



NATIONAL ETHNIC DISABILITY ALLIANCE

# CONSTITUTION

An Incorporated Association | ABN: 13087510232

*Amended [December 4<sup>th</sup> 2023]*

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# PART I – PRELIMINARY

## 1 The Association

- 1) The name of the incorporated Association is the National Ethnic Disability Alliance Incorporated (NEDA).
- 2) The National Ethnic Disability Alliance is the national Consumer-based peak body for people from a non-English speaking or culturally and linguistically diverse background (CaLD/NESB) with disability, their families and carers.
- 3) The founding Members of the Association were: Action on Disability within Ethnic Communities (Victoria), Ethnic Disability Advocacy Centre (Western Australia), Multicultural Advocacy & Liaison Service of South Australia (South Australia) and Multicultural Disability Advocacy Association (New South Wales).

## 2 Interpretation

- 1) In these rules, unless a contrary intention appears:

|                                  |  |
|----------------------------------|--|
| <b>“ACNC Act”</b>                | means the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth) or any successor legislation.  |
| <b>“Associate member”</b>        | means a Member of the Association, meeting the criteria in subrules 4 (7) and (8).   |
| <b>“CaLD”</b>                    | <p>means culturally and linguistically diverse and refers to persons who identify as having a different cultural background to Australia's mainstream cultural background on account of their:</p> <ol style="list-style-type: none"><li>a. Ancestry or ethnic identification (including persons with multiple ancestries)</li><li>b. Parental place of birth</li><li>c. Religious identification</li><li>d. Identification with parental culture, even if English is the primary language spoken; and/or</li><li>e. Speaking a language other than English.</li></ol> <p>CaLD does not include indigenous (First Nations) people of Australia who do not identify as culturally diverse. In this context, ‘Linguistically diverse’ is not intended to include Indigenous (First Nations) people of Australia who speak a language other than English.</p> |
| <b>“Community member”</b>        | means a Member of the Association, meeting the criteria in subrules 4(10) and (11).  |
| <b>“Constitution” or “rules”</b> | means this document, being the rules of the Association, as defined by the Associations Act.   |
| <b>“Consumer”</b>                | means a person from CaLD/NESB with disability, or a carer or family member of a person from CaLD/NESB with disability who is a consumer or potential consumer of services.   |

|                                    |   |
|------------------------------------|---|
| <b>“Corporations Act”</b>          | means the <i>Corporations Act 2001</i> (Cth).   |
| <b>“Council”</b>                   | is a committee of the Association, as defined under the Associations Act, created to control and manage the affairs of the Association as specified within these rules.   |
| <b>“Councillor”</b>                | is a member on the Council.   |
| <b>“Disability”</b>                | means, in reference to people, as <i>those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.</i><br><br><i>[based on a Social model of disability from The United Nations, Convention on the Rights of Persons with Disabilities, 2006]</i>   |
| <b>“Financial Year”</b>            | means the year ending 30 <sup>th</sup> of June.   |
| <b>“Member”</b>                    | means a member of the Association, including Organisational members, Associate members, or Community members.   |
| <b>“NESB”</b>                      | means a person: <ul style="list-style-type: none"> <li>a) born overseas and whose language or cultural background is not English or Anglo Celtic / Saxon;</li> <li>b) born in Australia, and the first language or culture of at least one of the person’s parents is not English or Anglo Celtic / Saxon; or</li> <li>c) born in Australia with a linguistic or cultural background other than English or Anglo Celtic / Saxon who wishes to be identified as such.</li> </ul> |
| <b>“Organisational member”</b>     | means a Member of the Association, meeting the criteria in subrules 4 (5) and (6).  |
| <b>“Public Officer”</b>            | means a person appointed to be the public officer of the Association, as defined in the Associations Act.   |
| <b>“Registered Charity”</b>        | means an entity registered as a charity under the ACNC Act.   |
| <b>“Secretary”</b>                 | means the person holding office under these rules as Secretary of the Association or, where no such person holds that office, the Public Officer of the Association.  |
| <b>“State”</b>                     | means any State within Australia.   |
| <b>“Territory”</b>                 | means the Australian Capital Territory or the Northern Territory.   |
| <b>“The Associations Act”</b>      | means the <i>Associations Incorporation Act 1991</i> (ACT).   |
| <b>“The Association” or “NEDA”</b> | means the National Ethnic Disability Alliance Incorporated.   |
| <b>“The Regulations”</b>           | means the <i>Associations Incorporation Regulation 1991</i> (ACT).  |

2) In these rules:

- a) a reference to CALD/NESB, means CALD and/or NESB;

- b) a reference to a function includes a reference to a power, authority, or duty;
  - c) a reference to the exercise of a function includes, where the function is a power, authority, or duty, a reference to the exercise of the power or the authority or the performance of the duty.
- 3) Application of the Act:
- a) While the Association is a Registered Charity, the ACNC Act and the *Associations Act* (to the extent that it applies) override any clauses in these rules inconsistent with those Acts.
  - b) If the Association is not a Registered Charity (even if it remains a charity), the *Associations Act* overrides any rule in these rules inconsistent with that Act.
  - c) Where any rule in these Rules is invalid or unenforceable or conflicts with any provision of the *Associations Act* and/or the ACNC Act as applicable under subrules (a) or (b), it will be read and interpreted as being subject to the provision(s) and will be ineffective, but only to the extent of any invalidity, unenforceability or conflict.
  - d) A word or expression defined in the *Associations Act* or used in that Act and covering the same subject has the same meaning as in this Constitution.

