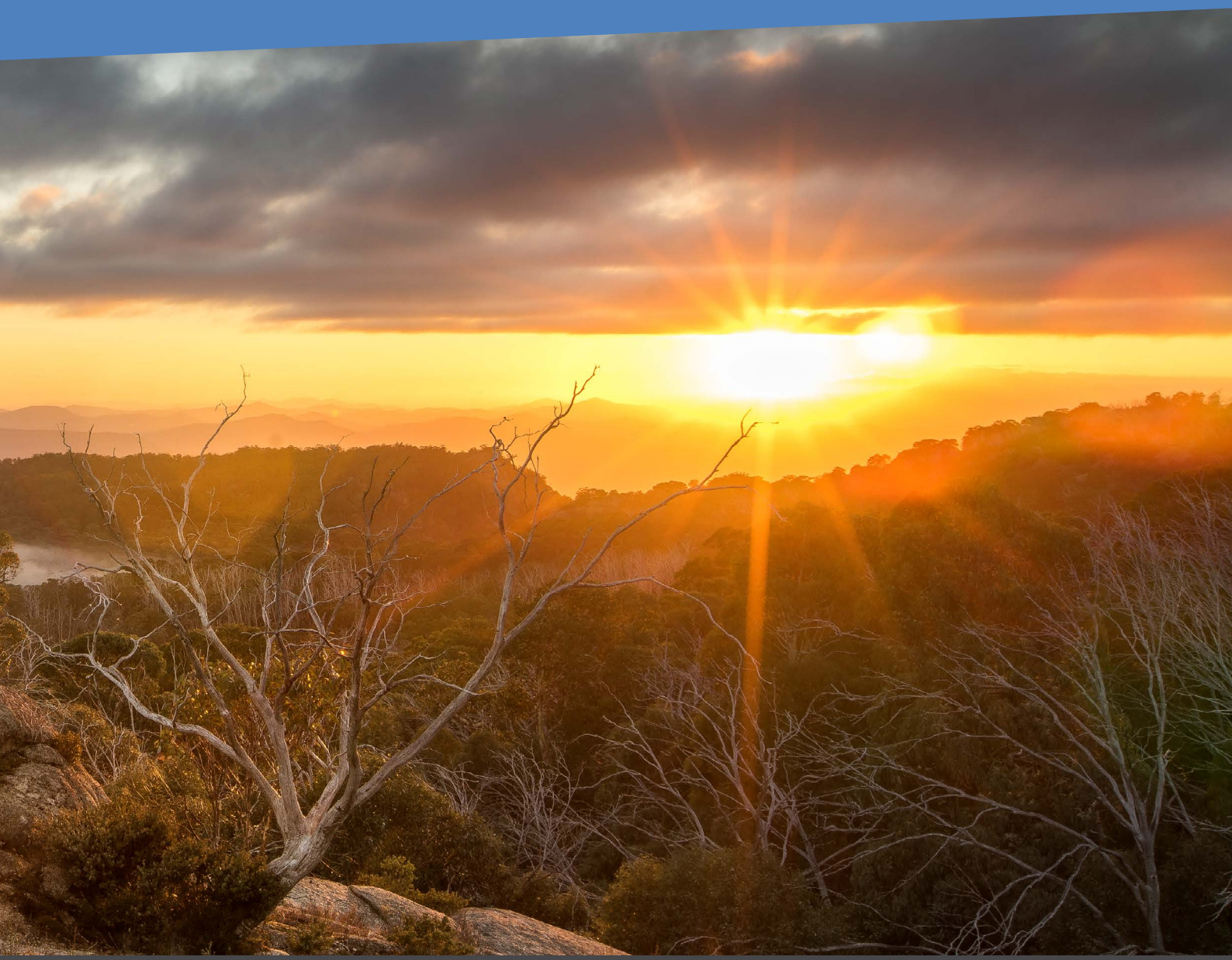
TAUNGURUNG LAND AND WATERS COUNCIL

DECISION-MAKING GUIDE

2019



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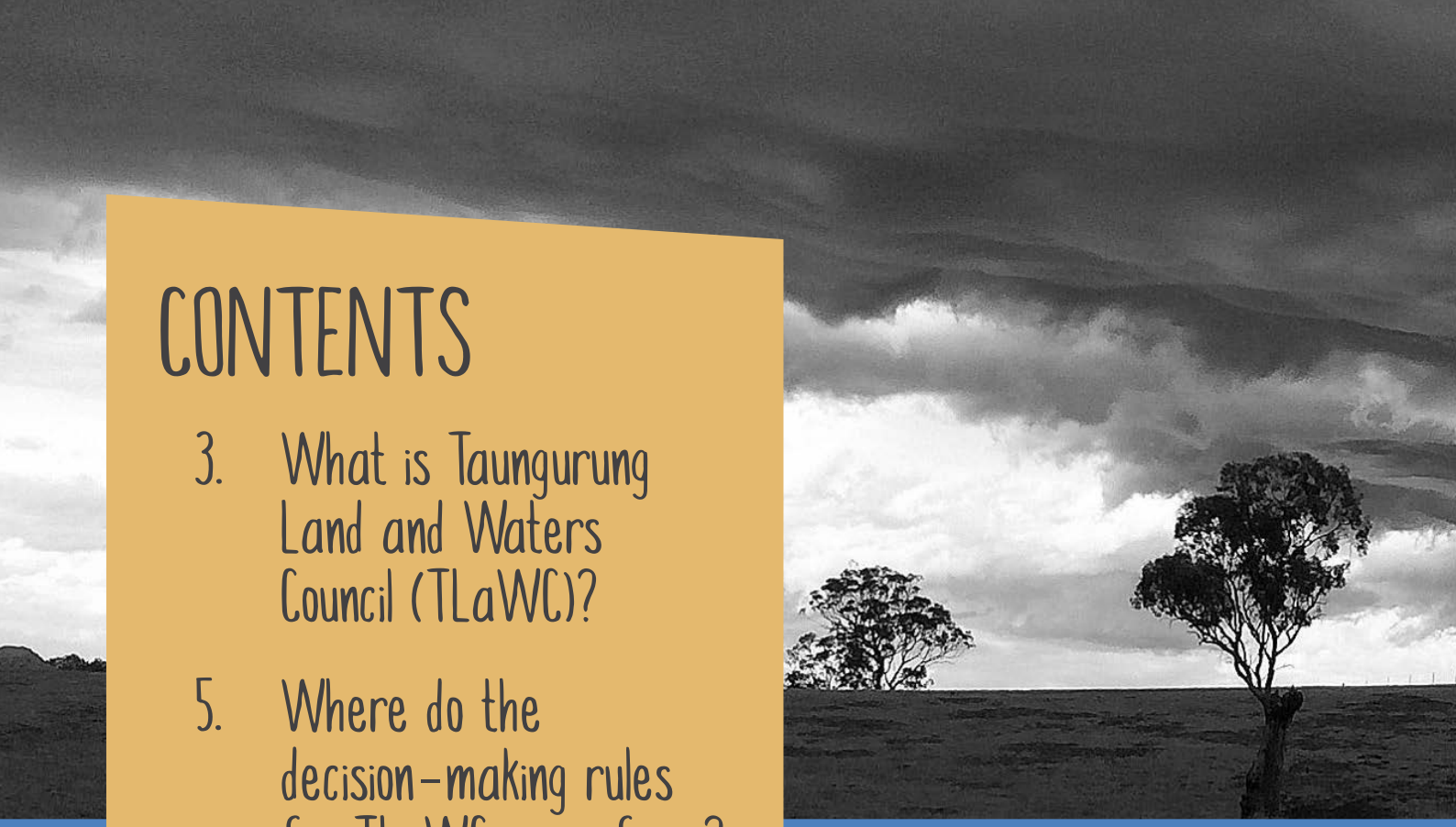
TAUNGURUNG LAND & WATERS COUNCIL
First people of the rivers and mountains



