

THE MULTICULTURAL DISABILITY ADVOCACY  
ASSOCIATION OF NSW INCORPORATED



An Association Incorporated pursuant to the  
Associations Incorporation Act (NSW) 2009

CONSTITUTION and  
RULES OF ASSOCIATION

**This constitution was adopted by the Association in November 2013 and amended in December 2013 and November 2016.**

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## Part 1 - Preliminary

### 1 Name of the Association

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The name of the Association is the Multicultural Disability Advocacy Association of NSW Incorporated.

### 2 Principles on which the Association is based

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The underlying principles of the Association are that:

- (a) all people with disability and their families/carers are individuals who have the inherent right to respect for their human worth and dignity, and should enjoy freedom from discrimination on the basis of race, ethnicity, linguistic skill, religion, class, culture, gender and disability.
- (b) all people with disability and their families/carers should be able to share, maintain and develop their culture without prejudice or disadvantage.
- (c) all government and non-government bodies should acknowledge, reflect and respond to the multicultural and multilingual diversity of Australia.
- (d) all people with disability and their families/carers should have the opportunity to fully participate, contribute and be included in society and in the decisions which directly affect them.
- (e) all people with disability and their families/carers, particularly those from CALD/NESB backgrounds should be supported so that they may enjoy equal opportunities and have equitable access to, and an equitable share of, resources.
- (f) all people with disability, particularly those from CALD/NESB backgrounds, should be supported and empowered to achieve positive outcomes and achieve their maximum potential as members of the community.
- (g) all people with disability should be valued, respected and portrayed in positive ways.
- (h) all relevant programs and services for people with a disability should be tailored according to individual needs and goals and in a manner that results in the least restriction of their rights and opportunities.
- (i) all people with disability should have access to advocacy support, to ensure maximum participation in decision making.
- (j) all people from CALD/NESB backgrounds must be included and treated with fairness with the goal of improving community harmony and inclusion with the objective of strengthening access and equity.
- (k) all people from CALD/NESB backgrounds should be provided with opportunities to contribute, treated with respect and have their cultural, religious and/or linguistic diversity supported.

### 3 Objects of the Association

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#### 3.1 Objects

The Association is a public benevolent institution established for the direct relief of disability by promoting, protecting and securing the rights and interests of people in New South Wales who have a disability and their families and carers, with a particular

focus on those from a CALD/NESB background. The Association will achieve these objects by:

- (a) providing advocacy, assistance and/or referral for people with disability, and their families/carers with a particular focus on those from CALD/NESB background;
- (b) supporting the development of information services, and networks of organisations having an interest in the provision of services to persons with a disability and their families/carers;
- (c) providing advice to Government and organisations regarding issues affecting people with a disability and their families/carers with a particular focus on those from CALD/NESB background;
- (d) promoting awareness of issues affecting people with disability, and their families/carers through education programs, training activities and any other appropriate mechanisms;
- (e) promoting the self-reliance, independence and responsibility of people with a disability;
- (f) identifying and maintaining representation of the Association on appropriate bodies;
- (g) anything ancillary to the Objects referred to in **Clause 3.1**.

### 3.2 **Income and Property**

- (a) The income and property of the Association will only be applied towards the promotion of the Objects of the Association.
- (b) No income or property of the Association will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Association. However nothing in this Constitution will prevent payment in good faith to a Member:
  - (i) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Association;
  - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent to the Association; or
  - (iii) of reasonable and proper rent for premises leased by any Member to the Association.

### 3.3 **Remuneration of Directors**

- (a) No payment shall be made to any Committee Member other than the payment:
  - (i) of out of pocket expenses incurred by the Committee Member in the performance of any duty as a Committee Member where the amount payable does not exceed an amount previously approved by the Committee;
  - (ii) for any service rendered to the Association by the Committee Member in a professional or technical capacity, other than in the capacity as Committee Member, where the provision of the service has the prior approval of the Committee and where the amount payable is approved by the Committee and is not more than an amount which commercially would be reasonable for the service; or
  - (iii) of fees paid to a Co-Opted Committee Member as payment for sitting on the Committee where:

- (A) the Committee resolves to pay sitting fees to that Co-Opted Committee Member; and
- (B) the Association has obtained any required exemptions under the *Anti-Discrimination Act 1977* (NSW) or any other law so that the payment to any Co-Opted Committee Member does not constitute or result in any discrimination offence by the Association.

## 4 Definitions and Interpretation

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### 4.1 Definitions

In this Constitution, except in so far as the context or subject matter otherwise indicates or requires:

**ACNC** means the Australian Charities and Not-for-Profits Commission.

**ACNC Act** means the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).

**ACNC Regulation** means the *Australian Charities and Not-for-Profits Commission Regulation 2013* (Cth).

**Association** means the Multicultural Disability Advocacy Association of NSW Incorporated.

**Associations Act** means the *Associations Incorporation Act 2009* (NSW).

**Associations Regulation** means the *Associations Incorporation Regulation 2010* (NSW).

**CALD** means culturally and linguistically diverse. The definition of CALD:

- includes individuals who identify as having a specific cultural or linguistic affiliation because of their religion, spirituality, race, language and ethnicity;
- includes individuals from a non-English speaking background, including people whose parents' first language was not English; and
- does not include individuals whose ancestry is Anglo-Saxon, Anglo Celtic, Aboriginal or Torres Strait Islander.

**Chairperson** means the person nominated by the Committee to preside over Committee and general meetings of the Association.

**Charity** means an entity that is registered with the ACNC.

**Co-opted Committee Member** means a Committee Member described in **Clause 19.6**.

**Committee** means the Committee members and office bearers who constitute the Committee of Management of the Association which is to act subject to the Act, the Regulation and this Constitution and to any resolution passed by the Association in general meetings.

**Committee Member** means a person who is a Committee member of the Association from time to time.

**Constitution** means this constitution as amended or supplemented from time to time.

**DGR** means deductible gift recipient.

**Director-General** has the meaning given to it by the Associations Act.

**Disability** means any person with:

- total or partial loss of their bodily or mental functions; or
- total or partial loss of a part of their body; or
- the malfunction, malformation or disfigurement of a part of their body; or
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement that results in disturbed behaviour; and

those impairments have been of continuous duration for at least the previous 6 months and the person's interactions with various societal barriers as a result of those impairments may hinder their full and effective participation on an equal basis with others.

**Elected Committee Member** means any person who is either an Ordinary Committee Member, a Family/Carer Committee Member or a Skilled Committee Member.

**Entrance Fee** means the entrance fee payable by Members pursuant to **Clause 12**.

**Family/Carer Committee Member** means a Committee Member described in **Clause 19.4**.

**Fit and proper person** has the meaning given to it by **Clause 18.2**.

**Law** means the Associations Act, the Associations Regulation, the ACNC Act and the ACNC Regulation.

**Member** means a member of the Association.

**Membership Fee** means the membership fees payable by Members pursuant to **Clause 12**.

**NESB** means individuals from a non-English speaking background, including people whose parents' first language was not English

**Objects** means the objects of the Association as set out in **Clause 3**.

**Ordinary Committee Member** means a Committee Member described in **Clause 19.3**

**Previous Committee** means the committee which was in place prior to, and on, the date on which this Constitution is adopted.