### 3 Objects and Principles

- 1) The object of the Association is to provide relief to people from CaLD/NESB with a Disability by:
  - a) enabling them to participate fully in all aspects of social, economic, political, and cultural life on an equitable basis with others who do not have a Disability;
  - b) creating a measure of self-support and autonomy by enabling people from CaLD/NESB with a Disability to help other people from CaLD/NESB with a Disability to participate in all aspects of life fully;
  - c) giving protection to their inherent dignity from the harms arising from exclusion and discrimination in publicly available services.
- 2) The Association may do all things ancillary or incidental to give effect to the above object.
- 3) The principles which underpin the objects of the Association are:
  - a) People from CaLD/NESB with Disability, their families and carers, are individuals who have the right to be respected for their worth and dignity as human beings.
  - b) People from CaLD/NESB with Disability, their families, and carers deserve guaranteed fundamental human rights and freedoms in international law that to Australia is a signatory.
  - c) Barriers to participation diminish, erode and assault the inherent human dignity of people with CaLD/NESB with a Disability.
  - d) People from CaLD/NESB with Disability, their families, and carers are more vulnerable to this harm due to additional cultural and language barriers.
  - e) People from CaLD/NESB with Disability, their families, and carers have the right to be free from all forms of discrimination; and
  - f) The interests of all people in society are best served by establishing equal rights and opportunities for people from CaLD/NESB with disabilities.
- 4) In carrying out its objects, the representatives of Members of the Association shall:
  - a) take into account the experience of people from CaLD/NESB with Disability, their families, and carers;

- b) be accountable to people from CaLD/NESB with Disability, their families, and carers and to the agencies which provide the Association's funds; and
- c) be open and honest in their relationships with people from CaLD/NESB with Disability, their families and carers, with the Members of the Association, with the agencies which provide its funding, and with each other.

## 4 Membership

- 1) The Association must have no less than five (5) Members at any time.
- 2) There shall be three (3) categories of Members of NEDA:
  - a) Organisational members;
  - b) Associate members; and
  - c) Community members.
- 3) All Members must agree with the objects and principles of the Constitution.

### **Organisational members**

- 4) The Association must have a maximum of eight (8) Organisational members, comprising of no more than one (1) Member from each State and Territory.
- 5) An Organisational member is qualified to be a Member if it is:
  - a) a CaLD/NESB - disability support organisation;
  - b) an incorporated body; and
  - c) has been approved by the Council for membership of NEDA.
- 6) If a State or Territory does not have a Member that meets the criteria of subrule (5), an organisation from that State or Territory may be qualified to be an Organisational member if it is:
  - a) a disability support organisation; or
  - b) a CaLD/NESB support organisation.
- 7) If a State or Territory is represented by an Organisational member admitted under subrule (6), the Council may replace that Member by approving an application for a new Organisational member meeting the criteria under subrule (5). Any Member replaced under this subrule, may be invited by the Council to become an Associate member under subrule (8).

### **Associate members**

- 8) The Council may admit Associate members as Members, being individuals or incorporated bodies.
- 9) Associate members:
  - a) do not have voting rights; and
  - b) may include employees of Organisational members.

### **Community members**

- 10) The Council may admit Community members as Members, being individuals.

- 11) Community members:
  - a) do not have voting rights, except under rule 18 where they can vote to elect one Community member to the Council;
  - b) within one month of the biannual anniversary of the date they became a Member must re-apply for membership; otherwise, their membership shall automatically lapse.

### **Membership rules and procedures**

- 12) An application to be a Member must:
  - (a) be in writing, following guidelines that may be established by the Council from time to time; and
  - (b) include a statement of agreement with the objects and principles of NEDA.
- 13) The Council shall determine applications for membership using a majority vote.
- 14) If the Council approves an application for membership, the Secretary shall
  - (a) notify the applicant; and
  - (b) request the applicant to pay the first years annual membership fee within 28 days (or such other period determined by the Council); and
  - (c) once payment is received, enter the applicant's name in the register of Members, noting their category of membership. Once the name is entered, the applicant becomes a Member.
- 15) The Council may, at its discretion, admit a person as an honorary life Associate member of NEDA and or an honorary life Community member of NEDA.

## **5 Membership Entitlement Not Transferable**

A right, privilege, or obligation which a Member has because of its membership of the Association:

- a) is not capable of being transferred or transmitted to another organisation or person; and
- b) terminates upon cessation of the Organisation's membership.