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3. What is Taungurung Land and Waters Council (TLaWC)?

5. Where do the decision-making rules for TLaWC come from?

6. Guide to lift-outs

This Taungurung Decision Making Guide has been developed in a partnership between Taungurung Land and Waters Council (TLaWC) (http://taungurung.com.au/) and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) (https://aiatsis.gov.au/).

It has separate easily accessed lift outs to guide Directors, Chairs, CEOs and Members.

WHY THIS GUIDE?

Making the right decisions is critical to the success of TLaWC and the future generations of Taungurung peoples. Skilled decision-making also goes a long way to reducing the impact of and managing disputes.

The way to start is to make sure that Taungurung people know how TLaWC decision-making works and who makes decisions about what.

TLaWC and AIATSIS acknowledge the contribution of Right People for Country for providing consultation opportunity in the family engagement project and the Victorian Government for providing project funding.

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http://taungurung.com.au/decision-making-guide/

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Artwork provided by Mick Harding, (Taungurung).

Designed by Amity Raymont, Brad Jones and Metka Kosec, AIATSIS.

WHAT IS TAUNGURUNG LAND AND WATERS COUNCIL (TLaWC)?

TLaWC is an Aboriginal corporation which represents the Taungurung first nation. TLaWC was incorporated in 2003 under what is now the *Corporations (Aboriginal and Torres Strait Islander) Act* 2006 (Cth) - the CATSI Act.

TLaWC represents the interests of Taungurung people in many ways.

All of these are intended to achieve recognition and respect for Taungurung people, language and culture and to contribute to the well-being and solidarity of the Traditional Owners of Taungurung land and waters.

WHAT DOES TLaWC DO?

- TLaWC is the Traditional Owner Group Entity (TOGE) that accepts the responsibilities that Taungurung people hold in their settlement agreement with the Victorian State Government under the *Traditional Owner Settlement Act 2010* (Vic) (TOSA).
- TLaWC protects the cultural heritage of Taungurung people by performing the functions of a Registered Aboriginal Party (RAP) under the *Aboriginal Heritage Act 2006* (VIC)
- TLaWC develops projects for the economic, social and cultural well-being of Taungurung people and looks after Taungurung country

HOW IS TLaWC STRUCTURED?

TLaWC has:

- Over 250 members
- Board of Directors (up to 8 Taungurung people) with up to 2 independent Directors (Indigenous or non-Indigenous) with specialist expertise (such as in law, business or general management)
- Chairperson and a Deputy Chairperson
- CEO
- Staff of 8 people in 2018 (pre TOSA agreement)

The members and majority of Directors of TLaWC must be Indigenous.

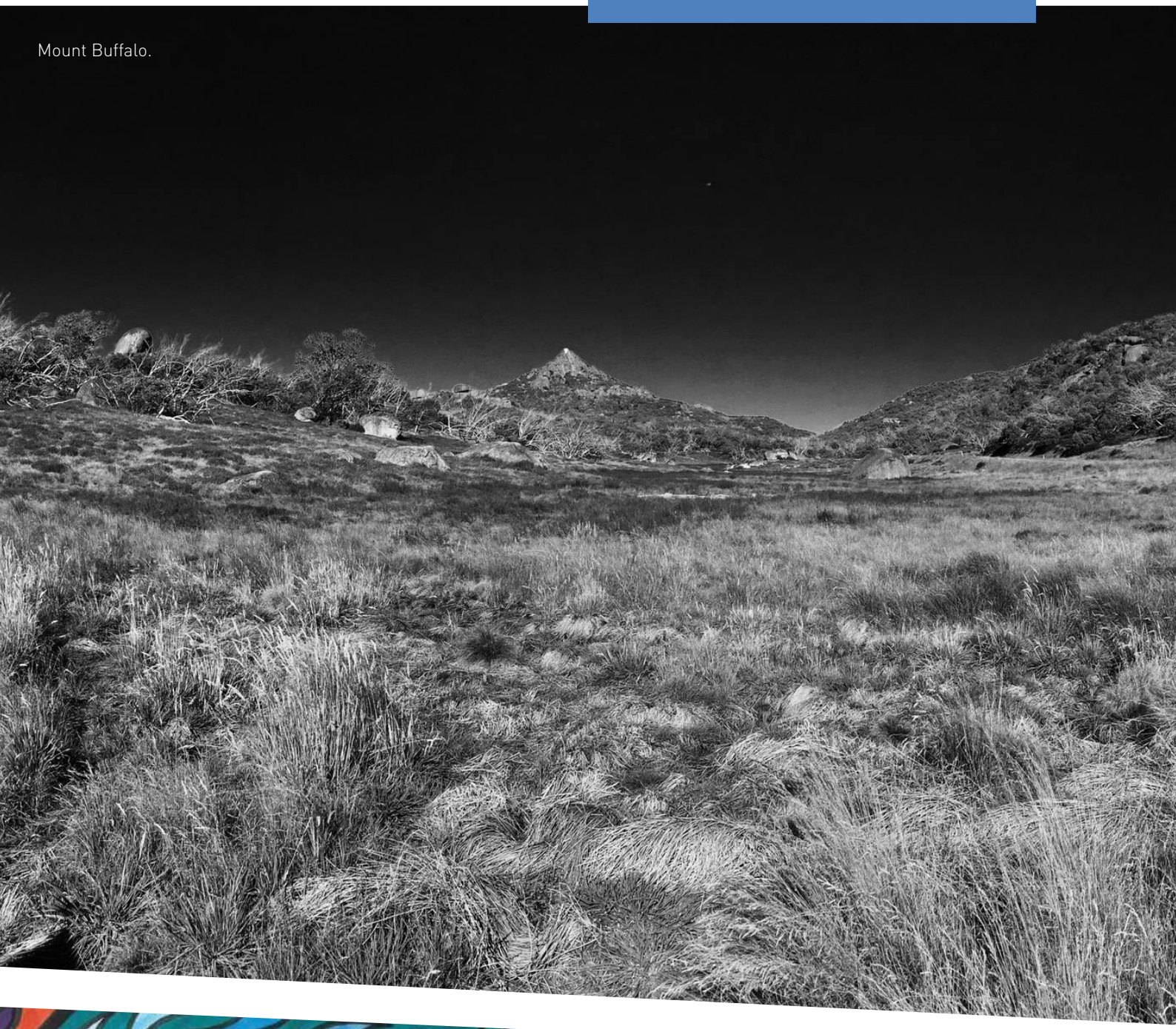
Taungurung Enterprises (TE)

In October 2017 TLaWC also established its wholly owned Taungurung Enterprises Pty Ltd (TE) which currently has three Directors appointed by the TLaWC Board, with a capacity to appoint independent Directors.

