

**PROPOSED AMENDMENTS TO CONSTITUTION
OF
“NATIONAL ETHNIC AND MULTICULTURAL BROADCASTERS’ COUNCIL INCORPORATED”**

Following on from the attempt to amend the NEMBC constitution at the 2008 AGM, the proposed format may assist members to better understand the purpose and rationale for each of the proposed amendments. The format below contains 4 columns as explained below:

Column	Purpose
No	Provides a number system for each amendment proposed and is in effect the amendment number
Current Clause	Provides the current clause as it appears in the constitution
Change to	Provides the proposed clause to amend the constitution
Rationale	Provides the Rationale for the proposed change to the constitution

This format might assist members in adopting agreed changes for the 2009 NEMBC AGM.

The NEMBC constitution is complex and given this complexity the NEMBC executive committee has considered it beneficial to attempt to develop changes over the next couple of years in order that better consultation of member views are taken into account of changes needed to help improve the organization. The clauses proposed for amendment at this time are those that have caused the most confusion at previous AGMs. Please note that these changes do not deal with the whole of the NEMBC constitution. Instead the changes are being proposed in segments that can be managed over time given the voluntary nature of the organization and the chance for increased member feedback for the proposed changes.

In the course of developing the constitutional changes, the NEMBC obtained pro-bono legal advice from a leading law firm. The NEMBC became a client of Corrs Chambers Westgarth in Melbourne and two lawyers (a corporate adviser and a senior partner) from this firm have assisted in developing this document so that it fits legal requirements.

The NEMBC now invites comments and feedback from members on the proposed changes contained in this document. Please provide these comments in writing to the NEMBC office by the due date of: **Monday 5 October 2009**.

Responses can be sent to: NEMBC, PO Box 1144, Collingwood VIC 3066 or by email to: admin@nembc.org.au.

After the due date, Member comments and feedback will be re-examined by the NEMBC and the lawyers and adjustments/improvements incorporated in a revised document which will be re-sent to the Members for appropriate due consideration well in time for the 2009 NEMBC AGM.

No.	Current Clause	Change to	Rationale
1	<p>1. NAME</p> <p>The name of the Association is “National Ethnic and Multicultural Broadcasters’ Council Incorporated”.</p>	<p>1. NAME</p> <p>a) The name of the Association is “National Ethnic and Multicultural Broadcasters’ Council Incorporated” (NEMBC).</p> <p>b) The Association is incorporated pursuant to the Association Incorporation Act 1991 of the Australian Capital Territory.</p>	<p>Two clauses are proposed (a) and (b). Clause (a) except for the addition of the defined term (NEMBC), is identical to the current constitution. The additional clause (b) placed at the commencement of the constitution better informs the reader and makes explicit the name of the jurisdiction within Australia and the relevant legislation under which the legal entity (ie the NEMBC) is incorporated. Currently, reference under which the entity is incorporated is by implication only and contained in the middle of the constitution (currently at clause 18 Public Officer).</p>
2	<p>30. INTERPRETATION</p> <p>This Constitution unless there be something in the subject or context inconsistent herewith or unless the content otherwise requires:</p> <p>30.1 The words importing the singular number only shall include the plural number and the words importing the plural number only shall include the singular number;</p> <p>30.2 Words importing the masculine gender shall include the feminine and neuter genders, words importing the feminine gender shall include the masculine and neuter genders and words importing the neuter gender shall include the masculine and feminine genders;</p> <p>30.3 “Member” means any Broadcaster which broadcasts in a language other than English and or which has been accepted as a member by the Council and entered in the Council’s members register.</p> <p>30.4 “The Council” means “NATIONAL ETHNIC AND MULTICULTURAL BROADCASTERS’ COUNCIL</p>	<p>2. DEFINITIONS</p> <p>In this Constitution, unless there be something in the subject or context inconsistent herewith or unless the content otherwise requires:</p> <p>2.1 The words importing the singular number only shall include the plural number and the words importing the plural number only shall include the singular number;</p> <p>2.2 Words importing the masculine gender shall include the feminine and neuter genders, words importing the feminine gender shall include the masculine and neuter genders and words importing the neuter gender shall include the masculine and feminine genders;</p> <p>2.3 “Member” means a person who is nominated by a Program in accordance with rule 5 .1 to represent that Program on the Council and is entered in the Council’s members register.</p> <p>2.4 “Association” or “The Council” means the “NATIONAL ETHNIC AND MULTICULTURAL BROADCASTERS’ COUNCIL INCORPORATED” or NEMBC.</p>	<p>This clause is proposed so as to place up front the relevant definitions used within the constitution. A minor alteration is also proposed to change the term “Interpretation” to “Definitions”, which is the more modern term used in current legislation and constitutions. To enable this section to be up front there is also a numbering change, which means the existing clause 2 and the following clauses need to be renumbered. The new clause 2 replaces the existing clause 30 (which will be deleted.)</p> <p>While conceptually “membership” in the Council relates primarily to a program, at law, a program must be represented by a person, (which may include a natural person or a legal person such as a company). As the program itself is not a “person” at law, this clause has been modified accordingly.</p>