## **6 Cessation of Membership**

A Member ceases to be a Member if the Member:

- a) is wound up;
- b) resigns as a Member;
- c) is expelled as a Member;
- d) ceases to be a Member by operation of sub-rule 4 (7);
- e) fails to renew membership of NEDA in accordance with subrule 4(11); or
- f) does not pay any Membership fees due under rule 8 within 28 days of being requested to do so.

## **7 Resignation of Membership**

- 1) If a Member wishes to resign its membership of the Association, it shall give at least one month's notice (or such shorter period as the Council determines) in writing to the



Secretary of its intention and, upon the expiration of the notice period, it shall cease to be a Member.

- 2) Upon a Member ceasing to be a Member, the Secretary shall amend the register of Members by recording the date on which the Member ceased.
- 3) Once an Organisational member ceases to be a Member it must not purport itself to be associated with the Association in any manner and must do all acts reasonably necessary to ensure that it is not perceived to be associated with the Association.

## 8 Membership Fees

- 1) The annual membership fee amount will be determined from time to time by resolution of the Council.
- 2) Annual membership fees payable under this rule are payable:
  - a) before 1 October in any calendar year, or
  - b) in the case of new Members, under rule 4 (12).

## 9 Members' Liabilities

The liability of a Member to contribute towards the payment of debts and liabilities of the Association or the costs, charges, and expenses of the winding-up of the Association is limited to the amount, if any, unpaid by the Member in respect of membership fees.

## 10 Disciplining of Members

- 1) If the Council is of the opinion that a Member—
  - a) has persistently refused or neglected to comply with a provision of these rules; or
  - b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association;the Council may, by resolution—
  - c) expel the Member from the Association; or
  - d) suspend the Member from the rights and privileges of membership of the Association that the Council may decide for a specified period.
- 2) Notwithstanding the provisions of sub rule (1), the Council may by resolution decide to remove a member organisation at its absolute discretion.
- 3) A resolution of the Council under subrule (1) is of no effect unless the Council, at a meeting held not earlier than 14 days and not later than 28 days after service on the Member of a notice under subrule (4), confirms the resolution.
- 4) If the Council passes a resolution under subrule (1), the Secretary must, as soon as practicable, serve a written notice on the Member—
  - a) setting out the resolution of the Council and the grounds on which it is based; and

- b) stating that the Member may address the Council at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice; and
  - c) stating the date, place and time of that meeting; and
  - d) informing the Member that the Member may do either or both of the following:
    - (i) attend and speak at that meeting;
    - (ii) submit to the Council at or before the date of that meeting written representations relating to the resolution.
- 5) Subject to section 50 of the Associations Act, at a meeting of the Council mentioned in subrule (4), the Council must—
- a) give to the Member mentioned in subrule (1) an opportunity to make oral representations; and
  - b) give due consideration to any written representations submitted to the Council by that Member at or before the meeting; and
  - c) by resolution decide whether to confirm or to revoke the resolution of the Council made under subrule (1).
- 6) If the Council confirms a resolution under subrule (4), the Secretary must, within 7 days after that confirmation, by written notice inform the Member of that confirmation and of the Member's right of appeal under rule 11.
- 7) A resolution confirmed by the Council under subrule (5) does not take effect—
- a) until the end of the period within which the Member is entitled to appeal against the resolution if the Member does not exercise the right of appeal within that period; or
  - b) if within that period the Member exercises the right of appeal—unless and until the Association confirms the resolution in accordance with rule 11 (4).

## 11 Right of appeal of disciplined Member

- 1) A Member may appeal to the Association in general meeting against a resolution of the Council that is confirmed under rule 10 (5), within 7 days after notice of the resolution is served on the Member, by lodging with the Secretary a notice to that effect.
- 2) On receipt of a notice under subrule (1), the Secretary must notify the Council which must call a general meeting of the Association to be held within 21 days after the date when the Secretary received the notice or as soon as possible after that date.
- 3) Subject to the Associations Act, section 50, at a general meeting of the Association called under subrule (2)—
  - a) no business other than the question of the appeal may be transacted; and
  - b) the Council and the Member must be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and

- c) the Members present must vote by secret ballot on the question of whether the resolution made under rule 10 (5) should be confirmed or revoked.
- 4) If the meeting passes a special resolution in favour of the confirmation of the resolution made under rule 10 (5), that resolution is confirmed.

## Part II – THE COUNCIL

### 12 Powers of National Ethnic Disability Alliance Council

NEDA shall be governed by a Council which, subject to the Associations Act, the Regulations, these rules, and to any resolution passed by the Association in a General Meeting:

- a) controls and manages the affairs of the Association;
- b) may exercise all such functions as may be exercised by the Association other than those functions that are required by these rules to be exercised by the Association in General Meeting;
- c) has the power to perform all such acts and do all such things as appear to the Council to be necessary or desirable for the proper management of the affairs of the Association, including employing staff;
- d) appoints the Chief Executive Officer
- e) may identify and obtain grants or other forms of income generation, including assisting State and Territory bodies to obtain grants to promote national and State or Territory agendas; and
- f) shall be guided by advice and feedback from Members and reflect the interests of people from CaLD/NESB with Disability, their carers, and family members.