Taungurung Enterprises is a business and investment vehicle to build a sustainable economic base for the Taungurung people into the future.

WHAT ARE TLaWC'S FIDUCIARY DUTIES?

1. to act in the best interests of all potential beneficiaries of the Agreement with the State
2. as a trustee, to make decisions about the management and use of land and financial resources in the best interests of all Taungurung people



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WHERE DO THE DECISION MAKING RULES FOR TLaWC COME FROM?

TLaWC cannot just do what it likes. It has to follow Commonwealth and Victorian Government laws including:

- the *Commonwealth (Aboriginal and Torres Strait Islander) Act 2006* (Cth) known as the CATSI Act
- the *Aboriginal Heritage Act 2006* (VIC) as a Registered Aboriginal Party (RAP)
- the *Traditional Owner Settlement Act 2010* (VIC) known as the TOS Act

The CATSI Act has the most to say about TLaWC decision-making. It provides guidance about things like:

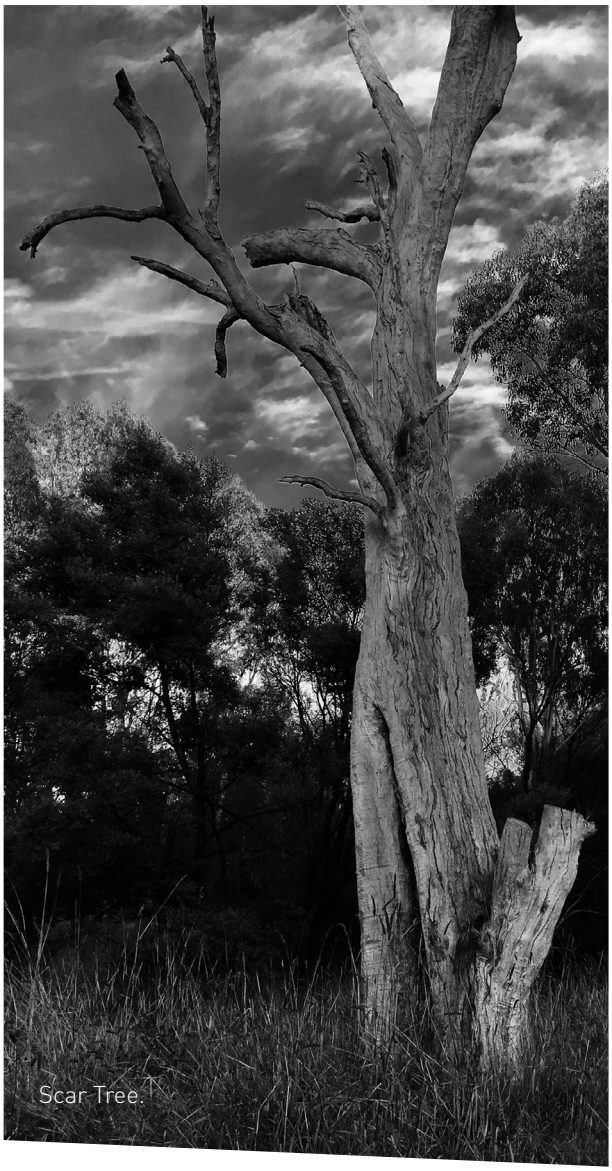
- Roles and responsibilities of Directors and members
- Membership
- Corporation meetings
- Reporting
- Financial recording

CAN TAUNGURUNG PEOPLE MAKE THEIR OWN DECISION-MAKING RULES?

The CATSI Act does not tell TLaWC everything about effective decision-making. Taungurung people can also bring their own ideas to TLaWC decision-making.

TLaWC has to follow the CATSI Act, but TLaWC's Rule Book also to some extent reflects the way TLaWC wishes to do business and make decisions.

TLaWC's Rule Book is registered with and approved by the Office of the Registrar of Indigenous Corporations (ORIC) and can be found by anyone on ORIC's website.



Scar Tree.

WHAT DECISION-MAKING DUTIES DOES TLaWC HAVE TO TAUNGURUNG PEOPLE?

Under the CATSI Act, TLaWC has a *legal* responsibility to make decisions in the interests of its members.

TLaWC also has fiduciary duties not only to the members, but also to others who identify as Taungurung.

LIFT-OUTS

All of the information provided in the lift-outs is compliant with the CATSI Act, TOSA and TLaWC's Rule Book.

1. TLaWC DECISION-MAKING

The first lift-out provides information about the context and values of Taungurung decision-making, including free, prior and informed consent.

2. TLaWC DIRECTORS

This lift-out includes information about the TLaWC Board of Directors, including:

- Who can be a TLaWC Director
- What decision-making duties TLaWC Directors hold
- How Directors fulfil their decision-making duties
- What decisions Directors make

3. HOW DOES THE TLaWC BOARD MAKE DECISIONS?

This lift-out provides more detailed information about decision-making by the TLaWC Board of Directors, including:

- The Board agenda
- How resolutions are made
- How voting takes place

4. THE CHAIRPERSON

This lift-out includes specific information about the TLaWC Chair, such as how the Chair is elected and what decisionmaking responsibilities and powers they have.

5. THE CEO

The CEO lift-out clarifies the role of the CEO, including the kinds of decisions the CEO is responsible for and how this is different from the role of the Chair.

