



INSTRUMENT OF RECOGNITION

Fair Work (Registered Organisations) Act 2009
Sch.2 Cl. 1 – Recognition of State-registered association

Newcastle Master Builders' Association
(R2017/31)

MR ENRIGHT

MELBOURNE, 10 APRIL 2017

Recognition of State-registered association

[1] On 10 March 2017, the Fair Work Commission received an application from the Newcastle Master Builders' Association for recognition as a State-registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

[2] Being satisfied that the applicant is a State-registered association, that the association has no federal counterpart, that the association is registered under the *Industrial Relations Act 1996* of New South Wales, and that the application was accompanied by the information as set out in subclause 1(3) of Schedule 2 of the RO Act, I hereby grant the application.



DELEGATE OF THE GENERAL MANAGER

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Form F1—Application (No Specific Form Provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

The Applicant



These are the details of the person who is making the application.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Peter		
Surname	Compton		
Postal address	PO Box 266		
Suburb	Hunter Region Mail Centre		
State or territory	NSW	Postcode	2310
Phone number	(02)4959-6701	Fax number	(02)49594804
Email address	compton@bigpond.net.au		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Newcastle Master Builders Association
Trading name of business	As above
ABN/ACN	70-834-409-036
Contact person	Peter Compton, Executive Director

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.

Yes—Provide representative's details below

No

Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person	Greg Kerr		
Firm, union or company	Effective Workplace Pty Ltd		
Postal address	PO Box 283		
Suburb	New Lambton		
State or territory	NSW	Postcode	2305
Phone number	(0400)407-224	Fax number	
Email address	gkerr@effectiveworkplace.com.au		

The Respondent



These are the details of the person or business who will be responding to your application to the Commission. **NOT APPLICABLE**

Title [] Mr [] Mrs [] Ms [] Other please specify:

First name(s)

Surname

Postal address

Suburb

State or territory **Postcode**

Phone number **Fax number**

Email address

If the respondent is a company or organisation please also provide the following details

Legal name of business

Trading name of business

ABN/ACN

Contact person

1. The Application

1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.

Schedule 2 of the *Fair Work (Registered Organisations) Act 2009* (Cth)

2. Order or relief sought

2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

1. That the Fair Work Commission grant the Applicant recognition as a State-registered Organisation under Schedule 2 of the *Fair Work (Registered Organisations) Act 2009* (Cth).

2.2 Please set out grounds for the order or relief sought.



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

1. Under section 1(1) of Schedule 2 of the *Fair Work (Registered Organisations) Act 2009* (Cth) [“the Act”], the Applicant, being a State-Registered association of employers may apply to the General Manager of the Commission for recognition as a State-Registered Association.
2. The Applicant seeks recognition on the bases that:
 - (a) it has no Federal counterpart as defined in s9A of the Act because the *Fair Work (Registered Organisations) Regulations 2009* (Cth) do not prescribe a Federal counterpart to the Applicant; and
 - (b) the Applicant is a registered Industrial Union of Employers under the *Industrial Relations Act 1996* (NSW); and
 - (c) there is no organisation that has a branch (including a division of such a branch or a constituent part of such a branch) in NSW that has or purports to have substantially the same eligibility rules as the Applicant, and has a history of integrated operation with the Applicant; and
 - (d) there is no organisation of which the Applicant has purported to function as a branch (including a division of a branch or a constituent part of branch).
3. This application is accompanied by the following documents:
 - (a) a Declaration signed by the Executive Director of the Applicant;
 - (b) a copy of the current Certificate of Registration of the Applicant under the *Industrial Relations Act 1996* (NSW) at Annexure 1 to the Declaration referred to at (a);
 - (c) a copy of the current Rules of the Applicant as registered by the NSW Industrial Registrar at Annexure 2 to the Declaration referred to at (a); and
 - (d) a list of the current officers and office-holders of the Applicant as at the date of this Application, at Annexure 3 to the Declaration referred to at (a).

3. The employer

3.1 What is the industry of the employer?

Industrial organisation of employers

4. Industrial instrument(s)

4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.

Not applicable

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature

Name

Peter Compton, Executive Director

Date

09 March 2017



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

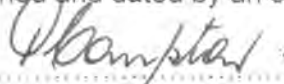
APPLICATION TO BECOME A RECOGNISED STATE-REGISTERED ASSOCIATION in accordance with Schedule 2 of the *Fair Work (Registered Organisations) Act 2009*

DECLARATION OF AUTHORISED OFFICER

I, Peter Francis Compton, of 165 Lambton Road Broadmeadow, NSW am the Executive Director of the Newcastle Master Builders Association (the Association) and am authorised to give this declaration for an application to become a recognised state-registered association under Schedule 2 of the *Fair Work (Registered Organisations) Act 2009*.

1. I declare that the Association is registered in New South Wales under the Industrial Relations Act 1996 (NSW). A copy of the certificate of registration of the Association is annexed to this declaration and marked **Annexure 1**.
2. The address of the Association is 165 Lambton Road Broadmeadow, NSW.
3. A copy of the current rules of the Association is annexed to this declaration and marked **Annexure 2**.
4. A list of the offices in the association and the name and address of each person holding those offices is annexed to this declaration and marked **Annexure 3**.
5. The Association has no federal counterpart listed and prescribed in Schedule 1A of the *Fair Work (Registered Organisations) Regulations 2009*.
6. There is no organisation registered under the *Fair Work (Registered Organisations) Act 2009* (a Registered Organisation) that:
 - a. has a branch (including a division of a branch or a constituent part of a branch) in New South Wales that has (or purports to have):
 - i. substantially the same eligibility rules as the Association AND
 - ii. a history of integrated operation with the Association.
7. The Association has not purported to function as a branch (including a division of a branch or a constituent part of a branch) of a Registered Organisation.
8. I declare that the information set out in this declaration and all of the accompanying documents are true and correct to the best of my knowledge and belief.

Signed and dated by an officer.



Peter Francis Compton

...10... March 2017

ANNEXURE 1

**A copy of the certificate of registration of the
Association**



NEW SOUTH WALES

No. ER59

Industrial Relations Act 1996

**CERTIFICATE OF REGISTRATION OF AN
INDUSTRIAL ORGANISATION OF EMPLOYERS
ON CHANGE OF NAME**

This is to certify that *Newcastle N.S.W. Master Builders Association*:

- (i) was registered as an Industrial Union of Employers under the *Industrial Arbitration Act 1940* on 22 March 1965;
- (ii) became a continued unincorporated industrial organisation of employers under the *Industrial Relations Act 1991*;
- (iii) was taken to be registered an industrial organisation of employers on commencement of the *Industrial Relations Act 1996*; and
- (iv) upon consent being granted to alterations to the rules of the organisation to bring them into compliance with the requirements for rules and a change of name on

13 October 2000

Newcastle Master Builders' Association

is duly registered as a State Industrial Organisation of Employers under the provisions of Chapter 5 of the *Industrial Relations Act 1996*.