**Principles** means the principles set out in **Clause 2**.

**Public Benevolent Institution** has the meaning given to that term by the *Income Tax Assessment Act 1997* (Cth).

**Public Officer** has the meaning given to that term by the Associations Act.

**Register** means the register of Members kept in accordance with section 29 of the Associations Act pursuant to **Clause 11**.

**Secretary** means:

- (a) the person holding office under this Constitution as secretary of the Association; or
- (b) if no such person holds that office - the Public Officer of the Association.

**Skilled Committee Member** means a Committee Member described in **Clause 19.5**.

**Social Justice Principles** means that all people with disability should be included and treated with fairness with the goal of improving community harmony and inclusion with the objective of strengthening access and equity. All people with disability should be

provided with opportunities to contribute and participate, be treated with respect, and have their cultural, religious and/or linguistic diversity supported, promoted and protected.

**Special Resolution** has the meaning given to it by the Associations Act.

#### 4.2 Interpretation

In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other two genders;
- (c) the word **person** means a natural person and any partnership, association, body or entity whether incorporated or not;
- (d) the words **writing** and **written** include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any Clause or Schedule is to a clause or schedule of this Constitution;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) an expression used in a particular Part or Division of an Act or Regulation that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any rule that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division;
- (i) headings do not form part of or affect the construction or interpretation of this Constitution;
- (j) a reference to a function includes a reference to a power, authority and duty;
- (k) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty; and
- (l) the provisions of the *Interpretation Act 1987* (NSW), apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under the Associations Act.

## Part 2 - Membership

### 5 Eligibility for Membership

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5.1 A person is eligible to be a Member if the person:

- (a) supports the Objects and Principles of the Association;
- (b) demonstrates a commitment to Social Justice Principles;
- (c) pays any applicable fee in accordance with **Clause 12**;
- (d) applies for membership in accordance with **Clause 7**;
- (e) satisfies the criteria attached to the relevant category of membership as provided for in **Clause 6**;



## **6 Classes of membership**

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- 6.1 There shall be five classes of membership:
- (a) Ordinary Members;
  - (b) Family/Carer Members;
  - (c) Life Members;
  - (d) Skilled Members; and
  - (e) Associate Members.
- 6.2 Ordinary Members:
- (a) are individuals who have a disability and are from a CALD/NESB background; and
  - (b) may vote at general meetings.
- 6.3 Family/Carer Members:
- (a) are individuals who are either a parent, sibling, child, grandparent or carer of an individual who is from a CALD/NESB background and who has a disability; and
  - (b) may vote at general meetings.
- 6.4 Life Members:
- (a) are individuals, who are Members, whom the Committee determines have provided outstanding, long term service to the Association;
  - (b) may vote at general meetings; and
  - (c) are not required to pay Entrance Fees or annual Membership Fees.
- 6.5 Skilled Members:
- (a) are individuals who do not satisfy the conditions set out in **Clauses 6.2 to 6.4**;
  - (b) are individuals who the Committee determines:
    - (i) have qualifications that may be beneficial to the Association in the disability or ethnic field; or
    - (ii) have undertaken work, whether on a paid or voluntary basis, for either a person with a disability or a person from a CALD/NESB background; and
  - (c) may vote at general meetings.
- 6.6 Associate Members:
- (a) are persons who do not satisfy the criteria of any of the other classes of membership; and
  - (b) may not vote at general meetings.

## **7 Application for and admission to membership**

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- 7.1 An application for membership of the Association must:
- (a) be made in writing in accordance with the form set out Schedule 1, or in any other form prescribed by the Committee from time to time, provided that the application form must:
    - (i) advise the applicant that as a Member of the Association the applicant shall be bound to comply with this Constitution as amended from time to time;
    - (ii) include the signatures of two existing Members of the Association who nominate the applicant for membership; and
    - (iii) be signed by the applicant;
  - (b) specify the category of membership being applied for by the applicant;
  - (c) be accompanied by any required fee as set out in **Clause 12**; and
  - (d) be lodged with the Secretary.
- 7.2 As soon as practicable after receiving an application for membership, the Secretary must refer the application to the Committee which is to determine whether to approve or to reject the application. The Committee is not required to provide the applicant with any reason for its acceptance or rejection of the application.
- 7.3 As soon as practicable after the Committee determines an application for membership, the Secretary must:
- (a) notify the applicant, in writing, that the Committee approved or rejected the application (whichever is applicable); and
  - (b) if the Committee approved the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under this constitution by a member as an Entrance Fee and Membership Fee.
- 7.4 The Secretary must, on payment by the applicant of the amounts referred to in **Clause 7.3(b)** within the period referred to in that clause, enter or cause to be entered the applicant's name in the Register of members and, on the name being so entered, the applicant becomes a Member of the Association.
- 7.5 Within 30 days of receiving notification under **Clause 7.3(a)**, an applicant may appeal a decision of the Committee to reject its application by writing to the Secretary.
- 7.6 The Secretary must, upon receiving an appeal under **Clause 7.5**, provide notice of the appeal to the Committee within 7 days of receiving the appeal. The Committee shall determine the appeal at the next Committee meeting following the receipt of the notice from the Secretary.
- 7.7 As soon as practicable after the Committee makes a determination under **Clause 7.6**, the Secretary must:
- (a) notify the applicant, in writing, of the outcome of the appeal; and
  - (b) if the Committee approves the application following an appeal, enter the applicant's name in the Register and, on the name being so entered, the applicant becomes a Member of the Association.
- 7.8 Any decision made by the Committee under **Clause 7.6** shall be final. The Committee does not have to provide reasons.

## **8 Cessation of membership**

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- 8.1 A Member shall cease to be a Member of the Association:
- (a) on the date that the Secretary receives written notice of resignation of that Member in accordance with **Clause 10**;
  - (b) where that Member is an individual, upon that Member dying;
  - (c) where that Member:
    - (i) ceases to satisfy the conditions that relate to that Member's category of membership (unless transferred to another class of Membership by the Committee); and
    - (ii) fails to apply for and be accepted into another class of membership, in accordance with **Clause 7**;
  - (d) where that Member is expelled from the Association pursuant to **Clause 15**, or
  - (e) where that Member fails to pay any sums payable pursuant to **Clause 12** within 3 months after that sum becomes due.
- 8.2 Where a Member ceases to be a Member, the Secretary must make an appropriate entry in the Register recording the date on which the Member ceased to be a Member.

## **9 Membership entitlements not transferable**

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A right, privilege or obligation which a person has by reason of being a Member of the Association:

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

## **10 Resignation of membership**

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A Member desiring to resign from the Association may do so at any time by delivering or forwarding by post to the Secretary a written notice of resignation signed by the resigning Member.