No.	Current Clause	Change to	Rationale
	<p>INCORPORATED</p> <p>30.5 “Rules” means and includes such rules, regulations and by-laws as shall be promulgated from time to time by the Executive and the Council.</p> <p>30.6 “Executive” means the Executive Committee duly elected under this Constitution.</p> <p>30.7 “Affiliated Member” means any body, person or corporation accepted by the Council as an affiliated member of the Council and entered in the Council’s affiliated members’ register.</p>	<p>2.5 “Rules” means and includes such rules, regulations and by-laws as shall be promulgated from time to time by the Executive and the Council.</p> <p>2.6 “Executive Committee” means the Executive Committee duly elected under this Constitution.</p> <p>2.7 “Affiliated Member” means any body, person or corporation accepted by the Council as an affiliated member of the Council and entered in the Council’s affiliated members’ register.</p> <p>2.8 “Standing Committee” means a subcommittee whose members are the subject of the election process at an AGM.</p> <p>2.9 “Secretary” means the person elected pursuant to rule 10 to perform the functions of secretary of the Council.</p> <p>2.10 “Treasurer” means the person elected pursuant to rule 10 to perform the functions of treasurer of the Council.</p>	<p>This new definition identifies and recognises an already accepted practice not previously contained in the constitution. The Youth, Women and EGAC subcommittees are examples of these on-going Standing Committees, the membership of which is determined by the election process at an AGM.</p> <p>These definitions have been added for clarity.</p>
3	2.2 To advance the development of an harmonious multicultural society in Australia through broadcasting.	3.2 To advance the development of a harmonious multicultural society in Australia through broadcasting.	Because of the proposed renumbering of Interpretation provision (now renamed as “Definitions”) being placed up front at clause 2 of the constitution, the contents of the Objects clause (previously at clause 2) will require re-numbering as Clause 3. This will affect the other proposed Object clauses previously as clause 2 which will be renumbered as Clause 3.
4	2.5 To ensure the promotion and extension of ethnic and multicultural broadcasting services so that all ethnic communities’ needs are met and so that the entire Australian Community benefits from quality multicultural broadcasting.	3.7 To promote and extend ethnic and multicultural broadcasting services to meet ethnic communities’ needs and to the benefit of the entire Australian community.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. It also is renumbered as per amendment 3.
5	2.7 To liaise with government and non-	3.8 To liaise with government, non-government and	This amendment attempts to use simpler language and

