



## REGISTRAR'S POSITION STATEMENT

# Permission to deny a members' request for a general meeting

The *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) gives members the right to ask directors to call a general meeting. The CATSI Act sets out how members can request a general meeting, including that a minimum number of members needs to make the request.

Directors are responsible for confirming the members' request for a general meeting meets the requirements of the CATSI Act. This is not the role of the Registrar of Aboriginal and Torres Strait Islander Corporations (the Registrar) or the Office of the Registrar of Indigenous Corporations (ORIC). If the members' request does not meet the requirements of the CATSI Act, it is the responsibility of the directors to advise the members.

If the members' request does meet the requirements of the CATSI Act, within 21 days of receiving the request directors need to **either**:

- call the general meeting (giving 21 days notice)
- resolve the members' request is frivolous or unreasonable or that complying with the request would be contrary to the interests of the members as a whole, and seek permission from the Registrar to deny the members' request (to not hold the meeting).

The Registrar has 21 days to consider a director's request seeking permission to deny the members' request to hold a general meeting.



## Principles

1. Members' right to request directors call a general meeting is a key instrument of member control.
2. Directors need to address members' concerns.
3. The Registrar supports members to exercise their rights responsibly.

### **Principle 1: Members' right to request directors call a general meeting is a key instrument of member control.**

1. Members control corporations incorporated under the CATSI Act.
2. Members have responsibilities under the CATSI Act such as appointing directors, and deciding if directors get remunerated and the amount of remuneration they can be paid.
3. Directors are responsible for the governance and operations of corporations.
4. Members have the right to ask questions of directors. Members can also raise any concerns with directors.
5. The CATSI Act provides members with various channels to raise their concerns with directors.
6. Members' right to request directors to call a general meeting is a key mechanism for members to raise their concerns with directors. It is also a mechanism for members to seek changes by way of proposed resolutions on matters that members are entitled to decide. For example, members can seek to remove directors who have lost their trust and confidence.

### **Principle 2: Directors need to act in the interests of members.**

1. Directors are responsible for governing a corporation while they enjoy the trust and confidence of the membership. While they are accountable to the members, they must also enjoy the ability to fulfill their director duties without influence, interference and member disruption.
2. The CATSI Act requires that a minimum number of members request directors to call a general meeting. This provision prevents this members' right from being misused by an individual – instead requiring concerns to be shared among a group of members to give rise to the right.
3. Directors should give careful consideration to a members' request for a general meeting.
4. Acting in the interests of members as a whole may mean holding the general meeting to provide harmony and stability for the corporation. Enabling members to raise their concerns and seek change may prevent a more serious escalation of matters putting at risk corporation governance and operations.
5. Acting in the interests of members as a whole may also mean that a general meeting should not be held. For example, because a general meeting or annual general meeting was recently held by the corporation and it would be too costly to hold another one. Or because the members who requested the general meeting want to undermine the resolutions made at the previous meeting.
6. Sometimes members will propose resolutions to be heard at a general meeting which they are not entitled to under the CATSI Act and/or corporation's rule book. For example, members

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may be asking for a Chief Executive Officer to be removed or reinstated which is not a member right or responsibility under the CATSI Act.

7. When considering a request from a director to deny a members' request for a general meeting, the Registrar will consider if members are proposing resolutions that would not be binding on a corporation (that is, resolutions that members are not entitled to ask for).
8. Directors should act with goodwill and address members' concerns. Sometimes a general meeting will not be the appropriate mechanism to do this. Directors should find an alternative method to do so.
9. The Registrar will weigh up a range of factors when considering a request from a director seeking permission to deny a members' request from a general meeting. Directors making such an application need to demonstrate they have given genuine consideration of the members' request, the interest of members as a whole and how to best address the concerns raised by members.
10. The Registrar has low tolerance for directors seeking to deny a members' request for a general meeting to avoid being removed as directors or held accountable by members.

### **Principle 3: The Registrar will support members to exercise their rights responsibly.**

1. The Registrar will support members to exercise their rights under the CATSI Act, including to raise concerns with directors and to remove those directors who have lost the trust and confidence of members.
2. The Registrar will not support members who are irresponsibly enacting their rights to undermine decisions and actions of directors and the broader membership base. The Registrar also will not support members who are enacting their rights to extend corporation disharmony or personal conflict.
3. The Registrar will consider regulatory action for corporations that do not support members to exercise their rights.



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