## **11 Register of Members**

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- 11.1 The Public Officer or Secretary of the Association must establish and maintain a Register of Members of the Association specifying the name and postal or residential address of each person who is a Member of the Association together with the date on which the person became a Member and the class of membership to which that Member belongs.
- 11.2 The Register of Members must be kept in New South Wales:
- (a) at the main premises of the Association; or
  - (b) if the Association has no premises, at the Association's official address.
- 11.3 Any member may by written application to the Committee apply to inspect the register of Members and/or copy any part of the register of Members.
- 11.4 The Committee in its absolute discretion may refuse the application to inspect or copy any part of the register of Members on reasonable grounds including but not limited to the following:
- (a) need to protect the privacy of a member or members;

- (b) danger that the member making the application may use the register of Members for their own private purposes;
  - (c) risk that the use of the register of Members may be used in a manner prejudicial to the interests of the Association.
- 11.5 The Secretary will notify the applicant within a reasonable time period of the decision of the Committee and the decision of the Committee is final. The Committee does not have to provide reasons of decision.
- 11.6 If the application to copy any part of the register of members is approved, a Member may obtain a copy of any part of the Register on payment of a fee of not more than \$1 for each page copied.
- 11.7 If a Member requests that any information contained on the Register about the Member (other than the Member's name) not be available for inspection, that information must not be made available for inspection.
- 11.8 A Member must not use information about a person obtained from the Register to contact or send material to the person, other than for:
- (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the Association or other material relating to the Association; or
  - (b) any other purpose necessary to comply with a requirement of the Associations Act or the Associations Regulation.

## 12 Fees

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- 12.1 There shall be an Entrance Fee and an annual Membership Fee payable by each Member to the Association.
- 12.2 Subject to **clause 12.3**, the amount of the Entrance Fee and annual Membership Fee shall be payable by Members at such times and in such manner as determined by the Committee from time to time.
- 12.3 The Committee may in its discretion:
- (a) determine that no Entrance Fee or annual Membership Fee is payable by a Member or Members (in whole or in part) in a given year; and
  - (b) extend the time for payment of the Entrance Fee or annual Membership Fee by any Member.
- 12.4 No part of any Entrance Fee or annual Membership Fee shall be refunded to a Member who ceases to be a Member in accordance with **Clause 8**.

## 13 Members' liabilities

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The liability of a member of the Association to contribute towards the payment of the 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 of the Association as required by **Clause 12**.

## 14 Resolution of internal disputes

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- 14.1 A dispute between a Member and another Member (in their capacity as Members), or a dispute between a Member or Members and the Association, shall be referred to the Committee which must take steps to resolve the dispute.

- 14.2 If a dispute so referred is not resolved to the satisfaction of any party to the dispute within thirty (30) days of its being referred, then that party may refer the dispute to mediation before a mediator appointed by mutual agreement of the parties.
- 14.3 Failing agreement by the parties to the appointment of a mediator within fourteen (14) days of a party notifying the other party of its intention to refer the dispute to mediation, the appointment of the mediator shall be made by the President of the Australian Mediation Association.
- 14.4 The costs of the mediator appointed pursuant to **Clause 14.2** or **Clause 14.3** (as the case may be) shall be shared equally between the Members party to the dispute.
- 14.5 At least seven (7) days before a mediation session established by a mediator appointed pursuant to **Clause 14.2** or **Clause 14.3** (as the case may be) is to commence, the parties to the dispute are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

## **15 Disciplining of members**

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- 15.1 Where the Committee is of the opinion that, or receives a complaint that, a Member:
- (a) has refused or neglected to comply with a provision or provisions of this Constitution; or
  - (b) has wilfully acted in a manner prejudicial to the interests of the Association, the Committee may, by resolution:
  - (c) expel the Member from the Association; or
  - (d) suspend the Member from Membership of the Association for a specified period,
- but the resolution shall not take effect:
- (e) until the expiry of 14 days after the service on the Member of a notice under **Clause 15.3**; or
  - (f) if the Member notifies the Secretary that the Member intends to exercise a right of appeal under **Clause 15.4**, until the appeal is determined under **Clause 15.6**.
- 15.2 The Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- 15.3 If the Committee makes a resolution under **Clause 15.1**, the Secretary shall, as soon as practicable cause a notice in writing to be served on the Member:
- (a) setting out the resolution of the Committee and the grounds on which it is based;
  - (b) fully informing the Member of the Member's rights of appeal under this **Clause 15**; and
  - (c) informing the Member of the date, time and place of the next scheduled Committee meeting to which the Member may submit oral or written representations in accordance with **Clause 15.4**.
- 15.4 A Member who is the subject of a resolution under **clause 15.1** may do either or both of the following:
- (a) attend and speak at the Committee meeting referred to in **Clause 15.3(c)**; and
  - (b) submit to the Committee at or prior to the date of that meeting written representations relating to the resolution.

- 15.5 If a Member desiring to make representations to the Committee under this **Clause 15** advises the Secretary that the Member is unable to attend the meeting referred to in **Clause 15.3(c)** and requests deferral of the matter to a later meeting, the Committee shall, if it thinks the request reasonable, defer the matter to a later Committee meeting and shall cause the Member to be advised in writing of the time, date and place of that later meeting.
- 15.6 At the Committee meeting mentioned in **Clause 15.3(c)** or any later meeting to which the matter has been deferred in accordance with **Clause 15.5**, the Committee shall:
- (a) give to the Member mentioned in **Clause 15.1** an opportunity to make oral representations;
  - (b) give due consideration to any written representations submitted to the Committee by that Member at or prior to the meeting; and
  - (c) by resolution determine in its absolute discretion whether to confirm, revoke or vary its resolution made under **Clause 15.1**, and that resolution shall be final and of immediate effect.
- 15.7 The Secretary, as soon as practicable after the making by the Committee of a resolution under **Clause 15.6(c)**, shall by notice in writing inform the Member of the resolution.

## Part 3 - The Committee

### 16 Powers of the Committee

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Subject to the Law and this Constitution, the Committee:

- (a) is to control and manage the affairs of the Association; and
- (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by the Law or this Constitution to be exercised by a general meeting of Members; and
- (c) has power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

### 17 Duties of the Committee

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- 17.1 Subject to the exception provided in section 45.130(3) of the ACNC Regulations, at all times each Committee Member must:
- (a) comply with the duties prescribed by Division 1 Part 4 of the Associations Act;
  - (b) meet the conditions in Governance Standard 4 in section 45.20 of the ACNC Regulation; and
  - (c) comply at all times with the duties set out in Governance Standard 5 in section 45.25 of the ACNC Regulation.
- 17.2 In accordance with Governance Standard 4 in section 45.20 of the ACNC Regulation, the Committee will take reasonable steps to ensure that the Committee does not at any time include a Committee Member who:
- (a) is disqualified; or
  - (b) has any reason to be disqualified,
- from managing a corporation under the *Corporations Act 2001* (Cth) or from being a responsible entity under subsection 45.20(4) of the ACNC Regulation.

## **18 Eligibility for Membership of the Committee**

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- 18.1 A person is eligible to be elected or appointed as a Committee Member if that person:
- (a) supports the Principles and Objects of the Association;
  - (b) is a Fit and Proper Person; and
  - (c) satisfies the criteria set out in either **Clause 19.3, 19.4, 19.6, or 27.2** whichever is relevant to that Committee Member's appointment.
- 18.2 For the purposes of **Clause 18.1(b)**, a Fit and Proper Person is a natural person who in the last 5 years has not been:
- (a) the subject of any disciplinary action under **Clause 28**;
  - (b) the subject of any disciplinary action initiated by the Committee prior to this Constitution being adopted which involved a finding of guilt;
  - (c) the subject of any substantiated complaint/s in any work environment where the complaint/s related to issues of dishonesty, fraud or failure to disclose any conflict of interest;
  - (d) convicted of any offence relating to fraud, failure to disclose any conflict/s of interest or any other dishonesty offence;
  - (e) sentenced to or served any term of imprisonment whether in whole or in part;
  - (f) or does not become a mentally incapacitated person or a person whose person or estate is or was liable to be dealt with under any law relating to mental health;
  - (g) held to be an undischarged bankrupt;
  - (h) found to have contravened any law whether in Australia or a foreign country relating to trust accounts or trust money;
  - (i) found to have a conflict of interest with the Objects or Principles; and/or
  - (j) expelled from or subject to substantiated misconduct claims in any other management committee of any other organisation.