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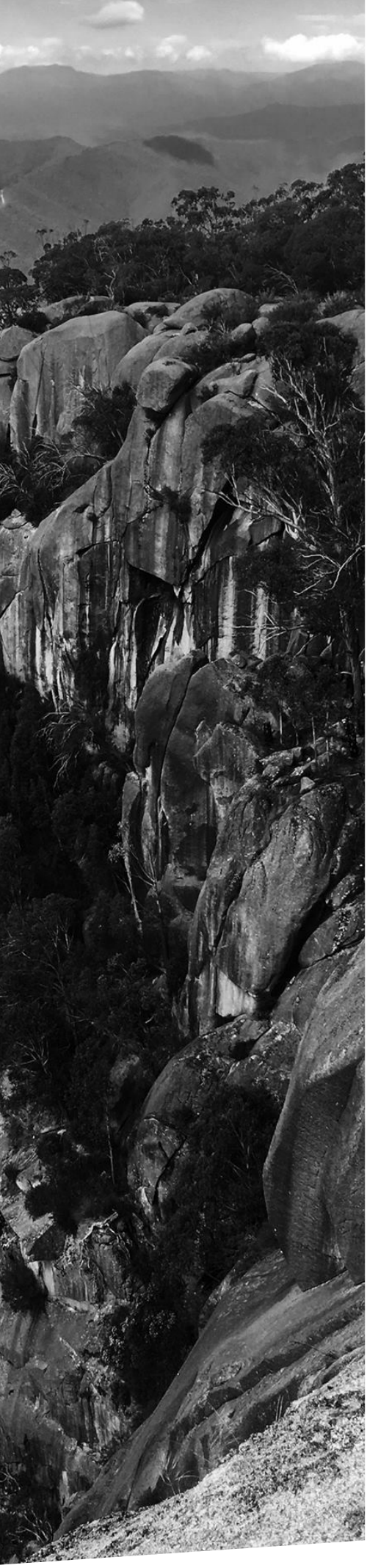

6. MEMBERS AND DECISION-MAKING

This lift-out is to provide members and other Taungurung people who might be considering joining TLaWC with information about:

- Decision-making
- Responsibilities
- Code of conduct
- Annual General Meetings and Special General Meetings
- Process of voting
- Examples of member resolutions

7. CONFLICT OF INTEREST

This lift-out alerts TLaWC Directors and others to how a potential conflict of interest can be managed.

8. EXTERNAL FACILITATION IN DECISION-MAKING

This lift-out assists with determining when an external facilitator might be needed for decision-making. The lift-out also provides tips for anyone who might be involved in facilitating TLaWC meetings or discussions.

9. TLaWC's PROCESS FOR BUILDING AGREEMENT (PARTICULARLY IN DIFFICULT AND/OR DISPUTED DECISIONS)

This lift-out provides a practical step-by-step process that Directors or members can use in decision-making to discuss difficult issues and build agreement.

10. COMPARATIVE TABLE OF TLaWC DECISION-MAKING

The final lift-out is a quick reference table to use to see which decisions are made by who in the organisation – the Board, the CEO and the members.

TAUNGURUNG LAND AND WATERS COUNCIL

TLaWC DECISION-MAKING

1

WHO MAKES TLaWC DECISIONS AND WHEN?

It's not practical for members to be involved in every TLaWC decision. Directors are elected by the members to have the responsibility to make many of these decisions, while other decisions are made by the CEO.

TLaWC holds four kinds of meetings:

BOARD MEETINGS

For TLaWC Directors (although the CEO should attend and observers can attend if invited by the Board)

ANNUAL GENERAL MEETINGS (AGMs)

For members

SPECIAL GENERAL MEETINGS (SGMs)

For members

FULL GROUP MEETINGS

Open to all Taungurung people

WHAT ARE THE VALUES OF TLaWC DECISION-MAKING?

Taungurung people have their own special ways of knowing, being, doing, and relating to each other and to their Country. They bring these Taungurung cultural values to how they do their business, whether the business is cultural, social, economic or all three.

The values acknowledge the trauma of colonisation that Taungurung people have experienced and the commitment of Taungurung people to self-determination, family and country.

TLaWC decision-making values apply to Directors, Chair, members, CEO and staff alike.

TLaWC DECISION-MAKING VALUES

Building agreement, understanding and relationships and bringing as many people along as possible to a majority decision.

Free prior and informed consent (FPIC) at every step, with relevant and straightforward information being available (United Nations Declaration of the Rights of Indigenous Peoples).

Culture is not an excuse for bad behaviour.

Taungurung family relationships are important, but decisions are made in the best interests of all members, not just one family or person.

Everyone speaks their view, informs themselves about the issues, listens, and respects different perspectives.

Honesty, fairness, and good faith including commitment to reaching an outcome and respecting each other in the final decision even if disagreeing.

Conflict of interest is declared and managed.

Compliance with the CATSI Act, codes of conduct and the Rule Book.

The TLaWC Rule Book states that Taungurung people make decisions by majority vote – that is, more than half of the votes.

Cathedral Ranges

WHAT IS FREE, PRIOR AND INFORMED CONSENT?

'FREE'

MEANS NO FORCE, COERCION, PRESSURE, INTIMIDATION, OR MANIPULATION

'PRIOR'

MEANS CONSENT HAS BEEN SOUGHT WITH ENOUGH TIME IN ADVANCE OF ANY AGREEMENT OR COMMENCEMENT OF ACTIVITIES FOR INDIGENOUS CONSULTATIONS AND CONSENSUS-BUILDING PROCESSES

'INFORMED'

MEANS THAT ALL INFORMATION RELEVANT TO THE DECISION IS PROVIDED ABOUT THINGS LIKE THE PLACE, SIZE, SCOPE AND TIMING OF A PROPOSAL, THE REASONS FOR IT, ITS ENVIRONMENTAL IMPACT, HOW IT WILL BE MONITORED AND HOW BENEFITS WILL BE SHARED. ACCESS TO ADVISERS, INCLUDING LEGAL COUNSEL, IS PROVIDED AS NEEDED.

TAUNGURUNG LAND AND WATERS COUNCIL

TLaWC DIRECTORS

2

TLaWC DIRECTOR RESPONSIBILITY

The Directors of the TLaWC Board play a key leadership role. They are responsible for the Council and for providing overall direction to what TLaWC does.

The Directors are the big thinkers and planners. They make tough decisions and have to make sure that the Corporation is sustainable into the future.

Directors are ultimately responsible for ensuring the compliance of the Corporation with the CATSI Act and other legislation. They may instruct the CEO to undertake the work, but the Directors are responsible for it being undertaken.

WHO CAN BE A TLaWC DIRECTOR?

TLaWC Directors are elected at Annual General Meetings (AGMs) for 2 year terms. At any one time TLaWC can have up to 8 Directors, not including any specialist, non-member Directors (see Rule Book).

You must be a TLaWC member to be a Director (unless you are an independent Director).

WHAT ARE THE LEGAL DECISION-MAKING DUTIES OF DIRECTORS?

Directors have legal duties set out in the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

The decisions that Directors make must not breach these duties.

Becoming a Director is not a decision to take lightly.

Penalties for breaching Directors' duties depend on what the breach is and how serious it is. Serious breaches may attract a fine or even imprisonment (Division 265, CATSI Act).

Directors' legal decision-making duties [ss 262-1; 265-1,5,10; 268-1; CATSI Act]

- **care, diligence and thoroughness,** taking responsibility seriously and acting in the interests of the Corporation
- acting in **good faith** in the best interests of the Corporation as a whole
- **not misusing their positions or information** that they have gained from their positions to gain an advantage for themselves or someone else or to cause harm to the Corporation
- **disclosing material personal conflict of interests** to other Directors in relation to Corporation business
- not to incur debts, make distributions to members or enter into uncommercial transactions when the **Corporation is insolvent** (unable to pay its debts).