(seal)


Deputy Industrial Registrar

Date: *19 December 2000*

ANNEXURE 2

A copy of the current rules of the Association

[see attached file]

ANNEXURE 3

LIST OF OFFICES AND THE NAME AND ADDRESS OF EACH PERSON HOLDING OFFICE IN THE ASSOCIATION

OFFICE	NAME OF PERSON HOLDING OFFICE	PROFESSIONAL/STREET ADDRESS OF PERSON HOLDING OFFICE
President	Matthew HAINES	165 Lambton Road Broadmeadow, NSW
Deputy President	Brad GARRARD	165 Lambton Road Broadmeadow, NSW
Immediate Past-President	Peter DiPRINZIO	165 Lambton Road Broadmeadow, NSW
Treasurer	Peter MILLINGTON	165 Lambton Road Broadmeadow, NSW
Board Member	Wayne DEANE	165 Lambton Road Broadmeadow, NSW
Board Member	Paul HICKSON	165 Lambton Road Broadmeadow, NSW
Board Member	Ross HOWARD	165 Lambton Road Broadmeadow, NSW
Board Member	Ian LEWIS	165 Lambton Road Broadmeadow, NSW
Board Member	Andrew PARKER	165 Lambton Road Broadmeadow, NSW
Board Member	Matthew SHARPE	165 Lambton Road Broadmeadow, NSW
Board Member	Joel SKELTON	165 Lambton Road Broadmeadow, NSW

Fair Work (Registered Organisations) Act 2009

9A Meaning of *federal counterpart*

- (1) For the purposes of this Act, a *federal counterpart* for a particular association of employers or employees registered under a State or Territory industrial law is an organisation prescribed by the regulations to be a federal counterpart of that association.
- (2) For the purposes of this Act, if subsection (1) does not apply in relation to a particular association of employers or employees registered under a State or Territory industrial law, a *federal counterpart* for the association is:
 - (a) an organisation that has a branch (including a division of such a branch or a constituent part of such a branch) in that State or Territory that has or purports to have:
 - (i) substantially the same eligibility rules as the association; and
 - (ii) a history of integrated operation with the association; or
 - (b) if paragraph (a) does not apply—an organisation of which the association has purported to function as a branch (including a division of a branch or a constituent part of a branch).

Fair Work (Registered Organisations) Regulations 2009

Schedule 1AA Prescribed State laws

(Subclause 1 (2) of Schedule 2 to the Act)

1. *Industrial Relations Act 1996* of New South Wales.
2. *Industrial Relations Act 1999* of Queensland.
3. *Industrial Relations Act 1979* of Western Australia.
4. *Fair Work Act 1994* of South Australia.

Schedule 1A Federal counterparts

(regulation 8A)

Is available from <https://www.legislation.gov.au/> in the *Fair Work (Registered Organisations) Regulations 2009*

Rules of a *State Industrial Organisation*
registered under the *Industrial Relations Act 1996*

Newcastle Master Builders' Association

as at 7 December 2009

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Registered rules of **Newcastle Master Builders'**
Association as at 7 December 2009



New South Wales

1. NAME OF ASSOCIATION

The name of the Association shall be "Newcastle Master Builders' Association".

2. INDUSTRY, AREA AND INCIDENCE

The Industry in connection with which the Association is established is the Building, Construction and Housing Industry which includes any trade, industry, business, undertaking, work, service, handicraft, employment or industrial occupation concerned with or contracting for the building, making, assembling, erection, fabrication, prefabrication, demolition, alteration, repair, maintenance, design or otherwise dealing with any buildings, dwelling houses, structures, roads, bridges, dams, reservoirs, development of land, civil engineering projects or other constructions, including the manufacture or supply of building materials and services connecting directly or indirectly with any of the abovementioned.

The principal area of the Association is the County of Northumberland and that area to the north of the County that lies within a 50 kilometre radial of the Newcastle Post Office.

3. REGISTERED OFFICE

The registered office of the Association shall be at 165 Lambton Road Broadmeadow in the state of New South Wales or at such other place as may be determined by the Board from time to time and advised to the members in writing.

4. DEFINITIONS AND INTERPRETATIONS

"Act" means the Industrial Relations Act 1996 as amended or varied from time to time or any act replacing the Act.

"Associate" means any individual, subcontractor, partnership, corporation, or firm, being admitted as a member of the Association in accordance with the provisions of rule 7 dealing with Associates.

"Association" means the Newcastle Master Builders Association.

"Board" means the Board of the Association for the time being elected in accordance with Rule 23.

"Building Industry Member" means any individual, partnership, corporation or firm admitted to the Association in accordance with the provisions of rule 7(a) dealing with Building Industry Members.

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



New South Wales

"Executive" means the Executive of the Association as defined under Rule 24 of these Rules.

"Member" means any Building Industry Member, Life or Honorary Member, or Associate who has been duly elected in accordance with Rule 7 of these Rules.

"Nominated Representative" means the individual nominated from time to time by a Member which is a corporation, partnership or firm to be its representative.

"Regulations" means Regulations made pursuant to the *Industrial Relations Act 1996* as amended or varied from time to time or any regulations replacing the Regulations.

In the rules a reference to a function includes a reference to a power, authority and duty; and a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

The provisions of the *Interpretation Act 1987* apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

A reference to the masculine gender includes all other genders.

5. REGISTERED OFFICER AND REGISTER OF MEMBERSHIP

The Registered Officer shall be the incumbent Executive Director who shall maintain a register of Members and Associates specifying their names and addresses together with the date on which they became a Member. The register shall be kept at the Registered Office, and may be inspected free of charge by any Member of the Association during normal hours of business.