### 13 Duties of Councillors

- 1) Councillors must comply with duties described in governance standard 5 of the regulations made under the ACNC Act, which are:
  - (a) to exercise their powers and discharge their duties with the degree of care and diligence a reasonable person would expect;
  - (b) to prepare for Council meetings and provide Council meetings their undivided attention;
  - (c) to act in good faith in the best interests of the Association and to further the charitable purpose(s) of the Association;
  - (d) not to misuse their position as a Councillor;
  - (e) not to misuse information they gain in their role as a Councillor;
  - (f) to disclose any perceived or actual material conflicts;
  - (g) to ensure that the financial affairs of the Association are managed responsibly; and
  - (h) not to allow the Association to operate while it is insolvent.
- 2) Councillors representing Organisational members must
  - (a) respond to queries from the Council and Association about how their plans and activities advance the charitable purpose of the Association; and

- (b) respect the commercial confidence of the Association by only sharing information from Council meetings with Organisational members where it is expressly permitted by the Council.

## 14 Composition

- 1) The Council shall be known as the “National Ethnic Disability Alliance Council”.
- 2) The Council shall comprise of up to nine (9) Councillors being:
  - (a) a Councillor representing each Organisational member; and
  - (b) one (1) Councillor representing all Community members.
- 3) The Council may appoint a maximum of two Associate members of NEDA to serve on the Council as experts in an area or areas relevant to NEDA’s objectives.
- 4) Persons appointed pursuant to sub-rule (3) shall be called “Associate Councillors”.
- 5) Associate Councillors will serve for a term set by the Council, but no longer than the term specified in Rule 15 (2).

## 15 Terms of Councillors

- 1) Councillors, who form the Council at the time of adoption of this Constitution, shall retire at the next Annual General Meeting after its adoption but be available for re-election pursuant to the terms of this Constitution.
- 2) Subject to subrule (1), the Councillors shall be elected collectively by a majority of the Members entitled to vote at an Annual General Meeting. Councillors so elected, will serve for a period of two (2) years and shall retire collectively at the second Annual General Meeting after their election (“the **Council Term**”), but be available for re-election pursuant to the terms of this Constitution.
- 3) Councillors may not be re-elected if election would result in the Councillor serving for more than three (3) consecutive Council Terms.
- 4) A Councillor who is appointed subject to Rule 25(4) shall be taken to serve the remainder of the Council term.
- 5) Subrules (1)-(3) apply to Councillors whether they are representing Organisational members (Rule 16) or Community members (Rule 18).
- 6) If a Councillor is to vacate the position of Councillor due to the operation of subrule (1), they may attend the next Annual General Meeting, but NEDA will not be responsible for the costs of their attendance at that Annual General Meeting if a replacement Councillor will also be in attendance.

## 16 Nomination and Election of Councillors

- 1) Each Organisational member must nominate two (2) candidates for consideration as their representative in Council.
- 2) Organisational members shall encourage intersectional diversity by ensuring at least one those candidates:
  - a) is under 30 years old, or

- b) has lived experience of being marginalised based on other aspects of their identity in addition to Race/ Ethnicity and Disability.
- 3) The nomination(s) shall be in writing and provided to the Secretary at least three weeks before the Annual General Meeting.
- 4) To qualify for nomination as a representative, a person must be:
  - a) eligible to be a Responsible Person according to ACNC Governance Standard 4; and
  - b) on the Organisational member's governing body; or
  - c) selected by the Organisational member's governing body.
- 5) A ballot, following Rule 17, will determine the Councillor that will represent each Organisational member at the Annual General Meeting.
- 6) The same ballot may determine an alternative representative for when an Organisational member's main representative is unable to attend Council meetings.
- 7) NEDA may reimburse expenses incurred by Councillors for participating in Council, but only for one representative per Organisational member.

## 17 Ballot

- 1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a Member to act as returning officer to conduct the ballot.
- 2) The returning officer must not be a Member nominated for the position.
- 3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- 4) The election must be by secret ballot.
- 5) The returning officer must engage a secure electronic process for the purpose of conducting the secret ballot or give a blank piece of paper to—
  - (a) each Member present in person; and
  - (b) each proxy appointed by a Member.

### *Example*

*If a Member has been appointed the proxy of 5 other Members, the Member must be given 6 ballot papers—one for the Member and one each for the other Members, or six opportunities to vote through a secure electronic process.*

- 6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- 7) If the ballot is for more than one position—
  - (a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
  - (b) the voter must not write the names of more candidates than the number to be elected.

