

## **SEQICC Discussion Paper - New SEQICC Constitution**

### **Introduction:**

The SEQICC Constitution needs a significant update. Large sections of the current 2014 Constitution were part of the original rules written over a decade ago when the Chamber was first incorporated. Therefore, it does not accurately capture current policy settings and community expectations in the Indigenous business space.

In order to change its Constitution the SEQICC needs to hold a Special General Meeting (SGM) and, in accordance with the *Associations Incorporation Act (s.3)*, 75% of the membership need to vote in favour of the new 2020 Constitution for it to be passed.

The new Constitution (the proposed 2020 Constitution) is the first step in a range of governance processes the Chamber is keen to undertake. Once the 2020 Constitution is adopted and accepted by both the membership and the department, the SEQICC needs to:

- seek and confirm applications for membership (under newly agreed membership rules); and
- hold an Annual General Meeting (AGM) with the newly updated membership where:
  - all Management Committee positions will be vacated and a new Management Committee will be elected.
  - Other usual AGM business will also occur at this meeting e.g. audited financial and other reports.

The SEQICC Management Committee is hoping, with the support of members and the wider community, to work through these issues as quickly as practicable so that an AGM can be held in the first part of the year, ideally before July 2020.

### **Key elements of the Amendments:**

The proposed 2020 Chamber Constitution has been based on v.6 of the Model Rules under *the Associations Incorporation Act 1981 (Qld)*, with changes made to these rules to accommodate the specific needs of the Chamber and its objectives. There are three significant changes to the current 2014 SEQICC Constitution: 1. Membership, 2. Management Committee and 3. Objects which are dealt with in detail in this paper.

#### **1. Membership**

One of the most significant changes needed is to “membership” of the SEQICC. The membership clause under the current 2014 Constitution is far too wide.

Article 4 states: “any person, including a company, business, organisation, entity or public institution is entitled to apply for membership of the Chamber”. This means that the current membership of the SEQICC includes a number of businesses that are not “managed or controlled” by Aboriginal and/or Torres Strait Islander people, in fact it currently includes a number of non-Indigenous businesses and not-for-profit organisations.

Whilst we value the support of non-Indigenous organisations, and they were particularly valuable in the establishment of the Chamber over a decade ago, we do not believe that they should have the same membership and voting rights as businesses led by Aboriginal and/or Torres Strait Islander people. We wish to continue to have a relationship with these entities, but it is more appropriate that they have a different status than full or associate members e.g. supporters.

### **Membership requirements under the Proposed 2020 Constitution:**

#### *Full voting member:*

An Aboriginal and/or Torres Strait Islander person that:

- Owns, controls and manages a for-profit enterprise;
- is either a sole-trader, partnership, company or Indigenous corporation;
- Headquartered in South-East Qld.
  - Owns, controls and manages requires 50% or greater Aboriginal and/or Torres Strait Islander ownership and active control and management (According to Definitions of interpretation - Rule 1).

#### *Associate member:*

- Aboriginal and/or Torres Strait Islander person;
- Owns and controls an enterprise that is either a Sole trader, partnership, company or Indigenous corporation; OR
- Manages an enterprise that is either a partnership, company or Indigenous corporation;
- operates as a for-profit enterprise or not-for profit enterprise;
- Headquartered or located in south-east Qld.

*Supporter:* any company business organisation or public institution that supports the objects and purposes of the Chamber can apply to be a supporter of the Chamber.

### ***New Proposed membership rule from 2020 Constitution:***

#### **5 Classes of members**

(1) The membership of the Chamber consists of full members and associate members;

(2) The number of full members and associate members of the Chamber is unlimited;

(3) **Full membership** of the Chamber is open to any Aboriginal and/or Torres Strait Islander person who:

(a) owns, controls and manages;

(b) an enterprise that is sole-trader, partnership, company, or Indigenous corporation;

(c) that operates as a for-profit business that is headquartered in South East Queensland.

(4) **Associate membership** of the Chamber is open to:

(a) Any Aboriginal and/or Torres Strait Islander person who owns, manages, and/or controls, an enterprise that is a sole trader, partnership, company, or Indigenous corporation, that operates as a for-profit business, that has an office in South East Queensland.

(b) Any Aboriginal and/or Torres Strait Islander person who owns, manages, and/or controls, an enterprise that is a partnership, Indigenous corporation, incorporated association or similar, that operates as a not-for-profit business in South East Queensland.

(5) The Chamber may elect any of its members or past members as **honorary life members** in recognition of their special services to the Chamber and such persons shall thereupon be entitled to all the privileges of full financial membership.

(6) Any person, that is a company, business, organisation, entity or public institution that supports the objects of the Chamber as outlined in Rule 3 is entitled to apply to be a **supporter** of the Chamber.