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HOW DOES A DIRECTOR FULFIL SUCH DUTIES IN PRACTICE?

- Do the hard work to be informed about issues, reading all provided documents
- Act respectfully, honestly, responsibly and professionally, with fairness
- Represent all Taungurung people – not individuals or family groups
- Participate, speak up and provide information during meetings
- Say 'no' if in disagreement with other Directors, but provide reasons
- Don't be aggressive or speak badly about others
- Take responsibility with other Directors for majority decisions even if having a different idea
- Be on time
- Don't badmouth decisions and Directors outside meetings
- Maintain the confidentiality of discussions as required
- Avoid wasting time and repetition, going on and on, and keep to the agenda
- Comply with the TLaWC Directors' Code of Conduct
- Monitor and understand the financial circumstances and position of the Corporation.

WHAT DECISIONS DO DIRECTORS MAKE?

Board and membership governance

- Membership applications
- Dealing with formal complaints
- Removal of Directors

Strategic planning and organisational governance

- TLaWC's overall direction and long term objectives
- Submissions to enquiries and provision of advice
- Risk analysis and financial decisions, including sign-off on budget and delegations
- Policies and procedures
- Public face of TLaWC – website, logos, artwork
- Appointment of the CEO

Economic Development

- Commercial ventures
- Partnerships such as with universities or local government councils

Agreement-making

- Sign off on agreements negotiated with the State
- Implementation issues associated with TOS Act agreement

Land management and cultural heritage

- Country planning
- Joint management partnerships and governance
- Land and resource management
- Cultural heritage management
- Preservation of Taungurung cultural materials
- Signage: land, roads, buildings, etc

Cultural activities

- Language
- Tanderrum involvement and other such public cultural events
- Taungurung social, cultural and historical archive
- Governance issues to be included in the Rule Book (with member approval)

For specific examples of TLaWC decision-making and the role Directors play in those decisions see lift-out 3. 'How does the TLaWC Board make decisions' and lift-out 10. 'Comparative table of decision-making'.

TAUNGURUNG LAND AND WATERS COUNCIL

HOW THE TLaWC BOARD MAKE DECISIONS

3

Decisions are made by majority vote (more than half of the votes).

Before taking a final vote, the TLaWC Board tries to build agreement and understanding. This can mean that even when a Board member does not agree with a final decision, he or she can hopefully live with the outcome.

The TLaWC Board may seek advice from the CEO or other senior staff for information to assist in decision-making.

WHEN DOES THE TLaWC BOARD MAKE DECISIONS?

The TLaWC Board meets at least quarterly. For urgent or immediate issues, the CEO and Chair may request an 'out of meeting' Board decision by telephone or by a circulating resolution.

HOW MANY DIRECTORS NEED TO BE PRESENT TO MAKE DECISIONS?

A quorum is the minimum number of people needed to be present to make any decision of a meeting binding.

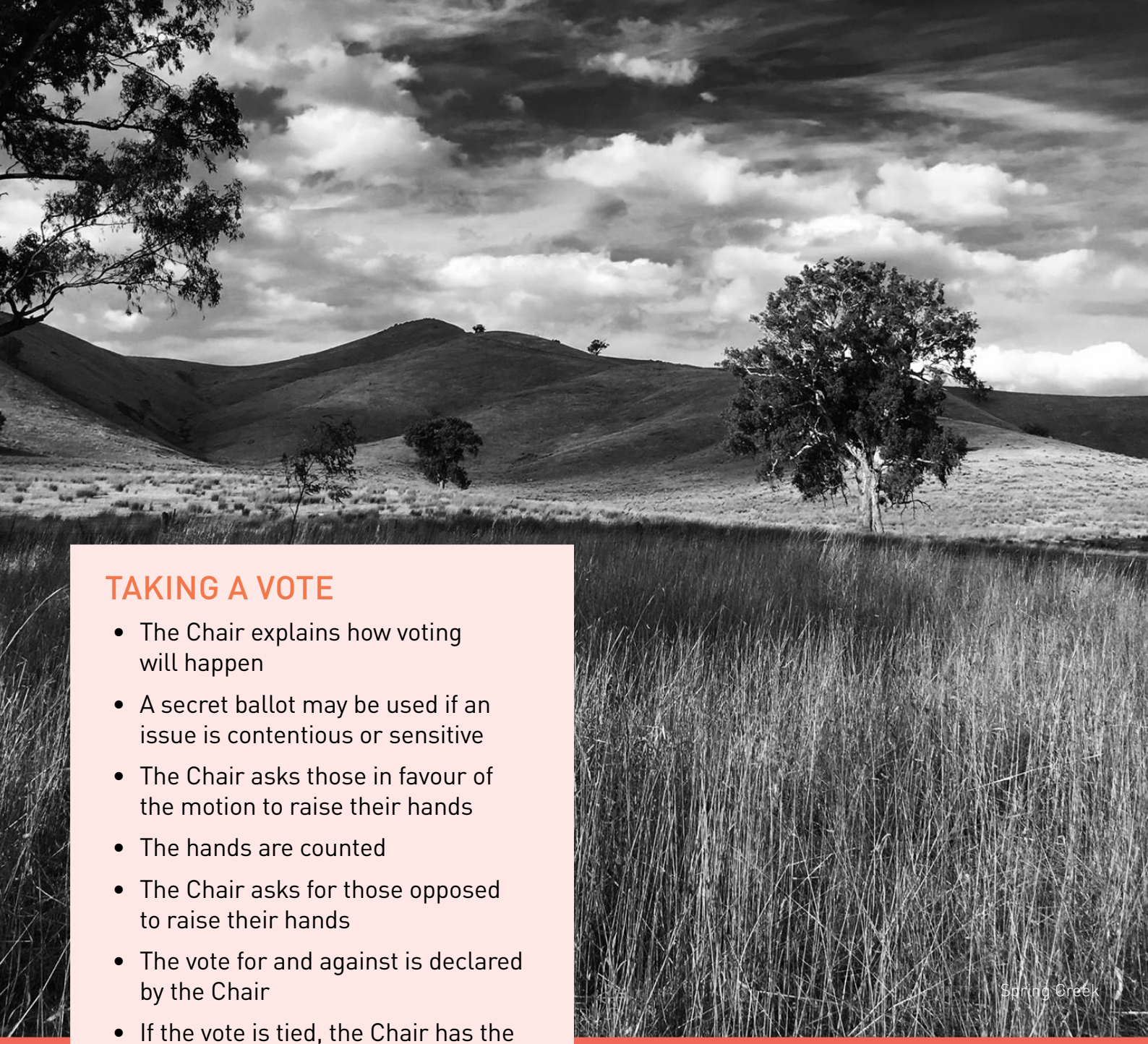
A majority of TLaWC Directors must be present before decisions by the Board can be made.

HOW IS THE TLaWC BOARD AGENDA DECIDED?