- 8) Ballot papers that do not comply with subrule (7)(b) are not to be counted.
- 9) Each allot paper on which the name of a candidate has been written counts as one vote for that candidate.
- 10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- 11) If the returning officer is unable to declare the result of an election under subrule (10) because two or more candidates received the same number of votes, the returning officer must—
  - (a) conduct a further election for the position following subrules (4) to (10) to decide which of those candidates is to be elected; or
  - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

*Examples*

*The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.*

## 18 Nomination & election of Community Members' Councillors

- 1) To be eligible for election by the Community members, a nominee must be
  - (a) a registered Community member of NEDA
  - (b) a person with a disability from a CaLD/NESB background; and
  - (b) eligible to be a Responsible Person according to the ACNC Governance Standard 4.
- 2) The Secretary shall organise the election of the Community members' Councillor utilising the services of the Australian Electoral Commission or an appropriate software application.
- 3) The Councillor to be elected to represent Community members on the Council shall be elected by the Community members prior to the Annual General Meeting so as to ensure that their appointment may be made to Council at least three weeks before the Annual General Meeting. Their term will commence at the Annual General Meeting.

## 19 Office bearers

The office bearers of the Association, also known as its executive, are:

- (a) the President;
- (b) the Vice-President;
- (c) the Treasurer; and
- (d) the Secretary.

## 20. Election of President and Vice-President

- 1) The Board shall elect from amongst its own numbers, the President and Vice-President.
  - (a) all Elected Councillors then on the Board will be considered eligible for election as President unless a Councillor or Councillors expressly withdraw from being considered;
  - (b) the election of the President will be conducted by secret ballot, unless only one Councillor remains eligible for appointment, in which case that Councillor will be deemed to be President;
  - (c) in the case of more than one Councillor remaining eligible for the position of President, the Councillor who obtains a simple majority of votes from the Board shall be elected to the position of President;
  - (d) if the outcome of the secret ballot in subrule 1(c) is a tie, a further secret ballot shall be conducted between the tied Councillors and the Councillor who obtains a simple majority of votes shall be elected to the position of President, and if the outcome of the further secret ballot is also a tie, the result will be determined by drawing lots;
  - (e) on their election, the new President may take over as Chairperson of the meeting.
- 2) The provisions of subrules 1 (a) – (e) so far as they are applicable and with the necessary modifications apply to and in relation to the election of a Vice President, save that the Councillor elected as President shall not be eligible for election as Vice President.

## 21 President

- 1) The President shall be a person with disability from a CaLD/NESB background.
- 2) The President shall be responsible for ensuring that meetings of Council are called.
- 3) Council meetings shall be chaired by the President or, in the absence of the President, by the Vice-President or, in the absence of the Vice-President by any other Councillor chosen by the Councillors present.
- 4) The President shall represent NEDA where public statements on behalf of NEDA are required in accordance with policy positions set by Council. No other Councillor shall undertake this or any other function of NEDA without the express consent of the President or the Council.
- 5) The President is responsible for the conduct of the general meeting, and for this purpose must give Members a reasonable opportunity to make comments and ask questions.

## 22 Vice-President

- 1) The Vice-President shall be a person with disability from a CaLD/NESB background.
- 2) The Vice-President shall take on the responsibilities of the President only when the President is unavailable.

## 23 Secretary

- 1) The Council will appoint the Secretary at the first meeting of the Council following the Annual General Meeting.
- 2) The Secretary of the Association shall, as soon as practicable after being appointed as Secretary, notify the Association of their address.
- 3) The Secretary shall be responsible for minutes to be kept of:
  - a) all elections and appointments of Councillors and Office-Bearers;
  - b) the names of Councillors present at a Council meeting or a General Meeting; and
  - c) all proceedings at Council meetings and General Meetings.
- 4) The Secretary shall perform duties referred to in this Constitution.
- 5) The Secretary holds a general discretion to from time to time, as deemed by the Secretary (in his/her absolute discretion) reasonably necessary and in the best interests of the Association:
  - a) assist the Public Officer in carrying out his/her duties;
  - b) advise the Public Officer on how to carry out his/her duties, advice of which the Public Officer must follow; and
  - c) do things that supplement the duties of the Public Officer,  
**(Secretarial Discretion)**,  
and the Public Officer must consent to, and do all things reasonably necessary to reasonably assist with, facilitate and otherwise support, the exercise of the Secretarial Discretion.

## 24 Treasurer

- 1) The Council shall appoint the Treasurer at the first meeting of the Council following the Annual General Meeting.
- 2) The Treasurer of the Association shall:
  - a) collect and receive all monies due to the Association and make all payments authorised by the Association;
  - b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the Associations Activities of the Association.