## FAQs:

### **1. I was previously a member of the chamber, what will I be now?**

All of our community will have an opportunity to be part of the new membership structure as either a full member, associate member or supporter. We value the support of all the organisations, businesses and individuals that have helped the Chamber grow over the past decade, but moving forward we believe that the SEQICC should be governed and managed (voting rights) by its Aboriginal and/or Torres Strait Islander members.

### **2. Who will be the “member”?**

The business will be the member but it is a dual test. The membership clauses and membership application form have been drafted so that the business will be the member. However, in order to secure membership, the applicant will need to prove it is a for-profit business “owned, controlled and managed” by an Aboriginal and/or Torres Strait Islander person. So, it is both the business and the person that will need to apply together.

Each business will only get one vote. In circumstances where there are two Aboriginal and/or Torres Strait Islander owners (50/50) the business will need to nominate its voting representative.

Under the definitions in Rule 1:

“Owns, controls and manages” requires 50% or greater Aboriginal and/or Torres Strait Islander ownership and active control and management.

“Aboriginal and/or Torres Strait Islander” means a person who

- (a) is of Aboriginal descent and/or Torres Strait Islander descent;
- (b) identifies as an Aboriginal and/or Torres Strait Islander; and
- (c) is accepted by the Aboriginal or Torres Strait Islander community as an Aboriginal and/or Torres Strait Islander person.

“Headquartered in South East Queensland” means the business must have its head office within the South East Qld region which includes, but is not limited to, the local government areas of Brisbane, Redlands, Logan, Gold Coast, Ipswich, Toowoomba, Moreton Bay and the Sunshine Coast.

“Not-For-Profit” means organisations which are not governed under the *Corporations Act 2001* (Cth) and/or have “not-for-profit” references in their objects or purpose. (Definition from current SEQICC Constitution)

### **3. Why are we using 50% owned controlled and managed as our threshold rather than 51%?**

The SEQICC, as a volunteer led organisation, is not funded for any tasks involved in the management and administration of the Chamber including to check the qualification of applicants. Supply Nation (SN) has been funded and resourced by the federal government to establish an Indigenous Business register. For Indigenous businesses to “register” with Supply Nation, they need to prove that they are “50% owned controlled and managed”. At this point in time we believe it is sensible and practical to establish a relationship with SN to utilise their funded system.

Utilising the established SN system and also the verification processes of other State Chambers will establish an efficient and trustworthy process. We do acknowledge, from time to time, that the Management Committee of the Chamber will need to make decisions including to independently verify applicants that are not SN registered (e.g. barber or other local service business). But by utilising SN systems this workload will be significantly reduced.

If additional funding is received in the future, the Management Committee can review this process and the Committee or members can then propose to amend the Constitution to increase ownership requirements to 51% and/or put in place any other membership requirements it deems necessary.

The Management Committee will put in place processes to ensure membership status is reviewed at least annually, to ensure members still meet all of the requirements of full membership or associate membership.

#### ***4. Is the Chamber going to charge membership fees?***

In line with the Model Rules and the current 2014 SEQICC Constitution, the new 2020 Constitution will also have clauses that allow membership fees to be charged. The level of membership fees would need to be put to a vote of members at a General Meeting in accordance with Rule 7 of the proposed 2020 Constitution.

## **2. Management Committee**

Another key change needed is to review the appointments to the “management committee” of the SEQICC as the membership of the management committee under the current 2014 Constitution is also no longer appropriate. Under Articles 19 to 22 of the current 2014 Constitution, the management committee can consist of nine financial members “comprising of one (1) Indigenous Advancement Association of Queensland member, six (6) members (being one member for each of the regions) and three (3) members from Not For Profit Community Organisations.”

### ***Proposed 2020 Constitution:***

We are proposing to amend the membership of the management committee to consist of at least seven (7) full members that can be selected from any type of business and any region. We also propose one additional representative may be elected to represent the interests of associate members.

Proposed Rules:

#### **18 Membership of management committee**

- (1) The management committee of the Chamber shall consist of at least seven (7) financial full members of the Chamber including a President, Treasurer, and any other members the Chamber members elected at a general meeting to fill management committee roles.
- (2) The financial full members and associate members can elect to the management committee one (1) associate member to represent the interests of associate members of the Chamber;
- (3) Members of the management committee, other than other than a secretary appointed by the management committee under rule 15(1)(b)(iii) and any Independent members appointed under rule 20, must be financial members of the Chamber.
- (4) At each annual general meeting of the Chamber, the members of the management committee must retire from office, but are eligible, on nomination, for re-election.
- (5) A member of the Chamber may be appointed to a casual vacancy on the management committee under rule 21.

### ***Independent members for the Management Committee:***

We are also suggesting adding independent positions to the Management Committee. This would give the management committee the option to seek out and appoint independents to the committee

(i.e. not members or associate members) with specialty skills such as financial management, accounting, corporate governance or sponsorship etc if the committee felt these skills were required. In drafting this article, we have not restricted these Independent positions to Aboriginal and or Torres Strait Islander people. We wish to give the committee the flexibility to find the best skill set for the role.