## **19 Composition and Membership of the Committee**

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- 19.1 **Number of Committee Members**
- (a) The Committee shall consist of not less than seven (7) and not more than nine (9) persons.
  - (b) The Committee may by resolution vary the number of Committee Members from that referred to in **Clause 19.1(a)** .
- 19.2 **Constitution of the Committee**
- The Committee shall comprise:
- (a) up to seven (7) Elected Committee Members including:
    - (i) at least three (3) and up to five (5) Ordinary Committee Members;
    - (ii) up to two (2) Family/Carer Committee Members; and
    - (iii) up to two (2) Skilled Committee Members; and
  - (b) up to two (2) Co-Opted Committee Members appointed by the Committee.

### 19.3 **Ordinary Committee Member**

A person is eligible to become an Ordinary Committee Member if that person:

- (a) satisfies the criteria set out in **Clause 6.2(a)**;
- (b) has provided to the Secretary a signed declaration declaring that they are a Fit and Proper Person; and
- (c) is a Member.

### 19.4 **Family/Carer Committee Member**

A person is eligible to become a Family/Carer Committee Member if that person:

- (a) satisfies the criteria set out in **Clause 6.3(a)**;
- (b) has provided to the Secretary a signed declaration declaring that they are a Fit and Proper Person; and
- (c) is a Member.

### 19.5 **Skilled Committee Member**

A person is eligible to become a Skilled Committee Member if that person:

- (a) Satisfies the criteria set out in **Clause 6.5(a) or 6.5(b)**;
- (b) has provided to the Secretary a signed declaration declaring that they are a Fit and Proper Person; and
- (c) is a Member.

### 19.6 **Co-Opted Committee Member**

A person is eligible to become a Co-Opted Committee Member if that person is a person who:

- (a) the Committee determines will bring skills and experience to the Committee to enable the Committee to advance the Objects;
- (b) has provided to the Secretary a signed declaration declaring that they are a Fit and Proper Person;
- (c) demonstrates a commitment to the Principles and Objects of the Association; and
- (d) may be, but need not be, a Member

19.7 A candidate for Committee Membership shall provide his or her signed declaration to the Secretary using the form set out in **Schedule 3** or any other form provided by the Committee for that purpose from time to time.

### 19.8 **Initial Committee**

- (a) The initial Committee shall be the Previous Committee which was in place prior to, and on, the date on which this Constitution is adopted.
- (b) The initial Committee Members shall, subject to this Constitution, hold office until the conclusion of the annual general meeting following the date on which this Constitution is adopted.
- (c) For the purposes of **Clause 19.9(c)**:
  - (i) an initial Committee Member shall hold office until the conclusion of the annual general meeting following the date on which this constitution is adopted regardless of the maximum term specified in **Clause 19.9(c)**.



- (ii) at the conclusion of the annual general meeting following the date on which this Constitution is adopted, any time spent by a Committee Member on the Previous Committee and the initial Committee shall count towards the maximum term stipulated by **Clause 19.9(c)**.

#### 19.9 Term

- (a) Each Elected Committee Member shall hold office for two (2) years, but shall be eligible for re-election for a further two (2) terms of two (2) years each in accordance with this Constitution.
- (b) Subject to **Clause 19.8(b)** each Co-Opted Committee Member shall hold office for a term to be determined by the Committee which shall not exceed two (2) consecutive years, but shall be eligible for reappointment for a further two (2) terms of two (2) years each in accordance with this Constitution.
- (c) Subject to **Clause 19.8(c)**, Committee Members shall not hold office for more than six (6) consecutive years.
- (d) After being a Committee Member for six (6) consecutive years, a Committee Member may be eligible for re-election or re-appointment not earlier than four (4) years after the completion of the six (6) consecutive years.

#### 19.10 Office Bearers

- (a) The office bearers of the Association shall be:
  - (i) the Chairperson;
  - (ii) the Vice- Chairperson;
  - (iii) the Secretary; and
  - (iv) such additional office bearer positions as the Committee deems necessary from time to time.
- (b) At the first Committee Meeting held after either:
  - (i) the annual general meeting referred to in **Clause 19.8(b)**; or
  - (ii) any annual general meeting where an office bearer has retired or been removed,

the Committee shall appoint office bearers to fill any vacant office bearer positions described in **Clause 19.10(a)** from amongst those Committee Members sitting on the Committee at the time of that Committee Meeting who satisfy any requirements for the relevant office bearer position as set out in **Clauses 24 and 25**.
- (c) Office bearers shall hold office for a term of one (1) year but shall be eligible for reappointment for two (2) further terms of one (1) year each. Office bearers shall not hold office:
  - (i) for more than three (3) consecutive years; or
  - (ii) beyond their retirement or removal from the Committee as a Committee Member.

- 19.11 Once a staff member ceases to be employed by MDAA, the staff member can immediately apply to become a member of the Association as prescribed in **Clause 7**, and apply to be a Co-opted member of the Governance Committee.

## 20 Register of Committee Members

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- 20.1 The Public Officer or Secretary of the Association must establish and maintain a register of Committee Members. The register must contain the Committee Member's

name, date of birth, residential address, the date on which each Committee Member takes office, the date on which each Committee Member vacates office and any other particulars as may be prescribed by the Associations Regulation.

- 20.2 The register of Committee Members must be kept in New South Wales:
- (a) at the main premises of the Association; or
  - (b) if the Association has no premises, at the Association's official address.
- 20.3 Any change in the Committee's membership must be recorded in the register within one month after the change occurs.
- 20.4 The register must, at all reasonable hours, be kept available for inspection, free of charge, by any person.
- 20.5 A Member may obtain a copy of any part of the register of Committee Members at a reasonable time determined by the Committee on payment of a fee of not more than \$1 for each page copied.

## **21 Disclosure of Interest**

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- 21.1 If a Committee Member has a direct or indirect interest in any matter, including a matter which is to be considered in a Committee meeting, and the interest appears to give rise to a conflict with the proper performance of the Committee Member's duties, the Committee Member must, as soon as possible after the relevant facts have come to the Committee Member's knowledge, disclose the nature of the interest at a Committee meeting.
- 21.2 The Secretary must create and maintain a book recording the particulars of any disclosures made under **Clause 21.1** and:
- (a) the book must be kept at the same address as the register of Committee Members; and
  - (b) the book must be open at all reasonable hours to inspection by any Member on payment of the fee determined by the Committee but not exceeding the maximum fee prescribed by the Associations Regulation.
- 21.3 After the Committee Member has disclosed the nature of any interest in any matter, the Committee Member may:
- (a) not be present during any deliberations with respect to the matter;
  - (b) not vote on the matter;
  - (c) still be counted in determining whether or not a quorum is present at any meeting of Committee Members considering that contract or arrangement or proposed contract or arrangement;
  - (d) not sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (e) not vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 21.4 A Committee Member's failure to make disclosure under this **Clause 21** does not render void or voidable a contract or arrangement in which the Committee Member has a direct or indirect interest.