6. OBJECTS

The objects for which the Association is established are:-

Safeguarding Interests of Members -

(a) To safeguard by all lawful and proper means the interests of the Members of

the Association in their regular business in the building and construction industry; to protect Members of the Association against injustice or oppression in the fair and proper execution of such works as they may undertake to carry out from time to time; to promote and facilitate dealings in commercial transactions between Members themselves or between Members and the public; to adjust disputes or disagreements between Members; to secure more favourable trade relations with

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



New South Wales

suppliers of materials and to provide an authoritative and representative voice for builders, contractors, project and construction managers, subcontractors, suppliers and other persons engaged in the Industry on matters of common interest.

Legislative Measures

- (b) By all lawful and proper means to promote, support or oppose legislative or other measures affecting Members.

Statistics

- (c) To collect and circulate statistics and other information relating to building operations.

Dispute Resolution

- (d) To arrange and promote the adoption of equitable forms of contract and other documents used in the industry and to encourage the settlement of disputes by arbitration, conciliation, mediation or other methods and nominate arbitrators or other suitably qualified dispute resolution facilitators on such terms and in such cases as may seem expedient.

Public Movement

- (e) To take an active part in assisting or opposing public movements which may affect Members' interests in the carrying on of their business by the use of all lawful and proper means, including by acting in cooperation with other business and industrial organisations in the area of the Association's operation.

Charitable Purposes

- (f) To raise money for the purpose of any charitable, patriotic or public object, and to appropriate in accordance with these rules, moneys of the Association for any charitable, public or patriotic object.

Legal, Industrial and Contractual Assistance

- (g) To act as an industrial association of employers.

To provide legal, industrial relations, training, and contractual assistance and services for Members and others and to set appropriate charges for these services.

To initiate, defend or bring an industrial dispute or claim relating to industrial matters before the appropriate tribunal established under Commonwealth or State Law and to represent the interests of employers in all sections of the Industry or an industry auxiliary or special to the Industry before Courts, Boards, Conciliation Committees, other tribunals or other bodies and at conferences with organisations of employers and other bodies of employers or employees.



To make agreements with Members' employees and/or their representatives, organisations, associations or unions relative to the terms and/or conditions of employment.

To assist and/or represent Members in dealing with any body, organisation, or authority, whether established under statute or otherwise, which regulates any aspect of the building and construction industry.

Borrowing Powers

- (h) To borrow or raise money upon any real or personal property or other security belonging to or that can be offered by or on behalf of the Association.

Fees, Charges & Levies

- (i) To raise funds by means of subscriptions, fees on turnover, fees on the value of particular works, donations, fees and levies, and/or fees for service from or on Members or others, and impose fines on Members for all purposes and objects of the Association in such amounts and in such manner as is provided in these Rules.

Special Interests

- (j) To facilitate the establishment and development of special interest sub-groups of Members.

Exhibitions

- (k) To conduct, promote, or assist in the promotion of industry exhibitions, competitions, and/or building product displays through the administration and operation of such bodies as may from time to time be established by the Association for this purpose.

Committees

- (l) To facilitate the representation of all sectors of the industry in committees.

Standards

- (m) To promote excellence in the construction of buildings and just and honourable practice in the conduct of businesses and to suppress malpractice and collusion relating to the Industry.

To provide ethical standards and codes of conduct and to promote fair and genuine competition in the Industry, and to promote and enforce adherence to such standards by providing for the discipline of Members.

Education

- (n) To gather and publish any information which might be of interest to Members, and the public generally, in reference to the industry and to provide facilities for education and training at all industry levels and to



establish or contribute to bursaries, scholarships or prizes for educational purposes.

Social

- (o) To facilitate social interaction between the Members and their friends and associates.

Property

- (p) To purchase or otherwise acquire or lease real or personal property of any kind in furtherance of the objects of the Association and to sell, improve, manage, develop, lease or mortgage property of the Association.

Affiliations & Alliances

- (q) To affiliate with or enter any alliance with any organisation, company, firm or like either within the Commonwealth of Australia or overseas, having objects similar to or calculated to benefit members generally, and to acquire shares and interests in or lend money upon debentures, or otherwise, to such, and to appoint representatives to such.

Information

- (r) To publish or otherwise make available, in any medium or by any method, such information or material as may seem conducive to the interest of the Association and its Members.

General

- (s) To do all such lawful things as may be conducive to the interests of the Members of the Association or to the building industry in general, or such as are incidental to the attainment of the above objects or any of them.

7. ADMISSION TO MEMBERSHIP

The following shall apply in the admission of any individual, corporation or firm, to the following classes of membership.

(a) Building Industry Members -

- (i) Individuals, partnerships, corporations or firms, who/which are employers or are capable of being employers, whose business activities are integral to the building and construction industry (including but not limited to principal contractors, housing builders, project managers or subcontractors) may be admitted as Members of the Association in the category of Building Industry Members.
- (ii) A candidate shall make application to become a member of the Association by completing a Membership Application Form and all applicants shall be provided in writing with information regarding the financial obligations of membership and the circumstances and manner in which a Member may resign from the organisation. The

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



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completed Application Form shall be lodged with the Executive Director, together with the sum payable as determined pursuant to these rules, as entrance fee and annual subscription and such other supporting documents as may be required by the Association from time to time.

- (iii) Following receipt of the application form, supporting documents and monies referred to at subparagraph (ii), the Executive Director or his/her delegate shall carry out such checks as may seem appropriate to determine the applicant's eligibility for membership and verify the information concerning the applicant.
- (iv) The Executive Director will put the name (including trading name, where appropriate), address and such other details of the candidate as are sufficient to identify the candidate's area of activity within the industry together with the results of the checks before the next meeting of the Board, and the Board may (subject to the Act) in its discretion resolve either that the application shall not proceed further or shall instruct the Executive Director to advise the applicant that membership has been approved.
- (v) If the Board considers that it is in the interest of the Association that the candidate not be admitted to membership, the candidate and the nominators shall be advised of this by the Executive Director.
- (vi) Election to membership shall be by show of hands or, if demanded by three Board Members present at the meeting, by ballot.

(b) Associates

- (i) Individuals, partnerships, corporation or firms whose business activities are allied to the building and construction industry (including consultants and suppliers) and who are not eligible to be admitted as Building Industry Members but who support the objects of the Association may be admitted as Associates.
- (ii) With a view to fostering the development of students enrolled in courses relevant to the Industry and encouraging the objects of the Association, such students may be admitted as Associate members of the Association while so enrolled.
- (iii) Associates shall not be eligible to vote or be elected to an office within the Association.
- (iv) The provisions of subsection (a) of this clause for the admission of Building Industry Members to membership shall apply, *mutatis mutandis*, to the admission of Associates.