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	government organisations, the Community Broadcasting Association of Australia and Special Broadcasting Service on matters of significance to all members.	community organisations in pursuance of the goals of the Council.	fewer words in order to convey a clearer meaning. It also is renumbered as per amendment 3.
6	2.6 To promote racial and religious harmony in Australia.	3.3 To promote racial and religious harmony in Australia.	This clause is renumbered so that it will be included together with Clause 3.2.
7	2.8 To promote and support ethnic and multicultural broadcasting throughout Australia in every way which seems proper to the Council or the executive of the Council.	3.9 To promote access and equity in community broadcasting.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. It also is renumbered as per amendment 3.
8	2.9 To foster friendly relations among the station management and officials of all bodies that are members of the Council.	3.10 To foster positive relations amongst the Members of the Council.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. It also is renumbered as per amendment 3.
9	2.10 To advise, assist and facilitate education ethnic and multicultural programming and broadcasting including the exchange of programs, resources, information and ideas within and between multicultural and ethnic broadcasters.	3.11 To advise, assist and facilitate education with ethnic and multicultural programming and broadcasting including the exchange of programs, resources, information and ideas within and between multicultural and ethnic broadcasters.	This amendment attempts to use simpler language in order to convey a clearer meaning. It also is renumbered as per amendment 3.
10	2.11 To promote the principles of independence in programming diversity of output access to broadcasting by the community the widest representation of viewpoints to give the fullest expression to the aspirations and cultures of the Australian peoples' diversity in the organisation and structure of broadcasting and co-operation between multicultural broadcasters.	3.12 To promote principles of community independent media and programming diversity reflective of ethnic and multicultural views.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. It also is renumbered as per amendment 3.
11	2.12 To prevent racial sexual religious or political discrimination or distinction among its members.	3.4 To prevent discrimination on the basis of race, gender, religious and political affiliation and other forms of discrimination or distinction.	This clause is renumbered so that it will be included together with Clauses 3.2 and 3.3.

No.	Current Clause	Change to	Rationale
12	2.1 2.3 2.4	3.1 3.5 3.6	These clauses are renumbered, due to amendment 3 to 11. There is no change to clause contents.
13	3. POWERS	4. POWERS	The number of this clause is renumbered together with all of the sub-clauses that will require to be renumbered from clauses 3.1 to 3.26 to clauses 4.1 to 4.26, in view of amendments 3 to 11.
14	4. ENFORCEMENT RULE	30. ENFORCEMENT RULE	This clauses is renumbered to clause 30 and placed towards the rear of the constitution. The renumber has been made possible due to amendment 2.
15	<p>5. MEMBERSHIP</p> <p>5.1 Member:- This will be open to one representative of any program which is regularly broadcast in a language other than English, and to a representative of a multicultural program where that program is broadcast on a radio station that broadcasts ethnic programs provided that such multicultural program is under the control of an ethnic broadcaster.</p> <p>5.1.1 Where an organisation exists at a radio station that broadcasts ethnic programs and that organisation represents broadcasters of more than one language group, then that organisation may join on behalf of each and every one of the language groups it represents, provided that, the organisation has received the approval of each of those groups. For the purpose of determining voting rights, each and every language group shall be considered a separate financial member and that a minimum of three is required for</p>	<p>5. MEMBERSHIP</p> <p>For the purposes of this clause:</p> <p>5.1 A Program may be represented by a Member on the Council if that Program is:</p> <p>5.1.1 an ethnic program which is regularly broadcast with the spoken content of at least 50% in a language other than English, or a lower percentage of non-English content that is prescribed by the Community Broadcasting Foundation's Funding Guidelines from time to time; or</p> <p>5.1.2 a multicultural program which is regularly broadcast with the spoken content of at least 20% in a language other than English and is relevant to the target audience, or a lower percentage of non-English content that is prescribed by the Community Broadcasting Foundation's Funding Guidelines from time to time.</p> <p>5.1.3 A Member must be a presenter, producer, director or manager of a Program and must be nominated by the Program in the prescribed form</p>	<p>This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning of what the requirements are in order to qualify as a Program. The amendment specifies a minimum of 50% of a language content other than English for an ethnic program and 20% of a language content other than English for a multicultural program. The amendment also provides the necessary flexibility in the event that the minimum language content decreases according to the Community Broadcasting Foundation's Funding Guidelines.</p> <p>This clause specifies the criteria that a person representing a Program as a Member must possess in order to qualify for NEMBC membership.</p>