## **22 Election of Elected Committee Members**

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- 22.1 Nominations of candidates for election as Elected Committee Members:

- (a) must be made in writing, signed by 2 Members and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
  - (b) must be delivered to the Secretary of the Association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- 22.2 If insufficient nominations are received to ensure that the Committee is constituted with the minimum number of Elected Committee Members as required by **Clause 19.2(a)**, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- 22.3 If insufficient further nominations are received, any vacant positions remaining shall be filled in accordance with **Clause 27.2**
- 22.4 If the number of nominations received is equal to the number of Committee Members required to satisfy **Clause 19.2(a)**, the persons nominated are taken to be elected.
- 22.5 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- 22.6 The ballot for the election of Elected Committee Members is to be conducted at the annual general meeting in such usual and proper manner as the Committee may direct.
- 22.7 A person nominated as a candidate for election as an Elected Committee Member must satisfy the requirements set out in **Clause 19.3** or the requirements set out in **Clause 19.4**.

## **23 Appointment of Co-Opted Committee Members**

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The Committee may appoint a Co-Opted Committee Member at any time subject to **Clauses 19.2(b), 19.6 and 19.9(b)**.

## **24 Chairperson**

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- 24.1 The Chairperson will:
- (a) chair Committee meetings;
  - (b) establish the agenda for Committee meetings;
  - (c) chair general meetings of the Association;
  - (d) be the spokesperson for the Association at all general meetings; and
  - (e) be the major point of contact between the Committee and management.
- 24.2 The Chairperson must be a Member from a NESB background with a disability.
- 24.3 When the Chair of the Committee steps down, the Committee will choose whom they agree has the right skills and experience to discharge the duties and functions of the Office by a majority vote. There will be no automatic succession.

## **25 Vice-Chairperson**

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- 25.1 The Vice-Chairperson will:
- (a) chair Committee meetings in the Chairperson's absence;
  - (b) chair general meetings of the Association in the Chairperson's absence;
  - (c) assist the Chairperson in the performance of the Chairperson's duties;
  - (d) in the event of a casual vacancy occurring in the position of Chairperson, the Committee may, subject to **Clause 18.1**, appoint any person as Chairperson,

whom the Committee agrees has the right skills and experience to discharge the duties and functions of the Office.

- 25.2 The Vice-Chairperson must be either a Member from a NESB background with a disability or a Family/Carer Member pursuant to **Clause 6.3**.

## **26 Secretary**

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The Secretary of the Association shall, as soon as practicable after being appointed as Secretary, lodge notice with the Association of his or her address.

## **27 Vacation of Office**

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- 27.1 A casual vacancy in the office of a Committee Member occurs if the Committee Member:
- (a) dies;
  - (b) being an Elected Committee Member, ceases to be a Member;
  - (c) becomes prohibited from being a director of, or managing, a company by reason of any order made under the *Corporations Act 2001* (CT);
  - (d) has been disqualified by the ACNC Commissioner at any time during the preceding twelve (12) months, from being a responsible entity of a registered entity under section 45.20(4) of the ACNC Regulation;
  - (e) becomes a mentally incapacitated person or a person whose person or estate is or was liable to be dealt with under any law relating to mental health;
  - (f) has completed his or her term in office as a Committee Member pursuant to **Clause 19.8(c)**;
  - (g) becomes an employee of the Association, except in the case of a person who becomes an employee by virtue of being a paid Co-Opted Committee Member pursuant to **Clause 3.3(a)(iii)**;
  - (h) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - (i) resigns office by notice in writing given to the Secretary;
  - (j) is removed from office pursuant to **Clause 28**;
  - (k) is absent without the consent of the Committee from 3 consecutive meetings of the Committee; or
  - (l) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months.
- 27.2 In the event of a casual vacancy occurring in the membership of the Committee, the Committee may, subject to **Clause 18.1**, appoint any person whom the Committee determines will bring skills and experience to the Committee to enable the Committee to advance the Objects to fill the vacancy. Any Committee Member so appointed is to hold office until the conclusion of the next annual general meeting following the date of the appointment.

- 27.3 The Committee may act despite any vacancy in their body but if the number falls below the minimum fixed in accordance with Clause 19.1 the Committee may act:
- (a) for the purpose of:
    - (i) increasing the number of Committee Members to the minimum; or
    - (ii) convening a general meeting; or
  - (b) in emergencies;
- but for no other purpose.
- 27.4 Any act or thing done or allowed to be done, or purporting to have been done or allowed to be done, by the Committee or by a sub-committee appointed by the Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Committee or sub-committee.

## **28 Removal of Committee Members**

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- 28.1 The Association at general meeting or the Committee may by resolution remove any Committee Member in circumstances where the Members are of the opinion that the Committee Member has:
- (a) refused or neglected to comply with the provisions of this Constitution and/or related policies;
  - (b) engaged in conduct which is prejudicial to the interests of the Association;
  - (c) engaged in conduct unbecoming of a Committee Member or likely to bring the Association into disrepute; or
  - (d) failed to give proper disclosure of interest under **Clause 21**.
- 28.2 If a Committee Member fails to comply with **Clause 17.1**, the Association at general meeting or the Committee has:
- (a) the power to remove the Committee Member from the Committee;
  - (b) the power to require the Committee Member to resign from the Committee;
  - (c) the right to commence court action against the Committee Member; or
  - (d) the right to seek the assistance of the ACNC.
- 28.3 If the Committee proposes to remove a Committee Member pursuant to **Clause 28.1** or **28.2** the Committee must provide that Committee Member with an opportunity to make representations in writing to the Secretary or Chairperson (not exceeding a reasonable length). The Committee Member may request either:
- (a) that the representations be notified to the Committee Members, in which case the Secretary or the Chairperson may send a copy of the representations to each Committee Member; or
  - (b) that the representations be read out at the meeting at which the resolution is being considered.
- 28.4 If the Association proposes to remove a Committee Member pursuant to **Clause 28.1** or **28.2**, the Committee Member who is the subject of such resolution is entitled to put his or her case to the Members by:
- (a) giving the Association a written statement for circulation to Members (pursuant to **Clauses 28.5** and **28.6**); and
  - (b) speaking to the motion at the meeting at which the resolution is being considered.

- 28.5 A written statement given to the Association pursuant to **Clause 28.4(a)** is to be circulated by the Association to Members by:
- (a) sending a copy to everyone to whom notice of the meeting is sent if there is time to do so; or
  - (b) if there is not time to comply with **Clause 28.5(a)**, having the statement distributed to Members attending the meeting and read out at the meeting before the resolution is voted on.
- 28.6 Any statement given to the Association pursuant to **Clause 28.4(a)** does not have to be circulated to Members if it is more than 1,000 words long or defamatory.

