

Terms and Conditions Appointment of Applicant



***Wakka Wakka People QUD276/2019 & QUD277/2019
Authorisation Meeting #2
Sunday 6 June 2021, Gayndah***

The persons authorised jointly as the Applicant for the Wakka Wakka #3 & #4 Native Title Determination Applications (QUD276/2019 & QUD277/2019) (the Applications) are authorised subject to the following Terms:

1. The members of the Applicant:
 - (a) are to do all things necessary to implement the resolutions of the Claim Group in relation to the Applications, and will not act inconsistently with any resolution passed by the Claim Group at a properly called and constituted authorisation meeting;
 - (b) not do anything in their capacity as a member of the Applicant that is inconsistent with the recognition of Native Title under the *Native Title Act 1993* (Cth);
 - (c) owe fiduciary obligations and duties to the Claim Group as follows:
 - (i) Applicant members must not place themselves in a position where their private or personal interests come into conflict with the interests of the members of the native title claim group;
 - (ii) Applicant members must not pursue and secure personal benefits;
 - (iii) Applicant members must not make a profit from their position of trust unless expressly permitted to do so with the informed consent of the native title claim group; and
 - (d) must act in the best interests of the native title claim group and not for their individual, family or descent group's interests.
2. The Applicant will, subject to these Terms and Conditions, make decisions and give instructions to the Claim Group's solicitor in relation to all steps that are necessary or incidental to the prosecution or advancement of the Applications.
3. The Applicant **may**:
 - (a) enter into mediation and/or negotiation with the State, other respondent parties and neighbouring native title groups regarding any such matters that may be necessary to resolve the Applications;
 - (b) after receiving legal advice, agree to and take steps to effect:
 - (i) a reduction of the area claimed under the Applications; and/or
 - (ii) an amendment to the rights and interests claimed under the Applications;



- (c) negotiate and reach agreement with respect to future act matters under the *Native Title Act 1993* (Cth) and cultural heritage matters under the *Aboriginal Cultural Heritage Act 2003* (Qld) but must ensure that:
 - (i) for any work or opportunity that arises from cultural heritage or future act matters, such work is allocated fairly amongst all qualified members of the native title claim group; and
 - (ii) any proceeds or benefits generated from future acts and cultural heritage work are to be equitably distributed for the benefit of the native title claim group, with the informed consent and consultation with the native title claim group.
4. The Applicant **cannot** undertake any of the following steps without a resolution being passed to do so by the claim group at a properly called and constituted authorisation meeting:
 - (a) discontinue or withdraw the Applications;
 - (b) subject to other terms of appointment herein, amend the Applications without a resolution of the claim Group authorising them to do so;
 - (c) terminate the retainer of the solicitor appointed by the native title claim group;
 - (d) execute an agreement that has the effect of surrendering native title within the external boundary of the Applications.
5. If one or more members of the persons comprising the Applicant is incapable, unable or unwilling to continue to act as a member of the Applicant whether as a result of death, ill-health or any other reason, the remaining Applicants may continue to act as the Applicant and may file an application to amend the Applications to remove those persons' names from the list of persons comprising the Applicant, without the need to convene an authorisation meeting.
6. Any individual who is a member of the persons comprising the Applicant and:
 - (a) who does not attend two consecutive Applicant meetings with reasonable notice and without reasonable excuse; or
 - (b) acts inconsistently with any resolution passed by the Applicant or the native title claim group at a properly called and constituted authorisation meeting; or
 - (c) he or she seeks to delay or obstruct the progress of the Applications; or
 - (d) he or she seeks to pursue a position that is inconsistent with the recognition of Native Title under the *Native Title Act*; or
 - (e) refuses to sign or unreasonably delays signing an affidavit as required under section 62 of the *Native Title Act 1993* (Cth); or



(f) notifies QSNTS that they no longer wish to be a person who makes up the Applicant. The Applicant will be regarded as unwilling or unable to continue as a member of the Applicant.

For the purposes of this condition, unreasonable delay includes but is not limited to not signing the affidavit at the earliest opportunity to do so.

7. Decisions of the Applicant are to be made by a majority of those persons attending a properly called and constituted Applicant meeting. In doing so, the Applicant must abide by the following:

- (a) The Solicitor on the Record for the Applicant will convene meetings of the Applicant as are necessary to seek instructions and provide advice and information regarding the Applications;
- (b) If the Applicant wishes to convene a meeting of the Applicant, a majority of the members of the Applicant must consult with and seek agreement from the Solicitor on the Record for the Applicant two (2) weeks prior to the proposed date for the meeting;
- (c) An Applicant meeting may be conducted either in person, by teleconference or by video conference or by other technology that enables all persons to hear all other persons and to be heard when speaking. A quorum must be present throughout meetings conducted using technology.
- (d) A quorum for a meeting of the Applicant is 50% plus one (1) of the number of persons comprising the Applicant at the time the relevant meeting is called.
- (e) Voting by proxy is not permitted.
- (f) All members of the Applicant must abide by a majority decision.
- (g) If there are an even number of persons constituting the Applicant, then a majority is 50% plus one (1) of those persons.
- (h) All members of the Applicant will accept any reasonable legal advice given by their solicitor and act according to that advice;
- (i) Decisions of the Applicant may be made via flying resolution communicated to the Solicitor on the Record for the Applicant.

8. The Applicants acknowledge that their authority may be further varied by a resolution of the claim group.