the returning officer shall consider all nominations received during the nomination period. The returning officer may reject any nominations received after the nomination period has closed.

The returning officer shall accept all nominations that satisfy the requirements of these rules.

The returning officer shall treat any defective nominations in the manner prescribed in these rules.

Where a ballot is required, the returning officer shall conduct the ballot in accordance with the provisions of these rules.

In respect to any matter pertaining to the conduct of any election, and in spite of anything else contained in these rules, the returning officer shall take such action and give such directions as the returning officer considers necessary, including but not limited to making void a step already taken in the election, to ensure the secrecy of the ballot and to prevent or remedy an irregularity.

Advertising

The returning officer shall cause an election notice to be published:

- a) on the Western Cape Communities Trust website; and
- b) in a newsletter circulated to all members eligible to participate in the election, either directly to the member's known postal address or via circulation in all Communities within the electorate area – Aurukun, Napranum, Mapoon, New Mapoon, Hopevale and Cairns.

Election Notice:

The election notice shall:

- a) state that the election is being conducted by the returning officer;
- b) list the offices for which nominations are sought;
- c) invite nominations for election from all eligible persons;
- d) fix the time and date for the opening and closing of nominations;
- e) fix the time and date for the opening and closing of the ballot;
- f) have attached, 2 nomination forms and specify the place where further nomination forms may be obtained;
- g) specify the place where nominations must be lodged;
- h) specify the accepted method/s of lodgement;
- i) fix a time and date for withdrawal of nominations.

Timetable – nominations and voting

Nominations:

Nominations for membership of the Coordinating Committee and as Directors of the Sub-Regional Trusts shall open on 1 May in the election year.

Nominations shall close at 12 noon on 31 May in the election year. Nominations received by the returning officer after that time may not be accepted.

If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.

Nominations shall be called in the manner prescribed in these rules.

Candidates can self-nominate but every nomination must be from two (2) eligible members of the Clan Group which means that all nominees must be Class A shareholders.

Nominations lodged with the returning officer shall be in writing and include the following information:

- a) the full name of the nominee;
- b) the form in which the nominee's name is to appear on the ballot paper if different to the name shown above;
- c) the nominee's contact details;
- d) the name and address of the nominator;
- e) the office for which the nominee is nominating;
- f) the signed endorsement/consent of the nominee;
- g) the signature of the nominator;
- h) any further documentation required by the returning officer.

Voting:

Voting for all elections conducted under these rules shall open on 1 July in the election year.

The ballot shall close at 10 am on 31 July in the election year. Ballot material received by the returning officer after that time may not be included in the scrutiny.

If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.

In spite of the provisions of this Rule, if the returning officer is unable to commence the nomination period so as to comply with this Rule, the election timetable shall be established by applying the timeframes identified in this Rule, but commencing from the date of opening the nominations.

Eligibility to nominate

All nominees must be A Class shareholders as identified in the shareholder registry as supplied to the returning officer.

Eligibility as a Member of the Coordinating Committee and as a Director of a Sub-Regional Trust are specified in the Election Policy above.

Each member's eligibility to participate as a nominee or nominator shall be determined as at the close of nominations.

Multiple nominations

Any eligible A Class shareholder can nominate for membership of the Coordinating Committee and/or as a Director of a Sub-Regional Trust that includes their Clan group.

However, an A Class shareholder who is appointed by the relevant B Class shareholder cannot nominate as an independent Member or Director.

Defective nominations

Notification:

Where the returning officer finds that a nomination is defective, the returning officer shall, before rejecting the nomination, notify the prescribed officer and the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination, within the period of not less than seven days after being notified.

Where the returning officer has notified a person of a defective nomination, and where the defect has been remedied and the returning officer has been advised within the time prescribed by the returning officer, the returning officer shall accept the nomination.

Where the returning officer has notified the prescribed officer and the person of a nomination defect, and where the defect has not been corrected and the returning officer advised within the time prescribed by the returning officer, the nomination may be rejected.

Withdrawal of nominations

A member nominating for any office may withdraw the nomination:

- a) by notice in writing to the returning officer up to, but not later than 7 days after the close of nominations.

The notification in writing referred to above must include the signed endorsement of the nominee and be in a form acceptable to the returning officer.

Once a nominator has endorsed the nomination of another member for election to any office in the organisation, that nominator may not subsequently withdraw that endorsement.

Only in the event that insufficient nominations are received then late nominations may be accepted up to 7 days before polling commences.

Uncontested elections

Declaration:

If, after the close of nominations, the number of valid nominations received for an office does not exceed the number of positions to be filled, the returning officer shall declare elected the person or persons nominated.

Roll of voters

The roll of voters will consist of all approved A Class shareholders of the Sub-Regional Trusts as at 14 March in the election year.

The Close of Roll Day will be 30 April in the election year.

The prescribed officer will provide to the returning officer a copy of the A Class shareholder database within the first week of June in the election year. The database will include the A Class shareholder's last known contact address details and the Clan Group to which they belong.

Any candidate for election and any member entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

Contested elections

Ballot:

If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret postal ballot of members entitled to vote. The returning officer may include a number of ballots on the same ballot paper.