1. **The CEO prepares a draft agenda with items including:**
   a. Confirmation of minutes of the previous meeting
   b. A report on actions taken in relation to the decisions at the previous meeting
   c. Matters requiring further discussion
   d. A report from the CEO on significant operational and other matters
   e. A financial report
   f. 'Any other business' that Directors may raise in the meeting
2. **The Chair makes the final decision to approve the agenda**

HOW IS A RESOLUTION MADE BY TLaWC'S BOARD?

- The Chair invites an appropriate person to set out an issue – or may do so him/herself
- The Chair makes sure that any conflict of interest has been declared
- The Chair facilitates discussion of the agenda item, making sure everyone has their say and all the matters have been adequately discussed
- When sufficient discussion has occurred, the Chair asks if anyone would like to move a resolution
- A Director proposes a resolution or motion ('moves it'), with the wording carefully recorded
- The Chair calls for a seconder
- Another Director seconds the motion.



TAKING A VOTE

- The Chair explains how voting will happen
- A secret ballot may be used if an issue is contentious or sensitive
- The Chair asks those in favour of the motion to raise their hands
- The hands are counted
- The Chair asks for those opposed to raise their hands
- The vote for and against is declared by the Chair
- If the vote is tied, the Chair has the casting or deciding vote
- The decision is recorded in the minutes of the meeting.

HOW IS CONFLICT OF INTEREST DECLARED AND MANAGED?

TLaWC places a high importance on all Directors, members and staff being open and transparent, declaring when they or others may have a conflict of interest as soon as possible – even if they are not sure.

FOR FURTHER INFORMATION ON CONFLICT OF INTEREST, SEE SEPARATE LIFT OUT:

7 CONFLICT OF INTEREST

TAUNGURUNG LAND AND WATERS COUNCIL

THE CHAIRPERSON

4

WHO IS THE CHAIR?

The TLaWC Board of Directors is led by its Chair and Deputy Chair.

As well as chairing Board meetings, the Chair often represents TLaWC to the members and the outside world.

In the absence of the Chair, the Deputy Chair performs the role on a temporary basis.

HOW IS THE CHAIR ELECTED?

The Chair and Deputy Chair are elected by the Board of Directors in a majority vote as soon as possible after every AGM. They have a one year term.

WHAT DECISION-MAKING RESPONSIBILITIES AND POWERS DOES THE CHAIR HAVE?

- Manages meetings and facilitates participation of attendees
- All remarks are addressed through the Chair
- The Chair summarises and sets out the issue for discussion
- The Chair makes sure that any conflict of interest has been declared
- The Chair facilitates discussion of the agenda item, making sure everyone has their say and all the issues are brought out
- Follows the values and principles of TLaWC decision-making
- Provides advice to the CEO when requested
- Works with the CEO to settle the agenda for Board meetings and general meetings
- Responds to requests by Directors and members to raise reasonable items for discussion at Board and other meetings
- Closes down a meeting if a good reason exists to do so
- Declares the results of a vote
- Has the casting vote if needed to resolve a matter
- Reviews the minutes of meetings and signs off on the final record (s 220–5, CATSI Act)
- Makes a final decision when there is a challenge to the right to vote at a general meeting (s 201–120, CATSI Act, replaceable rule)

Mount Buffalo

WHAT POWER DOES THE CHAIR HAVE?

The Chair of TLaWC's Board:

- Leads the Board in making decisions rather than making decisions him/herself
- Has nothing to say about the daily running of TLaWC business
- Has no decision-making powers outside of Board meetings, though may provide advice
- Represent and speaks for the Council in any media enquiries (though the CEO may also do so)

SEPARATION OF POWERS AND ROLES

The powers and roles of the CEO and the Chair must be kept separate. Although the CEO and the Chair work closely together, they must not interfere in each other's roles and responsibilities.

Much depends on the judgment of the CEO as to whether issues are referred to the Chair and the Board for advice or decision.

The separation of the powers of CEO and Board makes sure that neither the CEO nor the Board holds too much power. It provides the balance on which strong governance depends.

TAUNGURUNG LAND AND WATERS COUNCIL

THE CEO

5

WHO IS THE CEO?

The Chief Executive Officer (CEO) manages the TLaWC organisation, making sure the day to day operations are running smoothly and effectively.

The CEO hires, fires and manages staff, organises finances, ensures compliance with external stakeholders and leads the process of achieving the objectives set out in the Strategic Plan.

HOW IS THE CEO EMPLOYED?

The CEO is employed by the Board, following an interview process typically undertaken by a sub-committee of the Board.

CAN THE CEO BE A BOARD MEMBER?

The CEO, like all staff members, cannot be a member of the Board but can be a member of the Corporation.

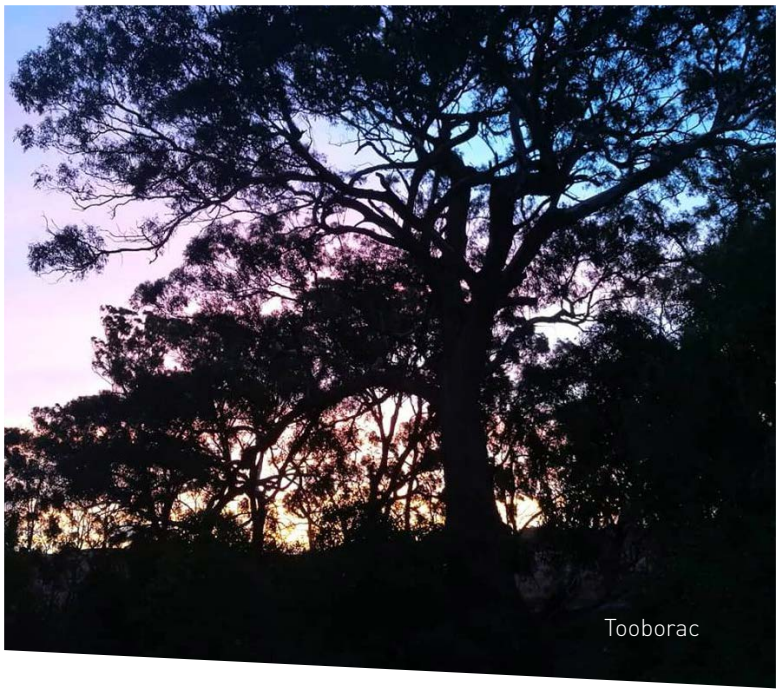
WHAT DECISIONS DOES THE CEO MAKE?

The CEO reports to the Board and carries out its decisions.

The CEO has full delegated authority from the Board to make decisions on the management of TLaWC staff, assets and finances.

Operational decisions

- Staff recruitment, management and remuneration
- Cultural heritage activities (who works on RAP clearances, for example; how cultural materials might be looked after)
- Human resources (conflict amongst staff, for example, or difficult leave applications)
- Administrative practices and procedures (how the office is run, for example, or rules about vehicle use)
- Risk management
- Stakeholder engagement
- Financial decisions within the budget and delegations set by the Board.



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WHAT POWER DOES THE CEO HAVE?