## 25 Vacancies

- 1) For the purpose of these rules, a vacancy on the Council occurs if a Councillor:
  - a) resigns;
  - b) is removed from the Council pursuant to rule 26;



- c) becomes an insolvent under administration within the meaning of the *Corporations Act*;
  - d) is disqualified from office under sub-section 63(1) of the Associations Act; or
  - e) is absent without the consent of the Council for 3 consecutive meetings of the Council.
- 2) If an Organisational member of NEDA ceases to be an Organisational member, their representative Councillor is taken to have vacated their position on the Council.
  - 3) In the event of a vacancy on the Council,
    - (a) if the vacating Councillor represents an Organisational member, or if an Organisational member is not represented on the Council, the Council shall request the relevant Organisational member to nominate alternative representatives for appointment as soon as practicable, in accordance with rule 16 (1), (2) and (4).
    - (b) if the vacating Councillor represents Community members, the Council shall follow the procedure set in rule 18(1) and (2) to determine a replacement.
  - 4) The Council appoints the Councillor to replace the position vacant from the nominations received under subrule (3).
  - 5) If the Organisational member fails to nominate a representative within a period of 6 months after the occurrence of the vacancy or by the next Annual General Meeting, whichever occurs first, the Organisational member may be expelled in accordance with rule 10.
  - 6) In the event that the vacancy on the Council is that of an office holder, the Council shall choose a Councillor to replace the office holder as soon as practicable in accordance with a method adopted by it for that purpose.

## 26 Removal of Councillors

- 1) The Association in a General Meeting may by resolution, subject to section 50 of the Associations Act, remove any Councillor from the Council before the expiration of his or her term, if
  - a) the Councillor is not discharging a duty or duties under Rule 13; and/or
  - b) the Councillor is no longer qualified under Rule 16(4).
- 2) An Organisational member may request to change its representative on the Council by writing to the Council with grounds that
  - a) the Councillor is not discharging a duty or duties under Rule 13; and/or
  - b) the Councillor is no longer qualified under Rule 16(4).
- 3) In accordance with subrule (1) and the terms of this Constitution, the Council may put a request made under subrule (2) to a General Meeting for vote.

## 27 Council Meetings & Quorum

- 1) The Council shall be convened at least four (4) times in each financial year at such place, time and manner as the Council may determine, provided that at least one such meeting shall be a 'face to face' meeting within six (6) months after the Association's Annual General Meeting if circumstances allow. Other meetings may, at the option of the Council, be by telephone link-up, video-conference or other means.
- 2) Additional meetings of the Council may be convened by the President or a quorum of the Council.

- 3) Oral or written notice of a meeting of the Council shall be given by the Secretary or an employee of the Association nominated by the Secretary to each Councillor at least 7 days (or such other period as may be unanimously agreed upon by the Council) before the time appointed for the holding of the meeting.
- 4) Notice of a meeting given under sub-rule (3) shall specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted , except business which the Councillors present at the meeting unanimously agree to treat as urgent business.
- 5) A quorum for the transaction of business at a meeting of the Council shall be a majority of the total number of Councillors
- 6) No business shall be transacted by the Council unless a quorum is present and if within half an hour after the time appointed for the meeting a quorum is not present the meeting stands adjourned to a date to be determined by the President.
- 7) If at the adjourned meeting a quorum is not present within half an hour after the appointed time for the meeting, the meeting shall be dissolved.
- 8) The President shall preside at meetings of the Council. In the absence of the President, the remaining Councillors shall elect a person to preside at the meeting.
- 9) Where a Councillor cannot attend a meeting, the relevant Councillor may nominate an alternative representative for that meeting.
- 10) Paid workers of Members may attend Council meetings at the discretion of the Council. A paid worker attending a Council meeting may participate in the discussion of Council business but cannot vote and does not count towards a quorum.

## 28 Council Voting & Decisions

- 1) Questions arising at a meeting of the Council shall be decided by a majority vote, with each Councillor holding one (1) vote. Associate Councillors do not have the right to vote at any Council meeting. In the event of an equality of votes, the person presiding at the meeting shall have a second or casting vote.
- 2) A Councillor must declare any potential or actual conflict of interest (whether relating to the Member or the Councillor) on a question which requires a decision and shall either withdraw voluntarily from the decision-making process in relation to that question or abide by any decision by the other Councillors on his or her participation in the process.
- 3) The Council may act notwithstanding any vacancy on the Council.
- 4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Council is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any Councillor.

## 29 Delegation by Council to subcommittee

- 1) The Council may, in writing, delegate to 1 or more subcommittees (consisting of the Member or Members of the Association that the Council considers appropriate) the exercise of the functions of the Council that are specified in the instrument, other than—
  - (a) this power of delegation; and

- (b) a function that is a function imposed on the Council by the Associations Act, by any other Territory law, or by resolution of the Association in general meeting.
- 2) A function, the exercise of which has been delegated to a subcommittee under this section may, while the delegation remains unrevoked, be exercised from time to time by the subcommittee in accordance with the terms of the delegation.
- 3) A delegation under this section may be made subject to any conditions or limitations about the exercise of any function, or about time or circumstances, that may be specified in the instrument of delegation.
- 4) Despite any delegation under this section, the Council may continue to exercise any function delegated.
- 5) Any act or thing done or suffered by a subcommittee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Council.
- 6) The Council may, in writing, revoke wholly or in part any delegation under this section.
- 7) A subcommittee may meet and adjourn as it considers appropriate.