(c) Life Members

With a view to recognising exceptional services rendered to the Association or the Industry, the Association at a General Meeting may elect as a Life Member any individual who is a Member or former Member or who is or has been the nominated representative of a Member or former Member. The following procedures shall apply:-

- (i) The name of the candidate shall be submitted in writing to the Executive Director by at least four Members of the Association, and the Executive Director shall refer the matter to the Executive which shall make a recommendation to the Board. The Board shall carefully consider the Executive's recommendation and the candidate's eligibility, and shall recommend for or against admission to Life Membership.
- (ii) If the Board recommends the admission of the candidate this fact shall appear on the meeting notice convening the next appropriate General Meeting of the Association.
- (iii) The election shall be by show of hands of the Members or their Nominated Representatives present or, if demanded by five Members, by ballot. The votes of at least half of the Members present shall be required for the election of any candidate to Life Membership;
- (iv) There shall not be more than 10 Life Members of the Association at any one time.

Life Members shall have all the rights and privileges of a member under the rules of the Association, without membership fee or subscription, except that they shall not be eligible to be elected to an office within the Association unless otherwise eligible for membership under sub-rule (a) of this rule.

(d) Honorary Members

With a view to strengthening the Association by the influence of individuals who have retired from business, such individuals may be admitted to membership as Honorary Members of the Association.

- (i) The procedures for admission to Life Membership shall apply *mutatis mutandis* to the admission of Honorary Members, with the exception that there shall be no more than 20 Honorary Members at any one time.
- (ii) Honorary Members shall be entitled to all the rights and privileges of a member of the Association on the payment of the prescribed annual subscription due on the first day of January in each and every



year and payable in advance, except that they shall not be eligible to vote or be elected to an office within the Association unless otherwise eligible for membership under subsection (a) of this rule.

8. *NOMINATED REPRESENTATIVES*

- (a) A Building Industry Member or Associate which is a corporation, partnership or firm shall, at the time it makes application for membership of the Association and may from time to time thereafter, nominate an individual to be its Nominated Representative, subject to the following conditions:
- (i) a Member may have only one Nominated Representative at any time;
 - (ii) the Nominated Representative must be a member, director, trustee, manager or executive of the Member;
 - (iii) a nomination must be in writing and sent to the Executive Director before the Nominated Representative may exercise the Member's voting rights or be nominated for election to the Board of the Association or to any office within the Association;
- (b) A Member may revoke or change the nomination of its Nominated Representative at any time by giving written notice of the revocation or change and such revocation or change takes effect on and from the date on which the notice is received by the Association.
- (c) The Nominated Representative for the time being of a Member shall be the person authorised to exercise on behalf of the Member its rights or powers as a Member under these Rules, including but not limited to: representing the Member's views or voting at meetings of the Association; being the Member's nominee for membership of the Board of the Association; and being the Member's nominee to any committees or other bodies established by the Association.

9. *RESIGNATION FROM MEMBERSHIP*

- (a) Any Member wishing to resign from the Association shall give notice in writing to the Executive Director of his/her or their intention to resign, and such notice shall be effective:
- (i) if the notifier ceases to be eligible to be a member of the Association-
 - (a) on the day on which the notice is received by the Association; or
 - (b) on the day specified in the notice that is a day not earlier than the day when a Member ceases to be eligible to be a member; whichever is the later; OR
 - (ii) in any other case-

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New South Wales

- (a) at the end of 1 month after the notice is received by the Association; or
- (b) on the day specified in the notice;

whichever is the later.

The Executive Director shall submit the resignation to the next meeting of the Board after the notice of resignation has been received. The Board shall accept a resignation unless disciplinary action against the Member is contemplated or has been initiated, in which case the Board may refuse to accept the resignation. If the resignation is accepted, the individual, corporation or firm so resigning shall, subject to the Act, remain liable for all charges due to the Association up to and including the date of termination of membership.

- (b) The rights, privileges and obligations which Members have by reason of their membership of the association are not capable, without the prior approval of the Board, of being transferred or transmitted to another person, partnership, corporation, or firm, and terminate upon cessation of an existing membership.
- (c) A Member which transfers its operations from one entity to another for the purpose of restructuring its business may submit a request in writing to the Board that the service of the former entity be taken into account in determining the length of the new entity's membership of the Association, subject to the new entity's being admitted to membership in accordance with these Rules. The Board must not approve such a request unless it is satisfied that the change in structure is not substantially for the purpose of avoiding the member's obligations under any law.

10. CESSATION OF MEMBERSHIP

A Member ceases to belong to the Association if the Member either:

- (a) dies or, being a company, is wound-up; or
- (b) resigns from membership in accordance with rule 9; or
- (c) is expelled in accordance with rule 34; or
- (d) being a Building Industry Member operating only in the residential building sector, is subject to action which results in the Member's licence being cancelled or withdrawn by the licensing authority; or
- (e) becomes bankrupt; or being a company is placed in liquidation; or
- (f) being a company, is placed under external administration pursuant to Chapter 5 of the *Companies Act 2001* or the equivalent provisions of any successor legislation, but this shall not apply in the case of administration under Part 5.3 of Chapter 5 of the Act (voluntary administration).



Provided that immediately upon becoming aware of the happening of any of the events mentioned in (d) to (f) above the Executive Director shall enquire in writing from the Member the circumstances leading up to that event. If within 21 days from the date of the enquiry the Executive Director receives such information, together with a request in writing that the Member not be terminated and a certificate or report from the Official Receiver, Trustee, or Administrator in the case of an individual person, firm or partnership (or Liquidator or Receiver, or Receiver and Manager in the case of a company) that all creditors as at the date of the event are expected to be paid in full, the Executive Director shall present such information, request and certificate or report to the next meeting of the Board. The Board shall decide whether the membership of such Member shall cease or may continue either unconditionally or subject to such conditions as the Board may think fit to impose. The Board may extend the above 21 day period should the Member show reasonable cause for failure to comply within the time allowed.

11. TRANSFER OF BUSINESS

In the event that:

- (a) the business, or part of the business, of a Member of the Association is assigned or transferred to a person who is not a member of the Association; or
- (b) such a person succeeds to the business, or part of the business, of a member of the Association

the Member shall within 14 days notify the Association in writing of the assignment, transfer or succession.

Subject to the Act, the Member, or the partners or directors thereof shall remain personally liable for any monies due to the Association at the date of any such succession, transfer or assignment.