## **29 Committee meetings and quorum**

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- 29.1 The Committee must meet at least 4 times in each period of 12 months at such place and time as the Committee may determine.
- 29.2 Additional meetings of the Committee may be convened by the Chairperson or by any Committee Member.
- 29.3 Oral or written notice of a meeting of the Committee must be given by the Secretary to each Committee Member at least 48 hours (or such other period as may be unanimously agreed on by the Committee Members) before the time appointed for the holding of the meeting.
- 29.4 Notice of a meeting given under **Clause 29.3** must specify the general nature of the business to be transacted at the meeting. No business other than that business is to be transacted at the meeting, except business which the Committee Members present at the meeting unanimously agree to treat as urgent business. Notice of a meeting may be given in person, or by post or by telephone, fax or other electronic means.
- 29.5 A Committee Member may waive notice of a Committee meeting by giving notice to that effect to the Association in person or by post or by telephone, fax or other electronic means.
- 29.6 A person who attends a Committee meeting waives any objection that person may have to a failure to give notice of the meeting.
- 29.7 Anything done (including the passing of a resolution) at a Committee meeting is not invalid because either or both a person does not receive notice of the meeting or the Association accidentally does not give notice of the meeting to a person.
- 29.8 Each Committee Member, by consenting to be a Committee Member, consents to the use of each of the following technologies for the holding of a Committee meeting:
- (a) telephone;
  - (b) video;
  - (c) any other technology which permits each Committee Member to communicate with every other participating Committee Member; or
  - (d) any combination of these technologies.
- 29.9 Any five (5) Committee Members constitute a quorum for the transaction of the business of a meeting of the Committee.
- 29.10 No business is to be transacted by the Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 29.11 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

29.12 At a meeting of the Committee:

- (a) the Chairperson or, in the Chairperson's absence, the Vice-chairperson is to preside; or
- (b) if the Chairperson and the Vice-chairperson are absent or unwilling to act, such one of the remaining Committee Members as may be chosen by the members present at the meeting is to preside.

## 30 Minutes

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30.1 The Committee shall cause minutes to be made of:

- (a) all appointments of Committee Members;
- (b) all appointments of office-bearers;
- (c) the names of Committee Members present at a Committee meeting or a general meeting;
- (d) all orders, resolutions and proceedings at Committee meetings and general meetings; and
- (e) such matters as are required by the Law to be recorded in the record books of the Association including, without limitation, all declarations made or notices given by any Committee Member of his or her interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.

30.2 Minutes of proceedings at a meeting shall be signed by the Chairperson of the meeting or by the Chairperson of the next meeting.

## 31 Delegation by Committee to sub-committee

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31.1 The Committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such Member or Members of the Association as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function which is a duty imposed on the Committee by the Act or by any other law.

31.2 The Committee may establish a sub-committee pursuant to **Clause 31.1** to act as an advisory committee to the Committee.

31.3 A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

31.4 A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

31.5 Despite any delegation under this clause, the Committee may continue to exercise any function delegated.

31.6 Any act or thing done or allowed to be done by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or allowed to be done by the Committee.

31.7 The Committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

- 31.8 A sub-committee may meet and adjourn as it thinks proper.
- 31.9 Any sub-committee must provide at least twice in every 12 month period, written reports which must be reviewed by the Committee which must also review and determine the necessity of any continuing delegation to that sub-committee.

## **32 Voting and decisions**

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- 32.1 Questions arising at a meeting of the Committee or of any sub-committee appointed by the Committee pursuant to **Clause 31** are to be determined by a majority of the votes of members of the Committee or sub-committee present at the meeting.
- 32.2 Each:
- (a) Committee Member present at a meeting of the Committee;
  - (b) sub-committee member present at a meeting of a sub-committee appointed by the Committee (including the person presiding at the meeting); and
- is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- 32.3 Subject to **Clause 29.9**, the Committee may act despite any vacancy on the Committee.
- 32.4 Any act or thing done or allowed to be done, or purporting to have been done or allowed to be done by the Committee or by a sub-committee appointed by the Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Committee or sub-committee.
- 32.5 The Committee may pass a resolution without a Committee meeting being held if notice in writing of the resolution is given to all Committee Members and a majority of the Committee Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 32.6 A resolution pursuant to **Clause 32.5** may consist of several documents in the same form each signed by one or more Committee members which is effective when signed by the last of the Committee Members constituting the majority of the Committee Members.
- 32.7 A facsimile transmission or other document produced by electronic means under the name of a Committee Member with the Committee Member's authority is taken to be a document signed by the Committee Member for the purposes of **Clause 32.5** and is taken to be signed when received by the Association in legible form.

## **Part 4 - General meetings**

### **33 Annual general meetings**

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- 33.1 Following the adoption of this Constitution, the Association must convene annual general meetings of its Members:
- (a) at least once in each calendar year; and
  - (b) within the period of six (6) months after the expiration of each financial year of the Association.
- 33.2 **Clause 33.1** has effect subject to any extension or permission granted by the Director-General under section 37(2)(b) of the Associations Act.



## **34 Calling of and business at annual general meetings**

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- 34.1 The annual general meeting of the Association is, subject to the Associations Act and to **Clause 33**, to be convened on such date and at such place and time as the Committee thinks fit.
- 34.2 In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
  - (b) to receive from the Committee reports on the activities of the Association during the last preceding financial year;
  - (c) to elect Elected Committee Members of the Association; and
  - (d) to receive and consider any financial statement and auditor's report which is required to be submitted to Members under the Associations Act.
- 34.3 An annual general meeting must be specified as such in the notice convening it.

## **35 Special general meetings**

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- 35.1 The Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- 35.2 The Committee must, on the requisition in writing of at least 5 per cent (5%) of the total number of Members, convene a special general meeting of the Association.
- 35.3 A requisition of Members for a special general meeting:
- (a) must state the purpose or purposes of the meeting;
  - (b) must be signed by the Members making the requisition;
  - (c) must be lodged with the Secretary; and
  - (d) may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.
- 35.4 If the Committee fails to convene a special general meeting to be held within one (1) month after that date on which a requisition of Members for the meeting is lodged with the Secretary, any one or more of the Members who made the requisition may convene a special general meeting to be held not later than three (3) months after that date.
- 35.5 A special general meeting convened by a Member or Members as referred to in **Clause 35.4** must be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee.
- 35.6 A special general meeting of the Association may be convened at two or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.

## **36 Notice**

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- 36.1 Except if the nature of the business proposed to be dealt with at a general meeting requires a Special Resolution of the Association, the Secretary must, at least fourteen (14) days before the date fixed for the holding of the general meeting, give a notice to each Member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 36.2 If the nature of the business proposed to be dealt with at a general meeting requires a Special Resolution of the Association, the Secretary must, at least twenty one (21)

days before the date fixed for the holding of the general meeting, cause notice to be given to each Member specifying, in addition to the matters required under **Clause 36.1**, the intention to propose the resolution as a Special Resolution.

- 36.3 No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under **Clause 34**.
- 36.4 A Member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the Member.

## **37 Quorum for general meetings**

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- 37.1 No item of business is to be transacted at a general meeting unless a quorum of Members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- 37.2 Five (5) members present in person (being Members entitled under this Constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- 37.3 If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of Members, is to be dissolved; and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- 37.4 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 who are entitled to vote (being at least 3) are to constitute a quorum.

## **38 Presiding member**

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- 38.1 The Chairperson or, in the Chairperson's absence, the Vice-Chairperson, is to preside as chairperson at each general meeting of the Association.
- 38.2 If the Chairperson and the Vice-Chairperson are absent or unwilling to act, the voting Members present must elect one of their number to preside as chairperson at the meeting.

