



CASE STUDY: An unusual circumstance

Yindjibarndi Aboriginal Corporation RNTBC

The Yindjibarndi Aboriginal Corporation RNTBC (YAC) in the Pilbara region of Western Australia looks after the native title interests of the Yindjibarndi people.

In 2015 the corporation found itself in the unusual situation of having no validly appointed directors. A split within the corporation, combined with the rule book stating that all decisions (including at directors' meetings) must be agreed to by a 75 per cent majority, led to a failure to appoint directors at YAC's AGM on 30 November.

This situation became evident when, on application from a corporation member, the Western Australian Supreme Court decided that, as a result of section 246-25(4) of the CATSI Act, the corporation had been without validly appointed directors since the AGM.

Rather than immediately appoint an administrator (in line with the plaintiff's application), Justice Le Meire adjourned his decision until the Registrar had an opportunity to consider the options—either to appoint a special administrator or take some other action to resolve the impasse.

The Registrar determined that the most effective option, in terms of both cost and time, was to use his powers under section 439-10(d) of the CATSI Act to call a general meeting for members to appoint new directors.

Under section 69-35(2) of the CATSI Act, the Registrar also has the power to change a corporation's rules where they do not meet the Act's internal governance requirements. In YAC's case, the Registrar replaced the need for resolutions (other than special resolutions) to be approved by 75 per cent of the voting members with the more usual requirement that resolutions can be passed if a majority of votes cast are in favour of the motion.

In March 2016 the Registrar called a general meeting, which he elected to chair, on 19 April 2016 to appoint new directors. The notice also included a special resolution for additional rule changes that the Registrar wanted the members to consider.



It was a good turnout. More than 250 members from a possible 448 listed corporation members attended the general meeting or submitted proxy appointments. Proper process was carefully followed. Members were signed in, voting bands allocated and proxy appointments assigned.

After the Registrar explained the reason for the meeting, the members heard from many nominees and members, each expressing their commitment to YAC.

As 27 members nominated for the 12 director positions available, a secret ballot was held. The Registrar and his staff undertook the count and 12 individuals were duly appointed.

The special resolution to introduce the Registrar's proposed rule changes did not achieve the required majority and failed.

It took over five hours to complete the business of the general meeting, demonstrating the high level of interest. Members participated fully, patiently and respectfully.

The Registrar's actions brought the members together and allowed for the re-instatement of a validly appointed board of directors. It also allowed YAC to continue with its governance processes and native title functions.

Everything considered, it was a successful outcome.

For more information on this matter see the Registrar's media release of 23 March 2016, *ORICMR1516-17: Registrar calls general meeting for Yindjibarndi*