12. MEMBERSHIP FEES

(A) Annual Subscription

- (i) Members shall pay an annual subscription to the Association, which shall be subject to the Commonwealth Goods and Services Tax, and which shall become due 30 days after the date of the Association's invoice to the Member and shall be payable in advance for the ensuing year, unless otherwise prescribed by these Rules.
- (ii) The amount of such subscription for each class of member shall be as follows:
 - (a) Building Industry Members
Such amount not exceeding \$35,000 as may be determined by the Board of the Association from time to time.

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



New South Wales

(b) Associates

Such amount not exceeding \$5,000 per year as may be determined by the Board of the Association from time to time, provided that the maximum fee for Associates who are full-time students shall not exceed \$100 per year.

(c) Honorary Members

An amount of no more than \$1 per annum.

- (iii) The maximum amounts prescribed at subclause (ii) may be increased by the Board not more than once in any financial year, provided that the amount of the increase may not be greater than the percentage increase in the CPI (Weighted Average Sydney- All Groups) for the 12 months up to the end of the quarter prior to the date that the Board considers the matter.

(B) Fees and Levies

- (i) In addition to the Annual Subscription, the Association in General Meeting may introduce any fee or levy for any purpose within the objects of the Association. Any such fee or levy shall be subject to the Commonwealth Goods and Services Tax. Notice of the intention to consider such fee or levy shall appear on the notice convening that meeting. However in cases of special or urgent need the Board may by resolution impose a special fee upon Members for contributions either to the general funds of the Association or for specific purposes authorised by rule 6, calculated and may stipulate when such special fees become due and payable.
- (ii) The Association may impose fees, which shall be subject to the Commonwealth Goods and Services Tax, for any services provided by its staff or for the use of its equipment.
- (iii) Where any fee or levy is to apply only to one or more classes of membership but not to Members generally, only members of that class or those classes of Members shall be eligible to vote on any motion seeking to introduce that fee or levy.

13. ARREARS IN FEES

- (i) Any Member whose Annual Subscription or any fee or levy has not been paid within one month of the due date shall be sent notice of this by the Executive Director. If, after the expiration of one month from receiving such notice, the monies remain unpaid, the names of such defaulting Members will be reported to the Board by the Executive Director. The Board may take what action it deems necessary, including dismissal from membership.



- (ii) The Board, at its discretion, may levy a surcharge of \$150 or 10% of the amount outstanding up to a maximum surcharge of \$500, whichever is the greater, on any Member whose Subscription, Fee or Levy remains unpaid after the expiration of one month from becoming due.

14. RECOVERY OF DEBTS

Subject to the Act, all claims for debts of any kind due to the Association may be recovered after a lapse of one month from becoming due.

15. ADMINISTRATION OF FUNDS

- (i) The funds of the Association, including all assets and liabilities, shall be under the control of the Board, which shall have sole management thereof as provided for by these rules.
- (ii) The Financial Year of the Association shall run from 1 July in any calendar year to the close of business on 30 June in the following year.
- (iii) Cheques shall be signed by any two of the President, Deputy President Honorary Secretary/Treasurer, or other person authorised in writing by the Board.
- (iv) Any expenditure of Association funds other than by cheque shall be authorised in advance by any two of the President, Deputy President Honorary Secretary/Treasurer, or other person authorised in writing by the Board.
- (v) All cheques, negotiable instruments and moneys belonging to the Association shall at least once in each week be paid to such bankers, as shall from time to time be nominated by the Board, to the credit of the Association.
- (vi) No loan, grant or donation may be made by the Association unless the Board has approved the loan, grant or donation having first satisfied itself that:
 - (a) the making of a loan, grant or donation would be in accordance with the rules and objects of the Association, and
 - (b) in the case of a loan, that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory.



- (vii) This rule does not apply to the normal provision for, or reimbursement of, out-of pocket expenses incurred by persons for the benefit of the Association.

16. AUDIT OF ACCOUNTS

- (i) One or more properly qualified auditor or auditors shall be appointed by the Association at the Annual General Meeting.
- (ii) The auditor or auditors shall, for audit purposes only, have the power at any time to call for the production of all books, accounts, and other documents relating to the financial affairs of the Association.
- (iii) The auditors shall audit the yearly accounts of the Association prior to such accounts being submitted to the Annual General Meeting and the auditor or auditors shall certify the correctness or otherwise thereof.
- (iv) An auditor shall hold office from the time of appointment until the next Annual General Meeting of the Association, unless (s)he retires, or a General Meeting is satisfied that the audit function has not been performed to a professional standard or the audit fee is excessive.
- (v) A retiring auditor shall be eligible for re-appointment.
- (vi) The remuneration of an auditor shall be approved by the Board of the Association.

17. INVESTMENT OF FUNDS

- (i) All moneys of the Association calling for investment shall be invested in the name of the Association, the authorisations to operate the relevant accounts being in accordance with the arrangements set out in Rules 15(iii) or (iv). Payment of the whole or part of any moneys invested to the credit of the Association with any bank or registered N.S.W. Building Society shall be made to the Association.
- (ii) No investment of moneys of the Association shall be made upon real property security without the solicitor of the Association first certifying the title thereto.

18. PROPERTY OF THE ASSOCIATION

The Association may acquire, take on lease, hold, sell, lease out, demise, mortgage, exchange and otherwise own, possess, and deal with all real



and personal property and every such acquisition, purchase, lease, sale, mortgage, exchange and dealing, and all contracts, conveyances, transfers, assurances in law shall be made in the name of the Association.

19. ESTABLISHMENT OF ASSOCIATED ENTITIES

Subject to the Act and Regulations and to any direction or decision of a General Meeting, the Board may authorise the establishment of companies, partnerships, joint ventures or other commercial arrangements (whether wholly owned by the Association or in concert with other persons) for the furtherance of objects of the Association as set out in Rule 6. Proper financial information shall be included in the Association's annual accounts with respect to any such entities.