## PART III – GENERAL MEETINGS

### 30 Annual General Meeting

- 1) With the exception of the first Annual General Meeting of the Association, the Association shall, at least once in each financial year and within the period of 5 months after the expiration of each financial year of the Association, convene an Annual General Meeting of its Members.
- 2) The Association shall hold its first Annual General Meeting:
  - a) within the period of 18 months after its incorporation under the Associations Act; and
  - b) within the period of 5 months after the expiration of the first financial year of the Association.
- 3) Subject to the Associations Act and these rules, the Annual General Meeting shall be convened on such a date and at such place and time as the Council thinks fit.

### 31 Annual General Meeting – Business

- 1) In addition to any other business, the Annual General Meeting shall:
  - a) confirm the minutes of the last preceding Annual General Meeting and or any General Meeting held since that meeting;
  - b) receive from the Council reports on the activities of NEDA during the last preceding financial year;
  - c) elect the Councillors which will represent Organisational members;
  - d) accept and the Community members' Councillor to the Council;

- d) select a Public Officer for NEDA, of whom, in accordance with section 57(2) of the Associations Act, must reside in the Australian Capital Territory and be at least 18 years of age;
  - e) receive and consider the statement of accounts and the reports that are required to be submitted to Organisational members and the Community members' Councillor pursuant to sub-section 73 (1) of the Act; and
  - f) provide reasonable opportunity for Members to ask questions or make comments about the management of the Association.
- 2) An Annual General Meeting shall be specified as such in the notice convening it in accordance with rule 30.
  - 3) An Annual General Meeting shall be conducted in accordance with the provisions of this Part.

## 32 General Meetings

- 1) The Council may, whenever it thinks fit, convene a General Meeting of the Association.
- 2) The Council shall, on the requisition in writing of not less than 5 of the total number of its Members, convene a General Meeting of the Association.
- 3) A requisition of Members for a General Meeting:
  - a) shall state the purpose or purposes of the meeting;
  - b) shall be signed by the Members making the requisitions;
  - c) shall be lodged with the Secretary; and
  - d) may consist of several document in a similar form, each signed by 1 or more of the Members making the requisition.
- 4) If the Council fails to convene a General Meeting within 1 month after the date on which a requisition of Members for the meeting is lodged with the Secretary, any 1 or more of the Members who made the requisition may convene a meeting to be held not more than 3 months after the date.
- 5) A General Meeting convened by a Member or Members referred to in sub-rule (4) shall be convened as nearly as practicable in the same manner as General Meetings are convened by the Council and any Member who thereby incurs expense is entitled to be reimbursed by the Association for any reasonable expense so incurred.
- 6) Community members shall not be entitled to attend or vote and General Meetings, but shall be represented by the elected Community members' Councillor (if any).

## 33 Notice

- 1) Except where the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the Secretary shall, at least 14 days before the date fixed for the holding of the General Meeting, cause to be sent by pre-paid post or e-mail to each Member at the Member's address appearing in the register of Members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

- 2) Where the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of the Association, the Secretary shall, at least 21 days before the date fixed for the holding of the General Meeting, cause notice to be sent to each Member in the manner provided in sub-rule (1) specifying, in addition to the matter required under that sub-rule, the intention to propose the resolution as a special resolution.
- 3) No business other than that specified in the notice convening a General Meeting shall be transacted at the meeting except, in the case of an Annual General Meeting, business which may be transacted pursuant to rule 31 (1).
- 4) A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary who shall include that business in the notice for the next General Meeting.

## 34 General Meetings – Procedure & Quorum

- 1) No item of business shall be transacted at a General Meeting unless a quorum of Organisational members entitled under these rules to vote is present during the time the meeting is considering that item.
- 2) A majority of the total number of Members of the Association constitutes a quorum for the transaction of the business of a General Meeting.
- 3) If a quorum is not present within half an hour after the time appointed for the General Meeting, the meeting, if convened upon the requisition of the Members, shall be dissolved and in any other case shall stand adjourned to a date to be determined by the President.
- 4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not less than 3) shall constitute a quorum.
- 5) A Member shall declare any potential or actual conflict of interest (whether relating to the Member or its representative at the meeting) on a question which requires a decision and shall either withdraw voluntarily from the decision-making process in relation to that question or abide by any decision of the meeting on the Member's participation in the process.

## 35 Presiding Member

The President shall preside at a General Meeting of the Association. In the absence of the President, the Members present shall elect a person to preside at the meeting.

## 36 Adjournment

- 1) The person presiding at a General Meeting at which a quorum is present may, with the consent of the majority of Members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 2) Where the General Meeting is adjourned for 14 days or more, the Secretary shall cause written or oral notice of the adjourned meeting to be given to each Member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

- 3) Except as provided in sub-rules (1) and (2), notice of an adjournment of a General Meeting or of the business to be transacted at an adjourned meeting is not required to be given.