The judgment of the CEO sets the tone of the organisation.

The Chair can instruct the CEO on behalf of the Board, though not in relation to matters that are purely operational; however, the CEO may seek the advice of the Board on operational matters.

The CEO may brief the Chair and the Board and make recommendations on all matters that are before the Board for decision-making, but the CEO cannot direct the Board.

The CEO puts the Board's decisions into practice.

The CEO must always listen to the Board, and never ignore the Board's strategic or policy decisions.

SEPARATION OF POWERS AND ROLES

The powers and roles of the CEO and the Chair must be kept separate. Although the CEO and the Chair work closely together, they must not interfere in each other's roles and responsibilities.

Much depends on the judgment of the CEO as to whether issues are referred to the Chair and the Board for advice or decision.

The separation of the powers of CEO and Board makes sure that neither the CEO nor the Board holds too much power. It provides the balance on which strong governance depends.

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TAUNGURUNG LAND AND WATERS COUNCIL

MEMBERS AND DECISION-MAKING

6

Members are the soul of an organisation and TLaWC is ultimately their organisation

WHEN DO MEMBERS MAKE DECISIONS?

Members make decisions at:

- **Annual General Meetings (AGMs) - for members**
- **Special General Meetings (SGMs) – for members**
- **Full group meetings – open to all Taungurung people**

WHAT RESPONSIBILITIES DO MEMBERS HAVE IN DECISION-MAKING?

Like Directors, members have responsibilities if they are to participate effectively in decision-making.

Many of the things which Directors should do to make good decisions apply to the decision-making processes of members.

The values set out in the first lift-out 'TLaWC Decision-making', apply to the members as well as to Directors. Responsibilities of members may include the following:

- Recognition that the full and equitable participation of all members is critical to the success of a meeting
- Attending meetings and preparing for them by reading available materials and discussing issues with others
- Arriving on time
- Keeping an open mind
- Helping others to contribute
- Listening respectfully to the opinions of others
- Acknowledging that everyone has the right to disagree in a safe and productive environment
- Speaking up assertively and providing necessary information, but not being aggressive and rude
- Taking responsibility for majority decisions even if you lose the vote
- Not dominating the time and talking over others
- Supporting the Board in creating a safe space
- Avoiding conflict situations and side conversations which distract others
- Asking questions to clarify understanding Treating each other with respect,

MEETING CODE OF CONDUCT

When attending AGMs or special general meetings, members agree to abide by the TLaWC code of conduct and the meeting rules.

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WHAT DECISIONS ARE MADE BY MEMBERS AT AGMS?

AGMs have a limited agenda. They must address TLaWC's operational business to be compliant with the CATSI Act.

AGMs are for addressing the annual business of the Corporation, particularly electing Directors and receiving financial and other reports.

At the AGM, members can raise questions about the operations of TLaWC. But AGMs are not for raising personal issues.

Member Decisions at AGMs

- Confirmation of minutes of previous general meeting
- Election of Directors
- Choosing an auditor
- Approving the payment of sitting fees and any other financial benefits to Directors
- Addressing any issues or questions raised by members

WHAT DECISIONS ARE MADE BY MEMBERS AT A SPECIAL GENERAL MEETING?

Members make decisions (resolutions) at a Special General Meeting.

A Special General Meeting is any meeting of the members other than an AGM. Members cannot call general meetings themselves but they can ask the Directors to call them.

The Rule Book says that if 10 per cent of the members request a meeting, the Board must agree to hold it.

However, the Board can write to the Registrar asking not to hold the meeting if it thinks that the request is unreasonable.

Members cannot vote with proxies under the TLaWC Rule Book

Examples of member resolutions

- Changing TLaWC's name
- Amending TLaWC's Rule Book
- Cancelling a member's membership
- Electing Directors
- Removing a Director
- Other business raised by members in writing to the Chair that is properly a matter for the members rather than for the Board

How do members make decisions?

Before taking a final vote, the TLaWC Chair tries to build agreement and understanding so that the result can be a clear consensus even if not unanimous.

How do members get an item on a meeting agenda?

The agenda for a general meeting is developed by the CEO in consultation with the Chair.

A member can write to the Chair or CEO at any time, requesting that an item be put on an agenda for a general meeting or Board meeting.

It is up to the Chair and CEO to make a decision about which meeting agenda the item will go on and to let the member know.

The Chair must act in good faith and in the best interests of the Corporation. This means addressing member concerns and weighing up whether issues are reasonable items for discussion by the Board.

How is a members' vote decided?

- The Chair summarises and sets out the issue for discussion
- The Chair makes sure that any conflict of interest has been declared
- The Chair facilitates discussion of the agenda item, making sure a range of opinions can be heard and the issues brought out
- When the discussion has finished, the Chair asks if anyone would like to move a resolution
- A member proposes a resolution or motion ('moves it'), with the wording carefully recorded
- The Chair calls for a seconder
- Another member seconds the motion
- The Chair explains how voting will happen and asks those in favour of the motion to raise their hands
- The hands are counted (the Chair may get assistance with this)
- The vote for and against is declared by the Chair
- The Chair may seek further discussion (see lift-out 9 for tips on building consensus)
- If the vote is tied, the Chairperson has the casting or deciding vote
- A secret ballot may be used if there is disagreement about an issue
- The decision is recorded in the minutes of the meeting

Mount Buffalo

NON-MEMBERS AND FULL GROUP MEETINGS

TLaWC is the Traditional Owner Group Entity (TOGE) under the TOS Act. This means that TLaWC is recognised as the appropriate body to enter into a settlement agreement with the Victorian Goverment on behalf of all Taungurung people.

After settlement, TLaWC is the legal entity responsible for exercising the rights, holding the assets and fulfilling the responsibilities set out in the agreement.

This means ensuring that the settlement benefits are directed for the benefit of all Taungurung people.

Members and non-members alike may access settlement benefits.

Together they make up what is often referred to as 'the full group'.

All Taungurung people are welcomed and encouraged to be members of TLaWC. TLaWC may need to hold full group meetings from time to time. This includes all people who identify as Taungurung and so have rights and interests in Taungurung country.

TLaWC keeps a Register of Members and a broader register which includes others who identify as Taungurung people and belong to the full group, but who are not TLaWC members.

TAUNGURUNG LAND AND WATERS COUNCIL

CONFLICT OF INTEREST

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HOW IS A CONFLICT OF INTEREST DECLARED AND MANAGED?

TLaWC places a high importance on all Directors, members and staff being open and transparent, declaring when they or others have or may have a conflict of interest as soon as possible – even if they are not sure.

'CONFLICT OF INTEREST'

is when a person who is speaking on an issue or making a decision stands to gain financially, or in some other way.

They may have competing interests or loyalties and may not make the decision for the benefit of all. Rather, decisions may be made to benefit themselves or their families.

REMEMBER:

Perception is as important as the reality. Conflict of interest does not have to be real or true. If others think it exists, then it should be declared and addressed.