Ballot papers

Ballot paper wording:

The following features shall appear on all ballot papers prepared in respect of a secret postal ballot for an election for office:

- a) the name of the organisation
- b) the initials of the returning officer or other authenticating mark
- c) the name and number of office/s to be filled
- d) instructions for marking the ballot paper
- e) the names of the candidates in the format and order required by these rules
- f) instructions for returning the ballot paper
- g) name of the returning officer
- h) any other instructions considered necessary by the returning officer

The returning officer shall arrange for the printing of ballot papers and distribution to members eligible to vote.

The ballot papers shall contain the names of the candidates with the surname first followed by the given names. No other candidate information will be printed on the ballot paper.

The order of names in each ballot on the ballot paper shall be determined by lot drawn by the returning officer.

The ballot shall be conducted under the first past the post voting system. This means that the candidate who polls more votes than any other candidate is elected.

Voters are required to mark ballot papers using either a tick or a cross for the candidate/s that they wish to elect.

This rule will apply whether there is just one candidate to be elected or where there is more than one candidate to be elected.

In the event of a tie, the returning officer will determine the winner by lot.

A ballot paper shall be informal if marked other than in accordance with this rule.

The ballot paper shall contain instructions for the voter to place a tick **OR** a cross opposite the name or names of the candidates for whom the voter wishes to vote.

Postal ballot

Postal facilities for ballot material:

The returning officer shall, for the purpose of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to

- a) persons authorised by Australia Post,
- b) the returning officer, and
- c) persons authorised in writing by the returning officer.

Issue of ballot material:

On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.

Ballot materials shall include:

- a) one or more ballot papers showing the time and date of the close of the ballot,
- b) a Reply Paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter,
- c) an inner 'Declaration Envelope' as prescribed by the Act, suitable for containing the ballot paper/s.

Replacement ballot material:

Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoiled, the member may make an application to the returning officer for the issue of replacement ballot material.

The application shall

- a) be in writing
- b) set out the applicant's full name and postal address
- c) set out the grounds on which the application is made
- d) contain a declaration that the applicant has not voted in the ballot
- e) be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.

If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

Scrutiny

During the ballot:

During the course of the ballot, the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a

final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time of the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

Preliminary scrutiny of envelopes:

The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.

Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:

- a) remove the 'Declaration Envelope' from the Reply Paid envelope, and
- b) examine the voter's declaration attached to each 'Declaration Envelope', and mark off the voter's name against a copy of the roll of voters.

A voter's returned ballot material shall be rejected and set aside if:

- a) the 'Declaration Envelope' has not been returned, or
- b) the voter has not completed the declaration on the 'Declaration Envelope' to satisfy the returning officer, or
- c) the voter is ineligible to vote, or
- d) the returning officer is unable to identify the voter on the roll of voters.

Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.

The returning officer shall note on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.

Scrutiny of ballot papers:

When the returning officer has determined which declaration envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened and the ballot papers extracted and counted.

The returning officer shall reject as informal a ballot paper that:

- a) does not bear the initials or other authenticating mark of the returning officer, and/or
- b) has upon it any mark or writing by which the voter can be identified, and/or
- c) is not marked substantially in accordance with the instructions included on the ballot paper, and/or
- d) the marking is such that the intention of the voter is not clear, and/or
- e) is not returned inside the declaration envelope.

In all cases, the decision of the returning officer is to be final.

Declaration of results

Notice:

The returning officer shall declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to the relevant officer of the organisation at its registered office.

The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:

- a) the total number of persons on the roll of voters

- b) the total number of ballot papers issued
- c) the total number of envelopes that were returned undelivered by the closing date of the ballot
- d) the total number of ballot papers received by the returning officer
- e) the total number of ballot papers rejected as informal

Sub-Committees of the Coordinating Committee, Main Trust Board, Investment Committee, Western Cape Centre Limited.

Members and Directors for each of these entities will be elected according to the Collegiate Voting System. These elections will occur at the first meeting of the Coordinating Committee and the Sub-Regional Trusts after the election is declared for the Coordinating Committee and the Sub-Regional Trusts.

Membership of these entities will be in accordance with the Election Policy as described above.

Nominations

Nominations will be taken for the available positions from the floor of the meeting.

Voting

If there are more nominations than the positions available, the election will be undertaken by secret vote. The scrutineer will be the Executive Officer of the WCCT.

Resolution

The appointments to the various Committees, the Main Trust Board and the WCCL Board will be recorded in the Minutes of the meeting at which the election was conducted.

Adoption of this election policy

The above Election Rules were adopted by the following entities and committees:

Central Sub-Regional Trust, resolution CSRT190218-53.

Northern Sub-Regional Trust, resolution NSRT200218-150.

Southern Sub-Regional Trust, resolution SSRT210218-34.

WCCCA Coordinating Committee, resolution CC060318-15.

Western Cape Communities Trust, resolution WCCT070318-13.

Geoffrey Fahey
Executive Officer
Western Cape Communities Trust

27th March 2018