20. WINDING UP

- (i) Subject to the provisions of the Act, where at least two thirds of all members of the Board resolve that it is necessary or desirable that the Association should be dissolved or wound up, the Board shall prepare appropriate resolutions seeking approval for:
 - a. the dissolution or winding up of the Association; and
 - b. the disposition of the remaining assets of the Association after payment of all debts (subject to subclause (vii) of this Rule)which shall be put to a Special General Meeting of the Association.
- (ii) This Special General Meeting shall be convened in accordance with the provisions of Rule 29(iv), except that at least 28 days notice of the meeting must be given to Members. The terms of the proposed resolutions must appear on the notice of the meeting.
- (iii) A quorum for the Special General Meeting shall be at least 50% of the financial Industry and Life Members of the Association at the date of the Meeting. The resolution must be passed by at least 85% of the Members personally present or represented by the Member's Nominated Representative present at the meeting. Notwithstanding Rule 31(iv), Members may not vote by proxy. **[Note: in accordance with Rule 7, only Building Industry and Life Members of the Association are entitled to vote]**
- (iv) If a quorum is not present within 30 minutes of the advertised meeting time, the business of the meeting must be held over to a further Special General Meeting to be called within 3 months of the failed meeting. The Notice of this further meeting must include the terms of the proposed resolutions together with the following words, which shall appear prominently:



“Members are advised that if a quorum is not present within 30 minutes of the advertised starting time for the meeting, the Board may make application to the Industrial relations Commission of NSW accordance with s225 of the NSW Industrial Relations Act 1996 for the cancellation of the registration of the Association. A quorum for this meeting will be 50% of the total number of financial Industry and Life members of the Association as at the date of the meeting.”

- (v) Subparagraphs (ii) and (iii) shall apply to the further meeting.
- (vi) If a quorum is not present at the further meeting within 30 minutes of the advertised meeting time, the Board may make application in accordance with s225 of the Act for the cancellation of the registration of the Association.
- (vii) The Association’s assets may only be transferred to an organisation whose objects are consistent with those of the Association, provided further that such an organisation need not comply with subparagraph (g) of the Association’s objects.
- (viii) In the event that the resolution dealing with the disposition of the Association’s assets is not approved in accordance with subclause (iii), the assets of the Association shall be transferred to Master Builders Australia Inc or its successor organisation.
- (ix) The Board shall do all things necessary or desirable to effect the transfer.
- (x) Each Member shall be liable to pay an equal share of any debts or liabilities of the Association which may be outstanding at the time of winding up, and/or any costs, charges or expenses of the winding-up, save that the liability of each Member shall not exceed \$100.
- (xi) Notice of such dissolution shall be given to the Industrial Registrar within fourteen days of the date of either General Meeting or the Board Meeting which approved the resolution to dissolve the Association (whichever applies). The Notice shall be signed by the Secretary/Treasurer of the Association and seven members of the Association.

21. EXAMINING BOOKS AND ACCOUNTS

Any Member having interest in the funds of the Association who wishes to examine, investigate or inspect all or any books, lists of Members of the Association, documents or records of the Association may make application to the Executive Director for access who shall not



unreasonably refuse consent. Consent being given, the Member shall be permitted to have free access to the same for such purpose on any ordinary working day between the hours of 10am and 4pm at the Association's registered office.

22. SEAL OF THE ASSOCIATION

There shall be a Seal of the Association, which the Executive Director of the Association shall cause to be kept securely. The seal shall be affixed to a document only:

- (i) in the presence of at least two members of the Board; and
- (ii) with the attestation by the signatures of those members of the fact of the affixing of the seal.

23. BOARD OF THE ASSOCIATION

The Board of the Association shall consist of eleven members, being:

- (a) seven Building Industry Members; plus
 - (b) the Executive of the Association (see clause 24 of these Rules)
- elected to the Board for a term of two years in accordance with these rules.

The management and control of the Association's affairs shall be vested in the Board, which may, subject to decisions of the Association in General Meeting, exercise all such powers and do all such acts or things as may be exercised or done by the Association and are not expressly directed or required to be exercised or done by the Association in General Meetings.

(1) Method of Election

Subject to the Act and Regulations, the method of election of members to the Association's Board of Management shall be as follows:

- (i) A Returning Officer who is an independent person and who is not an employee of the Association shall be appointed to oversee the election of officers in that year.
- (ii) Candidates for election to the Board shall be nominated by a Building Industry Member, and each Member may nominate one or more up to the required number of candidates. The Returning Officer shall cause to be sent to Members no later than 15th of May in any year in which an election must be held:
 - (a) a notice that nominations for election to the Board for the ensuing two years will be required for the number of positions available; and
 - (b) a nomination form.



- (iii) To be eligible for nomination for election to the Board an individual must be either a Building Industry or Life Member in his/her own right or the Nominated Representative of a Building Industry Member.
- (iv) Nominations in the form of Schedule "A" to the Rules, signed by the nominator and the candidate, must be forwarded to the Returning Officer so as to reach him/her not later than 4.00pm on the 15th of June or, if the 15th of June is not a working day, on the following working day. Each retiring officer shall be eligible for re-election.
- (v) Subject to the Act and Regulations, upon receipt of nominations the Returning Officer shall determine whether and, if so, which of the nominations are in order.
- (vi) If, within the time prescribed in sub-clause (iv), the Returning Officer has received fewer valid nominations than there are positions available, the Returning Officer shall as soon as possible thereafter:
 - (a) report this fact to the President in writing, with particulars of the nominations which are in order; and
 - (b) shall at his/her discretion extend the time for nominations or call a fresh election.
- (vii) If the number of valid nominations that has been received by the Returning Officer within the time prescribed in sub-clause (iv) including any extension in accordance with subclause (vi)(b), is less than the number of positions available and the Returning Officer does not call a fresh election, those nominated shall be declared to be elected. Any vacancies which have not been filled may be filled in the same manner as is prescribed in sub-clause (2) of this clause for the filling of a casual vacancy on the Board.
- (viii) If the number of valid nominations received by the Returning Officer is greater than the number of Board members, the Returning Officer shall cause a ballot paper to be prepared setting out the names of the candidates nominated, and shall by the 1st of July cause such ballot paper(s) to be sent to each Building Industry Member together with an envelope for the return of the ballot paper or papers.
- (ix) The ballot paper shall be completed by the voter putting a cross in the squares opposite the names of those candidates for whom he desires to vote and must mark the same number of squares as there are positions available on the Board, as shown on the ballot paper. Any vote contrary to this rule or which otherwise fails to observe the directions contained on the ballot paper shall not be counted.
- (x) The voter shall then place the completed ballot paper in an envelope marked "Ballot Paper", seal it, and place the envelope in an outer



envelope endorsed "Voting Paper", and deliver it to the Returning Officer so that the same shall be received by him/her not later than 4.00pm on the 31st of July or, if the 31st of July is not a working day, the following working day.