## **39 Adjournment**

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- 39.1 The chairperson of 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 is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 39.2 If a general meeting is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned meeting 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.

- 39.3 Except as provided in **Clauses 39.1** and **39.2**, 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.

## **40 Making decisions**

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- 40.1 A question arising at a general meeting of the Association is to be determined by either:
- (a) a show of hands; or
  - (b) if on the motion of the Chairperson or if 5 or more Voting Members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- 40.2 If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- 40.3 If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

## **41 Consensus and voting**

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- 41.1 On any question arising at a general meeting of the Association every Member has one vote only except for an Associate Member who shall have no vote pursuant to **Clause 6.6(b)**.
- 41.2 In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- 41.3 A Member or proxy, who would otherwise be entitled to vote, is not entitled to vote at any general meeting of the Association unless all money due and payable by the Member to the Association has been paid.
- 41.4 A Postal Ballot may be conducted in accordance with the needs of the Association as determined by the Committee pursuant to sections 38 and 39 of the Associations Act and regulation 12 and Schedule 3 of the Associations Regulation.

## **42 Special resolutions**

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- 42.1 A resolution is a Special Resolution of the Association if it is passed in accordance with section 39 of the Associations Act.
- 42.2 A special resolution must be passed by a general meeting of the Association to effect the following:
- (a) a change of the Association's name, Constitution, Objects or official address;
  - (b) an amalgamation with another incorporated Association;
  - (c) the voluntary winding up or cancellation of incorporation of the Association; and
  - (d) the application for registration as a company or co-operative.

## **43 Postal ballots**

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- 43.1 The Association may hold a postal ballot to determine any issue or proposal (other than an appeal under **Clause 15**).
- 43.2 A postal ballot is to be conducted in accordance with Schedule 3 to the Associations Regulation.

## **44 Appointment of Proxies**

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- 44.1 Each voting Member is entitled to appoint another Member as proxy by notice given to the Secretary no later than seven (7) days before the time of the meeting in respect of which the proxy is appointed.
- 44.2 Each Member may only hold one proxy.
- 44.3 The notice appointing the proxy is to be in the form set out in **Schedule 2** to this Constitution.

## **Part 5 - Miscellaneous**

### **45 Funds - source**

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- 45.1 The funds of the Association are to be derived from Entrance Fees and annual Membership Fees, government funding, donations and, subject to any resolution passed by the Association in general meeting, such other sources as the Committee determines.
- 45.2 All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank or other authorised deposit-taking institution account.
- 45.3 The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **46 Funds - management**

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- 46.1 The funds of the Association are to be used in pursuance of the Objects of the Association in such manner as the Committee determines and no portion shall be distributed directly or indirectly to the Members of the Association except as bona fide compensation for services rendered or expense incurred on behalf of the Association.
- 46.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two (2) Committee Members or one (1) employee and one (1) Committee Member of the Association, being Committee Members or employees authorised to do so by the Committee.

### **47 Accounts and inspection**

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- 47.1 The Committee shall cause proper accounting and other records to be kept as required by the ACNC Act and the ACNC Regulation including:
- (a) all sums of money received and expended by the Association and the matter in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of real and personal property by the Association;
  - (c) the assets and liabilities of the Association; and
  - (d) all sums of money received and held in trust for any beneficiary.

- 47.2 The accounts shall be kept at the registered office of the Association or at such other place or places as the Committee determines, and shall always be available for inspection by the Committee.
- 47.3 The Committee shall:
- (a) if required by the Associations Act or the ACNC Act or the ACNC Regulation, prepare and distribute copies of the financial reports of the Association and a Committee report; and
  - (b) where required by the Associations Act or the ACNC Act or the ACNC Regulation, cause the financial records to be audited or reviewed by a properly qualified auditor or other authorised entity.
- 47.4 Where the Committee must cause the financial records to be audited in accordance with **Clause 47.3**, the auditor shall be appointed by the Committee and the auditor shall not be a Member or closely related to any Member of the Association or Committee.

## **48 Change of name, objects and constitution**

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An application to the Director-General for registration of a change in the Association's name, objects or this Constitution in accordance with section 10 of the Associations Act is to be made by the Public Officer or a Committee Member

## **49 Inspection of books etc.**

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- 49.1 The following documents must be open to inspection, free of charge, by a Member of the Association at any reasonable hour:
- (a) records, books and other financial documents of the Association;
  - (b) this Constitution; and
  - (c) minutes of all general meetings of the Association.
- 49.2 A Member may obtain a copy of any of the documents referred to in **Clause 49.1** on payment of a fee of not more than \$1 for each page copied.

## **50 Service of notices**

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- 50.1 For the purpose of this Constitution, a notice may be served on or given to a person:
- (a) by delivering it to the person personally;
  - (b) by sending it by pre-paid post to the address of the person; or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- 50.2 For the purpose of this Constitution, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee;
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post; and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

## 51 Financial year

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The financial year of the Association is each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1 July and ending on the following 30 June.

## 52 Winding up and Cancellation

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### 52.1 Winding up

- (a) The Association may be wound up by a special resolution at a special general meeting of the Association for that purpose, provided that notice of motion in respect thereof has been forwarded to all Members at least two weeks and not more than four weeks prior to the meeting.
- (b) The notice of motion referred to in **Clause 52.1(a)** shall state the reasons for the proposed winding up of the Association.
- (c) For the purposes of the vote referred to in **Clause 52.1(a)**, voting Members attending shall be deemed to form a quorum.

### 52.2 Distribution of surplus assets

- (a) If upon the winding up or dissolution of the Association there remains after the satisfaction of its debts and liabilities any surplus assets whatsoever, the same shall not be paid to or distributed amongst the Members but shall be given or transferred to another institution or corporation which:
  - (i) has objects which are similar to the Objects set out in **Clause 3.1**;
  - (ii) has a constitution which requires its income and property to be applied in promoting its objects;
  - (iii) has a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Association by **Clause 3.2**; and
  - (iv) is endorsed as a DGR.
- (b) The identity of the corporation(s) or institution(s) referred to in **Clause 52.2(a)** is to be determined by the Members in writing at or before the time of dissolution and failing such determination being made, by application to the New South Wales Supreme Court for determination.
- (c) In accordance with section 65 of the Associations Act, any distribution of surplus property must be approved by the Director-General.
- (d) In the event that the Association ever has its endorsement as a DGR revoked, the Association must transfer all remaining gifts, deductible contributions and any money received in respect of such gifts and contributions to another DGR with similar objects to the Association, such DGR to be determined by:
  - (i) the Committee; or
  - (ii) failing the Committee, the Members; or
  - (iii) failing such determination being made by either the Committee or the Members, by application to the New South Wales Supreme Court for determination.