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	<p>representation to the AGM.</p> <p>5.1.2 The AGM, on the recommendation of the executive, can bestow life membership on any person they consider to have made an outstanding contribution to ethnic community broadcasting.</p>	<p>which will include the requisite details regarding the Program and the individual's position. A person wishing to become a Member must complete the nomination form. Each Program may only be represented by one Member.</p> <p>5.1.4 A person ceases to be a Member:</p> <p>(a) if the person for any reason ceases to be the approved nominee of the Program; or</p> <p>(b) if the Program ceases to satisfy the eligibility requirements under this Constitution.</p> <p>5.1.5 Where an organisation exists at a radio station that broadcasts ethnic programs and that organisation represents broadcasters of more than one language group, then that organisation may join on behalf of each and every one of the language groups it represents, provided that the organisation has received the approval of each of those groups.</p> <p>5.1.6 The AGM, on the recommendation of the executive, can bestow life membership on any Member they consider to have made an outstanding contribution to ethnic community broadcasting.</p>	<p>This clause is similar to existing clause except that it transfers the voting mechanism process to relevant "Voting Rights" area of the constitution and promotes the concept that each program has equal voting rights consistent with 5.1.1 and 5.1.2.</p> <p>This is simply a re-numbering of the clause with no change to its contents.</p>
16	<p>5.2.1 Subject as hereinafter provided any person or entity which subscribes to the objects of the Council but which is ineligible for membership may make application to the Executive of the Council to become an affiliated member of the Council.</p>	<p>5.2.1 A person or organisation which subscribes to the objects of the Association but which is ineligible for membership may make application to the Executive Committee to become an Affiliated Member.</p>	<p>This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning.</p>
17	<p>5.2.2 Affiliated membership shall not be open to political parties. An application for affiliated membership may be accepted if made in accordance with this constitution and any rules and regulations made there under. The</p>	<p>5.2.2 Affiliated Membership shall not be open to political parties. The Affiliated Member shall pay the Affiliated Membership fee as set from time to time by the Council. An Affiliated Member shall not be entitled to be represented at any meeting of the</p>	<p>This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. The application process provision is contained in subsequent clauses.</p>

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	affiliated member shall pay the affiliated membership fee as set from time to time by the Council for the payment of affiliated membership fees. An affiliated member shall not be entitled to be represented at any meeting of the Council nor shall it be entitled to vote at such meetings.`	Council nor shall it be entitled to vote at such meetings.	
18	An application to become a member or affiliate member of the Council shall be in writing addressed to the Secretary of the Council who shall as soon as practicable after the receipt of an application refer the same to the Executive for determination. Upon an application to become a member or affiliated member of the Council being approved by the Executive, the Secretary shall forthwith notify the applicant of the approval of its application to become a member or affiliated member of the Council and shall enter the applicant's name in a register of names kept by the Council.	5.3 Application for Membership 5.3.1 An application to become a Member or Affiliate Member shall be in writing addressed to the Secretary of the Association who shall as soon as practicable after the receipt of an application refer the same to the Executive Committee for determination. Upon an application to become a Member or Affiliated Member being approved, the Secretary shall forthwith notify the applicant of the approval of its application and shall enter the applicant's name in the Association Members' register.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning. This clause has also been numbered as a separate clause as it was not previously numbered.
19	5.2.3 The member or affiliated member shall pay such fee as is determined from time to time by the Council.	5.3.2 The Member or Affiliated Member shall pay such fee as is determined from time to time by the Executive Committee.	This clause has simply been renumbered in view of amendment 18 and vest power with the Executive Committee to set fees. Defined terms have been capitalised.
20	5.2.4 A member or affiliated member may at any time cease to be a member or affiliated member of the Council by notice in writing addressed to the Secretary of the Council and upon receipt of such notice the secretary shall remove the name of the member or affiliate member so giving notice from the register of members.	5.3.3 A Member or Affiliated Member may at any time cease to be a Member or Affiliated member by notice in writing addressed to the Secretary and upon receipt of such notice the Secretary shall remove the name of the Member or Affiliate member so giving notice from the Association member's register.	This clause has simply been renumbered in view of amendment 19 and uses simpler language to convey a clearer meaning. Defined terms have been capitalised.
21	5.3 MEMBERS LIABILITIES	5.4 MEMBERS LIABILITIES	This clause has simply been renumbered in view of