Proposed rule:

## **20 Appointment of Independent members to the management committee**

(1) Subject to section 61A of the Act and rule 19, the management committee may appoint up to two (2) Independent members to the management committee to increase the skills and experience of the management committee.

(2) To qualify for appointment as an Independent member of the Management Committee a person shall demonstrate, to the satisfaction of the Committee, knowledge and experience in one or more of the following areas:

- (a) financial management and accounting;
- (b) corporate governance;
- (c) sponsorship and marketing; and
- (d) any other skill or area of expertise required by the Management Committee.

### **FAQs:**

#### **1. Who is eligible for election to the Management Committee?**

All full financial members will be eligible for the Management Committee. However, in accordance with the *Associations Incorporation Act 1981 (Qld)* a person is ineligible to be elected to the management committee if they have been convicted on indictment, imprisoned or are bankrupt.

A "Consent to Act" as a member of the Management Committee form will be required to be completed by any person nominating for election to the Committee. These forms will be required prior to any person being elected or appointed to the Management Committee including the full members, the Associate Member representative and any Independent members if they are appointed by the Management Committee. Rule 19 of the Proposed 2020 Constitution outlines the process for election to the management committee.

#### **2. Who can be removed from the Management Committee?**

The management committee is elected annually at the Annual General meeting. In accordance with Rule 18(4) each member of the committee must retire from office, but are eligible, on nomination, for re-election at the AGM.

In addition Rule 21(6) outlines the circumstances where a member must immediately vacate office:

(6) In accordance with section 64(2) of the Act, a member immediately vacates the office as a member of the management committee in the following circumstances:

- (a) the member dies; or
- (b) the member becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) the member is—
  - (i) convicted of an offence under this Act; or
  - (ii) convicted of an indictable offence or an offence punishable on summary conviction for which the person is sentenced to imprisonment, other than in default of payment of a fine; or

(d) the member has been convicted on indictment or summarily and sentenced to imprisonment, other than in default of payment of a fine, and the rehabilitation period in relation to the conviction has not expired.

### **3. Objects of the Chamber**

The final change of significant note is the refocussing of the Objects of the Chamber. Under the current 2014 Constitution of the Chamber has 14 different but related objects. In 2016, the SEQICC refined its four core goals as working with Aboriginal and/or Torres Strait Islander businesses across South East Queensland to:

- Build capability;
- Foster trade;
- Advocacy; and
- Generating wealth.

The new objectives have really focussed the Chamber on its key role, set clear boundaries for its responsibilities and assisted it to differentiate itself from other representative bodies.

The Objects in the proposed 2020 Constitution have been drafted in line with these refined goals and recent discussions, including strategic management committee sessions from January and May 2019 as follows:

### **3 Objects**

(1) The objects of the Chamber are — to develop and support the Aboriginal and/or Torres Strait Islander business sector in South East Queensland through:

- (a) advocacy;
  - (b) building businesses' skills, capability and sustainability; and
  - (c) fostering trade and employment.
- (2) The Chamber shall be strictly non-party political and non-sectarian.

### **FAQs:**

#### ***1. What are the current Objects of the Chamber as contained in the 2014 SEQICC Constitution***

Rule 2. The objects and duties of the Chamber shall be:

- a. to provide a significant voice for Indigenous-owned and operated businesses;
- b. to provide an identity to approach affiliates of the Queensland Chamber of Commerce and Industry Commerce Queensland;
- c. to promote Indigenous business in South East Queensland and promote opportunities for others to do business with the Indigenous community;
- d. to provide a forum for employers to consider and broaden the cause of Indigenous business and employment;
- e. to allow members to discuss specific problems and opportunities for Indigenous owned or operated businesses;
- f. to provide a mechanism for the promotion of successful Indigenous business people and businesses;
- g. to discuss and deal with any issues affecting the best interests of members and the communities in its region;
- h. to watch over and protect the general interests of trade, commerce, industry and civil rights for its members;
- i. to assist in the development of trade and industry of its members;

- j. to affiliate with the Queensland Chamber of Commerce and Industry Commerce Queensland and such other organisations as the Chamber may deem fit;
  - k. to conduct or control such forms of education, training, networking and entertainment from time to time as would add to the pleasure of its members;
  - l. to purchase, lease or otherwise acquire land, property or chattels within the general operation of the area and to sell, lease, sub-lease or otherwise dispose of such assets, to mortgage such assets and carry out any scheme which is considered to be in the best interests of the chamber;
  - m. to generally carry on, do or assist in all or any matters which the Chamber may deem fit for the encouragement of trade and commerce, or the assistance of members of the Chamber, for example, but not limited to:
    - i. encourage and facilitate networks amongst members of the Chamber;
    - ii. promote business opportunities amongst those members of the Association;
3. The Chamber shall be non-party political and non-sectarian.