## 37 Voting and Decisions

- 1) A question arising at a General Meeting of the Association shall be decided by majority vote. In the event of an equality of votes, the President or other person presiding at the meeting shall have a second or casting vote.
- 2) All votes shall be given personally by the nominated representative of the Member or by proxy but no Member may hold more than 1 proxy.
- 3) A Member is not entitled to vote at any General Meeting of the Association unless all money due and payable by the Member to Association has been paid, other than the amount of the annual subscription payable in respect of the then current year.
- 4) Each Member is entitled to appoint another Member as proxy by notice given to the Secretary no later than 24 hours before the time of the meeting for which the proxy is appointed.
- 5) The notice appointing the proxy must be in the form set out in Appendix 1.

## PART IV – MISCELLANEOUS

### 38 Funds – Source

- 1) -The funds of the Association shall be derived from government, corporate or philanthropic funding, membership fees of Members and Associate members, donations and, subject to any resolution passed by the Association in General Meeting and subject to section 114 of the Associations Act, such other sources as the Council determines.
- 2) All money received by the Association shall be deposited as soon as practicable and without deduction to the Association's bank account.
- 3) The Association shall, as soon as practicable after receiving money, issue an appropriate receipt.

### 39 Funds – Management

- 1) Subject to any resolution passed by the Association in General Meeting, the funds of the Association shall be used for the objects of the Association in such a manner as the Council determines.
- 2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any 2 Councillors or employees of the Association, authorised to do so by the Council.

### 40 Alterations of Objects & Rules

Neither the objects of the Association referred to in section 29 of the Associations Act nor these rules shall be altered except in accordance with the Associations Act.

## 41 Common Seal

- 1) The common seal of the Association shall be kept in the control of the Secretary.
- 2) The common seal shall not be affixed to any instrument except by the authority of the Council and the affixing of the common seal shall be attested by the signature of 2 Councillors.

## 42 Custody of Books

Subject to the Associations Act, the Regulations and these rules, the Secretary shall keep in his or her control all records, books and other documents relating to the Association.

## 43 Inspection of Books

- 1) Members may on request inspect free of charge—
  - (a) the register of Members;
  - (b) the minutes of general meetings;
  - (c) subject to subrule (2), the financial records, books, securities and any other relevant document of the Association, including minutes of Council meetings.
- 2) The Council may refuse to permit a Member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- 3) The Council must on request make copies of these Rules available to Members and applicants for membership free of charge.
- 4) Subject to subrule (2), a Member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.
- 5) For purposes of this rule—

**relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following—

- (a) its membership records;
- (b) its financial statements;
- (c) its financial records;
- (d) records and documents relating to transactions, dealings, business or property of the Association.

## 44 Service of Notices

- 1) For the purpose of these rules, a notice may be served by or on behalf of the Association upon any Member at the Member's address shown in the register of Members.
- 2) Where a document is sent to the Member by properly addressing, pre-paying and posting by certified mail to the Member a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purpose of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of the post.

## 45 Winding up and Surplus Property

- 1) Subject to sub-section 92 (2) of the Associations Act, any surplus assets (including 'gift funds' defined in subrule (4)) that remain after the Association is wound up must be distributed to one or more charities:
  - a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in rule 3,
  - b) which also prohibit the distribution of any surplus assets to its Members to at least the same extent as the company, and
  - c) that is or are deductible gift recipients within the meaning of the Income Tax Assessment Act 1997 (Cth).
- 2) The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of the Members at or before the time of winding up.
- 3) In accordance with sub-section 92 (3) of the Associations Act, in the event of its dissolution or winding up, NEDA shall lodge with the Registrar General a notice in writing, signed by at least 2 of the former Councillors, certifying which Association has been nominated and that the special resolution was duly passed.
- 4) If the Association's deductible gift recipient endorsement is revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of subrule (1) as decided by the Councillors.
- 5) For the purpose of this clause: a. 'gift funds' means:
  - a) gifts of money or property for the principal purpose of the Association
  - b) contributions made in relation to a fund-raising event held for the principal purpose of the Association, and
  - c) money received by the Association because of such gifts and contributions. b. 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (Cth).

## 46 Non-profit clause

The assets and income of the Organisation shall be applied solely in furtherance of its above-mentioned objects (rule 3) and no portion shall be distributed directly or indirectly to the Members of the Organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the Organisation.



# Appendix 1

(see s 30 (2))

## Form of appointment of proxy

I,

.....  
(full name)

of

.....  
(address)

a Member of

.....  
(name of incorporated Association)

appoint

.....  
(full name of proxy)

of

.....  
(address)

a Member of that incorporated Association, as my proxy to vote for me on my behalf at the general meeting of the Association (annual general meeting or other general meeting, as the case may be) to be held on

.....  
And at any adjournment of that meeting.

\*My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).

.....  
(Signature of Member appointing proxy)

(\*To be inserted if desired.)

Date .....

Note A proxy vote may not be given to a person who is not a Member of the association.