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	The liability of a member to contribute towards the payment of debts and liabilities of the association or the costs, charges and expenses in 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 rule 5.2.3.	The liability of a Member to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses in 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 rule 5.2.3.	amendment 18 with a minor number reference change proposed from amendment 15. Defined terms have been capitalised.
22	6.1 For the purposes of voting, members will have to identify with a licensed broadcasting station and on aspirant stations.	6.1 For the purposes of voting, Members must be nominated under rule 5.1.3 by a Program that will have to identify with a Licensed Broadcasting Station or aspirant stations with Temporary Broadcasting License (TBL).	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning and also specifies the requirement for a Temporary Broadcasting License (TBL) in order to have a voting right.
23	6.3 Only delegates of financial members will be eligible to vote and to nominate for and be eligible to be elected to the executive Committee of the Council.	6.3 Only Members who have paid fees will be eligible to vote and to nominate for and be eligible to be elected to the Executive Committee, Standing Committees and other sub committees of the Council.	This clause clarifies that in order to be eligible to stand or vote for a position on the Executive Committee, Standing Committee or other sub- committee a person needs to be a financial member. Previously members of the Standing Committees for youth or women were not required to satisfy this requirement.
24	6.5 Delegates representing full-time ethnic and multicultural stations are appointed by the governing bodies of these stations.	6.5 Delegates representing full-time ethnic and multicultural stations and umbrella organizations are appointed by the governing bodies of these stations and umbrella organizations.	This clause recognizes and sanctions an existing practice of recognizing umbrella organizations in appointing delegates.
25	<p>10. ELECTION OF OFFICERS</p> <p>The elected Officers of the Council shall be:</p> <p>Nine members of the Executive who shall hold office for two years from the time of their election and shall be elected at the Council's Annual General Meeting.</p>	<p>10. ELECTION OF EXECUTIVE COMMITTEE AND STANDING COMMITTEES</p> <p>The election of Executive Committee members shall be:</p> <p>Nine members of the Executive Committee shall hold office for two years from the time of their election and shall be elected at the Council's Annual General Meeting.</p>	The clause attempts to better identify the group of people that hold office of the NEMBC as opposed to the term of "Officers" that has led to some confusion.
26	10.2 It shall be a function of the Executive to elect from within its number a Secretary and	10.2 It shall be a function of the Executive Committee to elect from within its number a	The clause helps to ensure that both the Secretary and Treasurer are elected soon after the AGM in order that a