- (xi) As soon as convenient after the closing time for receipt of the ballot papers, the Returning Officer shall open the ballot papers, count the votes set forth therein and on completion of the count shall certify to the President the result of the ballot.
- (xii) A candidate may (but is not required to) appoint a scrutineer who is a financial Member of the Association or the Nominated Representative of a Member to represent him/her at the counting of the votes. A candidate who wishes to appoint a scrutineer shall, before the closing date of the ballot, notify the Returning Officer in writing of such appointment. Scrutineer(s) shall carry out their duties in accordance with the Act and Regulations.
- (xiii) At the Annual General Meeting in any year in which an election is held the Returning Officer or his/her nominee shall declare the result of the ballot, certified as aforesaid, and the candidates declared to have been elected shall assume office in place of the retiring members of the Board.
- (xiv) Subject to the Act, the decision of the Returning Officer shall be final and binding with regard to any matter touching the validity or formality of any nomination or vote or any matter concerning the election and its conduct.

2. Filling Vacant Offices

In the event of any permanent vacancy on the Board arising for any cause whatsoever, other than vacancies in the positions of President, Deputy President, or Secretary/Treasurer, the Board may in its discretion appoint an eligible Member or the Nominated Representative of a Member to fill the vacancy for the balance of the term, unless the balance of the term is 18 months or more in which case the vacancy must be filled by an election carried out in accordance with clause 25(1). Provided that the date on which the Returning Officer is directed to initiate the election process shall be substituted for 15 May in subclause 25(1)(ii), and for all dates mentioned thereafter shall be substituted such dates as will ensure that the same time periods elapse between each stage of the election process as are provided in subclause 25(1).

3. Leave of Absence



- (i) The Board may grant leave of absence to an Executive Officer or Board member for any reason it deems fit for a period of up to six months.
- (ii) Any member of the Board who is absent from three consecutive meetings of the Board without reasonable cause, or is absent for a period of more than six months without having been granted leave of absence, shall forthwith cease to be a member of the Board, and the vacancy so created shall be filled in accordance with this Clause.

24. ELECTION OF EXECUTIVE OFFICERS - POWERS AND DUTIES

The Executive of the Association shall consist of the Officers listed in this Rule, which Officers shall be elected as set out in this clause:

- (a) **The President** - At the Annual General Meeting held in the same year as an election for members of the Board is to be held, the incumbent Deputy President shall be declared President and shall thereupon assume the office of President. His/her installation shall be the last item on the Agenda.

Duties and Powers - The President shall:

- (i) be responsible to the Board for the policy direction of the Association's affairs between Board meetings;
- (ii) preside at all meetings of the Board and General Meetings of the Association at which (s)he is present and shall have the authority usually vested in the Chairperson of any meeting;
- (iii) keep order and direct the manner of debate at meetings upon all questions introduced, and determine what questions shall be discussed and in what order questions shall be introduced;
- (iv) have the right to vote on all questions, and when voting is equally divided may exercise a casting vote.

No person shall persist in a line of conduct contrary to the Chairperson's ruling, but may request the Chairperson to take the sense of the meeting on those points in which that person differs from the Chair.

By reason of his/her office the President shall be a member of all committees and may assume the position of Chairperson at any committee meeting. (S)he shall have the power to convene any Board, General or Committee Meeting and may cancel or defer any meeting other than meetings concerned with the election of Executive Director.

(S)he shall have the power to delegate his/her authority and to direct the Executive Director, except that such directions shall not be contrary to these rules, stated policies of the Association, or any direction given to the Executive Director by the Board or a General Meeting.



- (b) **Deputy President** - A Deputy President shall be a Building Industry Member or the Nominated Representative of such a Member and shall be elected in every second year by and from the Board at the first Board Meeting following the Annual General Meeting in that year. Upon election the Deputy President shall hold office as Deputy President for the ensuing two years and thereafter shall assume the office of President in accordance with part (a) of this rule.

The method of election shall be that the Returning Officer, who shall be appointed in accordance with the Act, shall call for nominations from among those Board members present at the meeting. Such nomination shall be proposed by a member of the Board and be supported by the signed consent of the nominee in accordance with the Form at Schedule D to these Rules. Such nominations shall be in the hands of the Returning Officer by 4.00 pm on the fourteenth day prior to the Board meeting at which the election is to be held. Any Board member who is not present at the meeting and who has previously indicated in writing to the Returning Officer that (s)he will accept nomination for Deputy President may be duly nominated, and his/her nomination accepted as if (s)he were present at the meeting.

If only one nomination is received for the position of Deputy President then the Board member so nominated shall be declared Deputy President.

In the event of more than one nomination being received, the Returning Officer shall cause ballot papers showing the names of the duly nominated candidates to be prepared in accordance with the sample shown at Schedule "F" to these Rules, and one ballot paper shall be distributed to each member of the Board. In secret ballot Board members shall thereupon vote for the candidate of their choice in accordance with the instructions on the ballot paper. The Returning Officer shall collect all ballot papers, count the votes, and the candidate polling the most votes shall be declared Deputy President.

Duties and Powers

In the absence of the President, the Deputy President shall become Acting President and shall assume the powers and duties of the President.

Should the President of the Association die or be removed from office the Deputy President shall assume the office of President for the balance of the President's unexpired term of office and shall thereafter remain in office as President for a further two year term.



In the event of the Deputy President assuming the office of President, or ceasing to hold office for any reason, the Board at its next meeting will elect a Board member as Deputy President, the election being by show of hands where the term to be served is three-quarters or less of the original term of office as Deputy President. Where the term to be served is more than three quarters of the original term, the election shall be carried out in accordance with the procedure prescribed above.

The Deputy President shall assist the President in the performance of his/her duties and shall carry out such duties as may be delegated to him/her by the President, the Board, or a General Meeting of the Association.

- (c) **The Honorary Secretary/Treasurer** - The Secretary/Treasurer shall be a Building Industry Member or the Nominated Representative of such a Member and shall be elected in every second year by and from the Board at the first Board Meeting following the Annual General Meeting in that year. Upon election the Secretary/Treasurer shall hold office for the ensuing two years.

In the event of the Secretary/Treasurer ceasing to hold office for any reason, the Board at its next meeting will elect an eligible Board member as Secretary/Treasurer.

The method of election shall be, *mutatis mutandis*, that prescribed for the Deputy President.