## **53 Public Officer**

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- 53.1 The Committee shall appoint a Public Officer who is over 18 years of age and a resident of New South Wales.
- 53.2 The Public Officer can be, but need not be a Committee Member or a Member.
- 53.3 The Public Officer shall be an authorised signatory for the Association.
- 53.4 Within 28 days after taking office as the Public Officer, that person must notify the Director-General, in the approved form, of:
- (a) the person's full name and date of birth;
  - (b) the person's address for service of notices, being either the person's residential address or some other address at which the person can generally be found; and
  - (c) the fact that the person has taken office as Public Officer.
- 53.5 The Public Officer's acts are valid despite any defect in his or her appointment.
- 53.6 If there is any change in the address of the Public Officer, the Public Officer must notify the Director-General, in the approved form, of the new address within 28 days after the change occurs.
- 53.7 Upon ceasing to be the Public Officer, that person must ensure that all documents of the Association in their possession are delivered to a Committee Member within 14 days of vacating office.

# Schedule 1



**Multicultural Disability Advocacy  
Association of NSW Inc.**  
10-12 Hutchinson St, Granville  
Telephone: (02) 9891 6400  
Toll Free: 1800 629 072  
Facsimile: (02) 9897 9402  
E-mail: mdaa@mdaa.org.au  
ABN: 60 737 946 674

## Membership Application/Renewal

(Membership is valid from 1 July of one year to the 30 June the following year)

Date: \_\_\_\_\_

Name: \_\_\_\_\_

(Person or Organisation)

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

\_\_\_\_\_ Postcode: \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_ Postcode: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

### I wish to:

- apply for membership
- renew my membership

**Please tick the membership category you think you are eligible for.  
(A description of the eligibility criteria for each class of membership is  
included on the following page):**

- Ordinary Membership**
- Family/Carer Membership**
- Skilled Membership**
- Associate Membership**

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Name of Nominating Member      Signature

\_\_\_\_\_  
Name of Nominating Member  
Date \_\_\_\_\_

\_\_\_\_\_  
Signature

Please send this membership application to ☒ MDAA, PO BOX 884 GRANVILLE NSW 2142.



A person is eligible to be a Member of MDAA if the person:

- (a) supports the Objects and Principles of the Association, as set out in the MDAA Constitution;
- (b) demonstrates a commitment to Social Justice Principles, as defined in the MDAA Constitution;
- (c) pays any applicable fee in accordance with the MDAA Constitution;
- (d) applies for membership in accordance with the MDAA Constitution; and
- (e) satisfies the criteria attached to the relevant category of membership described below.

**Ordinary Members:**

- (a) are individuals who have a disability and are from a NESB background; and
- (b) may vote at general meetings.

**Family/Carer Members:**

- (a) are individuals who are either a parent, sibling, child, grandparent or carer of an individual who is from a NESB background and who has a disability and
- (b) may vote at general meetings.

**Life Members:**

- (a) are individuals, who are Members, who the Committee determines have provided outstanding, long term service to the Association;
- (b) may vote at general meetings; and
- (c) are not required to pay Entrance Fees or annual Membership Fees.

**Skilled Members:**

- (a) are individuals who do not satisfy the conditions set out in **Clauses 6.2 to 6.4** of the Constitution; and
- (b) are individuals who the Committee determines:
  - (i) have qualifications that may be beneficial to the Association in the disability or ethnic field; or
  - (ii) have undertaken work, whether on a paid or voluntary basis, for either a person with a disability or a person from a CALD/NESB background and
- (c) may vote at general meetings.

**Associate Members:**

- (a) are persons who do not satisfy the criteria of any of the other classes of membership; and
- (b) may not vote at general meetings.

**If you are a person from a CALD/NESB background with a disability or a family member/carer of a person from a CALD/NESB background with disability, please turn over.**



**For people from a CALD/NESB Background with disability or family members/carers of people from a CALD/NESB background with disability ONLY**

We would appreciate if you could give us the following information for statistical purposes. (All information will be kept confidential.) This information will help us to target our information better and help us identify gaps.

**For people with a disability:**

Date of Birth: \_\_\_\_\_

Sex:  Male  Female

Country of Birth: \_\_\_\_\_

Preferred Language: \_\_\_\_\_

Disability Type: \_\_\_\_\_

What are your needs/interests?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For Family Members/Carers:**

Date of Birth: \_\_\_\_\_

Sex:  Male  Female

Country of Birth: \_\_\_\_\_

Preferred Language: \_\_\_\_\_

Disability Type (of the person you care for): \_\_\_\_\_

What are your needs/interests?

# Schedule 2

[PF no/year]

## FORM TO APPOINT A PROXY

I,.....  
(full name)

of.....  
(address)

am a Member of the Multicultural Disability Advocacy Association of New South Wales Incorporated (MDAA) and I am entitled to vote at a general meeting.

I appoint .....  
(full name)

of .....  
(address)

who is a Member of MDAA entitled to vote at general meetings, as my proxy to vote for me on my behalf at the general meeting of MDAA to be held on

.....  
(date)

and at any adjournment of that meeting.

(Please tick your choice below)

- My proxy holds no other proxies for any other Member of MDAA.
- My proxy is authorised to vote as follows:**
- My proxy can vote however they decide to.
- My proxy can vote to elect Committee Members.
- My proxy can vote on the proposed motions as follows:**  
(If there are further motions an additional sheet will be attached)

Motion 1 \_\_\_\_\_  
(insert details)

For  Against

Motion 2 \_\_\_\_\_  
(insert details)

For  Against

Motion 3 \_\_\_\_\_  
(insert details)

For  Against

\_\_\_\_\_  
Signature of member appointing proxy

\_\_\_\_\_  
Signature of proxy

Date \_\_\_\_\_

**Note:** You cannot give a proxy to a person who is not a Member of MDAA entitled to vote at general meetings.

Witnessed by

Date

\_\_\_\_\_  
(Full name of qualified witness)

\_\_\_\_\_

\_\_\_\_\_  
Signature of qualified witness

\_\_\_\_\_  
Qualification and registration/license number

\_\_\_\_\_  
Address of qualified witness

**Note:** Persons qualified to witness this form include:  
Justice of the Peace, Police Officer, Medical Practitioner, Solicitor with current  
NSW practicing certificate, Pharmacist, Nurse, Dentist, Psychologist.

## Schedule 3

### DECLARATION

I declare that I am a “fit and proper” person as defined in the Multicultural Disability Advocacy Association’s (**Association**) Constitution and I am not aware of any finding or event that would, upon disclosure, make me ineligible to become a Committee Member of the Association.

Signed:

Date:

*Fit and Proper Person is defined in the Association’s constitution as a natural person, who in the last 5 years has not been:*

- (a) the subject of any disciplinary action under the Constitution;
- (b) the subject of any disciplinary action initiated by the Committee prior to this Constitution being adopted which involved a finding of guilt;
- (c) the subject of any substantiated complaint/s in any work environment where the complaint/s related to issues of dishonesty, fraud or failure to disclose any conflict of interest;
- (d) convicted of any offence relating to fraud, failure to disclose any conflict/s of interest or any other dishonesty offence;
- (e) sentenced to or served any term of imprisonment whether in whole or in part;
- (f) or does not become a mentally incapacitated person or a person whose person or estate is or was liable to be dealt with under any law relating to mental health;
- (g) held to be an undischarged bankrupt;
- (h) found to have contravened any law whether in Australia or a foreign country relating to trust accounts or trust money;
- (i) found to have a conflict of interest with the Objects or Principles; and/or
- (j) expelled from or subject to substantiated misconduct claims in any other management committee of any other organisation.

Please return this form to the Association’s ED, PO Box 884 Granville NSW 2142 or Fax to 02 9897 9402.