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	Treasurer.	Secretary and Treasurer promptly after the Annual General Meeting.	proper level of governance can promptly be put in place and be operational.
27	No current clause	10.3 A state representative shall be elected on each of the Youth and Women's Standing Committees at the AGM.	This clause identifies and recognizes an already accepted practice not previously contained in the constitution.
28	10.3 No person shall be eligible for nomination to any office or position specified in this paragraph unless he is a delegate of a financial member of the Council and is entitled to vote at the Annual General Meeting.	10.4 No person shall be eligible for nomination to any office or position specified in this paragraph unless the person is a nominated delegate of a financial member.	This amendment attempts to use simpler language and fewer words in order to convey a clearer meaning and is also renumbered due to the renumbering added by amendment 27. The clause also facilitates the nomination process.
29	10.4 Nominations for the office of the Executive shall be in writing and in compliance with any directions issued by the Executive.	19.9 Nominations for the office of the Executive and Standing Committees shall be in writing and in compliance with any directions issued by the Executive Committee.	The existing clause has required to be renumbered as a result of amendment 27 and further provides for an already accepted practice in the nomination process of eligible persons on Standing Committees. It also promotes the more accurate term of the Executive Committee.
30	15.3 The president or any three members of the Executive may request a special meeting of the Executive and such meeting shall be called as soon as practicable but not later than seven days after receipt of such request by the Secretary.	15.3 The president or no less than one third of the Executive Committee may request a special meeting of the Executive and such meeting shall be called as soon as practicable but not later than thirty days after receipt of such request by the Secretary.	This clause provides an increased level of governance allowing a proportion of the Executive to call for a special meeting. It also provides for a more reasonable time frame for the Secretary to call for a meeting.
31	18.1 The Public Officer's duties will be to fulfil all statutory obligations as detailed by the Associations Incorporation Ordinance 1953 of the Australian Capital Territory.	18.1 The Public Officer's duties will be to fulfil all statutory obligations as detailed by the Associations Incorporation Act 1991 of the Australian Capital Territory.	The clause simply recognizes the name of the current ACT legislation under which the NEMBC is incorporated.
32	21.2 The quorum at executive meetings will be 5 and each must be a representative of 4 (four) different States or Territories.	21.2 The quorum at the Executive Committee and Standing Committee meetings will exceed 50% of the current committee members and must encompass Members from at least 4 (four) States or Territories.	This clause provides an increased level of governance allowing a proportion of people for quorum meeting purposes in relation to Executive or Standing Committee meetings.
33	9.3.5 To elect members of the Executive and/or any sub-committees as may be	9.3.5 To elect members of the Executive Committee, Standing Committee and/or any sub-committees as	This clause identifies and recognizes the election of Standing Committees (such as the Youth and Women

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	required, including a chairperson and two members to the Ethnic Grants Advisory Committee, as required;	may be required, including a chairperson and two members to the Ethnic Grants Advisory Committee, as required;	Standing Committees as per amendment 27).
34	<p>12.2 Over and above the provisions of 12.1 the Executive may co-opt additional full voting members of the Executive in the following circumstances:</p> <p>a) Where no members of the sub-committees have been elected to the Executive, the Executive shall have power to co-opt the convenor of a sub-committee plus one other member;</p> <p>b) Where one member of a sub-committee has been elected to the executive the Executive shall have power to co-opt the convenor of the sub-committee. In the event that the convenor or the sub-committee has already been elected to the Executive, there shall be power to co-opt one member of the sub-committee.</p>	<p>12.2 In addition to the provisions of rule 12.1, the Executive Committee may co-opt additional full voting members of the Executive Committee in the following circumstances:</p> <p>a) Where no members of the Standing Committees have been elected to the Executive Committee, the Executive Committee shall have power to co-opt the convenor of a Standing Committee plus one other member;</p> <p>b) Where one member of a Standing Committee has been elected to the executive the Executive Committee shall have power to co-opt the convenor of the Standing Committee. In the event that the convenor or the Standing Committee has already been elected to the Executive Committee, there shall be power to co-opt one member of the Standing Committee.</p>	The Clause replaces the word sub-committee with Standing Committee as a result of amendment 27 and uses the defined term.
35	13.5 The Executive may on such matters as it deems proper, expedient, fit and desirable to do so, conduct Executive and Sub-Committee meetings by telephone. Minutes shall be kept of all such meetings.	13.5 The Executive Committee may on such matters as it deems proper, expedient, fit and desirable to do so, conduct Executive Committee, Standing Committee and sub-committee meetings by telephone or other electronic media format. Minutes shall be kept of all such meetings.	The clause includes reference to Standing Committees as well as recognizing other modern electronic methods of holding meetings where required.
36	10.8.1 The ballot for the election of officers shall be conducted at the Annual General Meeting in such usual and proper manner as the committee may direct.	10.8.1 The ballot for the election of officers shall be conducted at the Annual General Meeting in such usual and proper manner as the Executive Committee may direct.	This clause provides a correction properly identifying the Executive Committee.