WHERE MIGHT CONFLICT OF INTEREST COME FROM?

There are three main sources of conflicts of interest: relationships, roles and personal gain.

Relationships

For example: relatives within the Board, or relationships between Board and staff or with the staff of other stakeholder organisations.

Conflicting roles

For example: being in the role of a Board member and also being a potential recipient of a payment or a position; having a direct relative who is a potential beneficiary.

Personal gain

For example: standing to gain personally from a decision either financially, or in some other way.

PRINCIPLES FOR INDIVIDUALS WITH A CONFLICT OF INTEREST

- Declare the interest
- Abstain from discussing/voting
- Openness and honesty
- Be prepared to seek guidance from outside the organisation

Cresta Valley

WHAT STEPS SHOULD DIRECTORS TAKE TO DECLARE AND MANAGE CONFLICT OF INTEREST?

Directors must declare whether they believe they have a conflict of interest in relation to any TLaWC business (See TLaWC Rule Book).

1. A Director or member declares a conflict of interest either when: receiving pre-circulated agenda items before a Board meeting; at the start of the Board meeting concerned; or when a relevant issue arises. The nature of this conflict of interest is recorded in the meeting minutes.
2. A Board member who believes another Board member has an undeclared conflict of interest should raise this potential conflict.
3. The Director or member should leave the room and not be present for any discussion, voting or other decision-making about the matter in relation to which they have a conflict.
4. The Chair considers options for managing the conflict, for example:
    a. The Director or member must not take part in any discussions to do with the decision
    b. The Director or member cannot vote on the matter
    c. The Director or member may with unanimous agreement be invited to participate in all or some of the discussion
    d. The range of contexts in which the conflict of interest is likely to arise are clearly identified and the behaviours which are expected of the Director or member in each of these contexts are carefully mapped.
5. The Director or member may be recalled and asked to respond to any queries the Board/ general meeting has and then asked to leave the meeting again.
6. The conflict of interest is documented in the minutes of the meeting.
7. Any breaches of expected behaviour should be brought to the Board's attention for consideration and possible disciplinary action

TAUNGURUNG LAND AND WATERS COUNCIL

AIATSIS

EXTERNAL HELP IN DECISION-MAKING PROCESSES

8

WHAT IS A FACILITATOR?

A facilitator is a 'third party' who designs and manages decision making processes. A facilitator helps groups of people work together to make decisions which they own and which are meaningful and sustainable.

Facilitators must be impartial. They should not enter into the discussion or put their point of view or ideas.

WHEN IS A FACILITATOR NEEDED?

Sometimes there is a need for a neutral third party to work out how a matter will be discussed and agreement reached.

Examples of when facilitators may be needed include when:

- Some participants, including the Chair, are seen to have personal interests in the outcome
- The group is new and trying to work out its purpose and dynamics
- There is a complex and difficult agenda item
- There is a lack of trust among participants
- The possibility of conflict is high
- There is a need to ensure that technical aspects are understood

WHAT ARE A FEW TIPS FOR CHAIRING AND FACILITATING?

- Consider sitting participants in a talking circle if numbers are appropriate for this
- Listen attentively and with genuine curiosity
- Set the tone by being confident, considerate, and respectful
- Make sure all voices are heard and issues are understood
- Allow the discussion to flow and don't cut it short, but keep discussions on track and on time by:
  - Summarising important points
  - Clarifying misunderstandings
  - Making sure actions are agreed and have clear time frames
- Thank participants for their contributions
- Help the minute taker to record proceedings and make sure nothing is missed.

A USEFUL COMMUNICATION TIP

Use open questions as much as possible to get discussion flowing and hear more ideas and opinions.

Open questions begin with:

- How?
- What?
- When?
- Where?
- Why?
- What for?

Closed questions only get Yes or No answers.

TAUNGURUNG LAND AND WATERS COUNCIL

AIATSIS

TLaWC'S PROCESS FOR BUILDING AGREEMENT

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PARTICULARLY IN DIFFICULT AND/OR DISPUTED DECISIONS

Sometimes Board decisions can be complex and difficult or there may be disagreement among the Directors. Not all decisions are straightforward.

Ideally TLaWC works to build agreement and understanding among its Directors. In the end a majority vote by a show of hands (51% or more than half) wins the day.

SOME OF THE FOLLOWING STEPS MAY ALSO BE HELPFUL IN BUILDING AGREEMENT.

1. The Chair calls the meeting to order, outlines the issue briefly and invites discussion by the Directors.
2. Board members take turns in asking clarifying questions of each other. They use open questions starting with how, what, where, when, why (not closed questions that have 'yes' or 'no' answers). Directors try to involve as many people as possible in the discussion.
3. The Board decides whether external expertise (eg legal or financial) is needed to make a fully informed decision in which case the matter is deferred until such advice is available. This can happen by a show of hands, or if necessary, by secret ballot.
4. The Chair asks Directors the following:
   a. What's the worst thing that could happen?
   b. What's the best thing that could happen?
5. The Chair facilitates a discussion asking the Board members to identify a number of other options in the decision to be made.

   Ensure that all voices and opinions have been listened to. Write all options on a white board or butchers paper.
6. The Chair summarises the options and then deals with each, one by one. Each option is considered for its pros and cons.
   a. What are all the pros (advantages) of the option?
   b. What are all the cons (disadvantages) of the option?
   c. How does it align with TLaWC's decision-making principles and its strategic aims and legal requirements?
   d. How likely is it to happen?
   e. What would happen if....?
7. The Chair or a Director summarises the discussion and where it's at.
8. The Chair takes a vote on each option and identifies the favoured options.
9. The Chair speaks to those voting against an option: 'I'm sorry you lost the vote, but what would it take for you to go along with the majority/the others?'
10. Explore the possibilities of this occurring and what new resolution might be made if any.
11. Take another deciding majority vote on any changed resolution.
12. Continue until maximum agreement has been reached.

TAUNGURUNG LAND AND WATERS COUNCIL

COMPARATIVE TABLE OF TLaWC DECISION-MAKING

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DECISION	BOARD	CEO	MEMBERS
Electing Directors	No	No	Yes
Removal of Directors	No*	No	Yes
Choosing an auditor	No*	No	Yes
Approving sitting fees/financial benefits to Directors	No	No	Yes
Amending Rule Book	No	No	Yes
Changing the name of TLaWC	No	No	Yes
Appointment of Chairperson	Yes	No	No
Membership applications	Yes	No	No
TLaWC's strategic direction	Yes	No	No
Major financial decisions (over $50,000)	Yes	No	No*
Minor financial decisions (under ($50,000)	No*	Yes	No
Appointment of the CEO	Yes	No	No
Staff matters (hiring and firing, salaries, etc)	No	Yes	No
Appointment of professionals (eg. Accountants)	No	Yes	No
Cultural heritage activities (eg. Who works on CHMP clearances)	No	Yes	No
Adopt strategic plan	Yes	No	No

* In some limited circumstances

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First people of the rivers and mountains

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