Duties and Powers

The Secretary/Treasurer shall be responsible to the Board for the administrative and financial affairs of the Association, and, subject to the Act and Regulations (s)he shall ensure -

- (i) all reports, certificates or other documents required under the Act and Regulations or any other law, or such as may be directed from time to time by the Board, are prepared and lodged as required;
- (ii) the proper custody and maintenance of any and all books, documents, and securities of the Association.
- (iii) all money due to the Association is collected and received and that all payments authorised by the Association are made; and
- (iv) books and accounts are kept in the form required under the Act and Regulations or any other law, showing the financial affairs of the Association including full details of all receipts and expenditure connected with the activities of the Association.

- (d) **Immediate Past President** – Subject to his/her being elected to the Board, the retiring President shall assume the position of Immediate Past-President immediately on the assumption to office of his successor. The Immediate Past-President shall be an Executive Officer of the



Association and in the absence of the Deputy President shall assume all the rights and duties of the Deputy President.

An Immediate Past President may serve only one term of two years. Thereafter the Immediate Past President may stand for election as an ordinary member of the Board or to any elected Executive position, subject to his/her being eligible to be nominated for election in accordance with these Rules.

In the event of the Immediate Past President ceasing to hold office for any reason, an election shall be held for the position of Special Executive Member, who shall have the same rights and duties as the Immediate Past President.

The method of election for Special Executive Member shall be as follows: at the next Board Meeting after the Immediate Past President ceases to hold office, the Returning Officer shall call for nominations for election to the position. In the event of only one valid nomination being received, the member so nominated shall be declared Special Executive Member.

In the event of more than one nomination being received an election shall be conducted in accordance with the following procedure: the Returning Officer shall cause to be prepared a ballot paper in accordance with the sample at Schedule "F" to these Rules which shall include the names of those Board members present at the meeting who have nominated for the position plus the name of any Board member not present at the meeting who has previously indicated in writing to the Returning Officer his/her willingness to accept nomination for the position. One ballot paper shall then be distributed to each member of the Board present at the meeting. In secret ballot those Board members shall thereupon vote for the candidate of their choice in accordance with the instructions on the ballot paper. The Returning Officer shall collect all ballot papers, count the votes, and the candidate polling the most votes shall be declared Special Executive Member.

25. ELECTION OF THE EXECUTIVE DIRECTOR - POWERS AND DUTIES

The Executive Director shall be an elected official of the Association, who shall hold office for a period of four years, and the retiring Executive Director may stand for re-election. A candidate for election to the position of Executive Director need not be a member of the Association or of the Board.

- (i) Any person assessed by the Executive as having the necessary skills, experience and qualifications for the duties of the position may be nominated for the position of Executive Director, such nomination



to be in writing in accordance with the form prescribed at Schedule E to these Rules. Nominations shall be called for by the Returning Officer at least 28 days before the date of the Board Meeting at which the election is to take place, and nominations shall be in the hands of the Returning Officer by 4.00 pm on the fourteenth day prior to the said meeting. In the event of only one valid nomination being received that person shall be declared elected. In the event of more than one valid nomination being received, the method of election for the position of Deputy President shall apply *mutatis mutandis* to the election of the Executive Director. In the event of no nomination being received at the said closing of nominations, the Returning Officer shall report this fact to the meeting of Board, and may at his/her discretion extend the period for nominations.

- (ii) The Executive Director's remuneration and emoluments and conditions of employment shall be determined by the Executive.
- (iii) In the event of the office of the Executive Director becoming vacant for any cause, where the unexpired term is:
 - (a) less than three years, the Board may appoint an acting Executive Director; or
 - (b) three years or more, the Board may appoint an acting Executive Director pending election of a successor in accordance with the prescribed method of election.

A person so acting shall have all the duties and powers of the Executive Director.

Duties and Powers

- (iv) The Executive Director shall, subject to the policy direction of the Board and Executive, be responsible for the daily management of the affairs of the Association and, without limiting the generality of the foregoing, shall:
 - (a) as necessary or as directed, provide advice and recommendations on policy or other matters to the Executive and Board;
 - (b) subject to the concurrence of the Board, be empowered to engage and terminate the services of the staff of the Association. He shall have full charge and management of the Association staff and authority to delegate his powers and duties (other than this power of delegation) to such staff;
 - (c) have custody of any and all books, documents, and securities of the Association;
 - (d) record and keep, or cause to be recorded and kept, a true record of the business transacted at Board, General and Committee Meetings;
 - (e) execute personally, or delegate an employee of the Association to execute, all documents for and on behalf of the Association;



- (f) be authorised to bring and defend any action at law concerning the Association or its members, unless otherwise directed by the Board;
- (g) be the Association's nominated Public Officer for all statutory and other purposes as may be required and, as such, shall act on behalf of and represent the Association; and
- (h) have such other powers and authorities as may be conferred by these Rules, or as may be delegated to him/her from time to time by the Board.

26. REMOVAL OF OFFICERS

- (i) The President, Deputy President, Honorary Secretary/Treasurer, Executive Director, the Immediate Past President, or a member of the Board shall be removed from office if that person has ceased under these Rules to be eligible to hold office, and may be removed from office if that person has, pursuant to the procedure set out in subparagraph (ii) of this rule, been found guilty of:
 - (a) the misappropriation of the funds of the Association; or
 - (b) gross neglect of duty or of gross misbehaviour; or
 - (c) a substantial breach of these Rules.
- (ii) Removal from office pursuant to items (a), (b), and/or (c) of sub-rule (i) may:
 - (a) only be by the resolution of at least two-thirds of the Members present personally or represented by their Nominated Representatives at a General Meeting of the Association convened by the Executive Director at the direction of the Board, of which at least seven days notice has been given to Members that such matters will form part of or all of the business for that meeting; and
 - (b) notice of such meeting must not be given less than seven days after the person whose removal from office will be sought has been advised of the grounds on which removal from office is to be sought; and
 - (c) the required vote shall be taken only after the Executive Director or other person nominated by the Board has presented to the meeting the grounds on which the proposed removal from office is sought, and the person whose removal from office is sought has had a reasonable opportunity to respond.
- (iii) Ineligibility to hold office pursuant to this rule shall occur if an officer:
 - (a) being a Building Industry Member in his/her own right as an individual, ceases to be a Member of the Association; or



- (b) being the Nominated Representative of a Building Industry Member, ceases to be the Nominated Representative of that Member and is not nominated as the Nominated Representative of another Member or is not a Building Industry Member in his/her own right as an individual.

27. STAFF OF THE ASSOCIATION

The Board may act through its employees, contractors or agents, who may be engaged on such terms and conditions as the Board, acting with the advice of the Executive Director, sees fit. Such servants, contractors and agents shall be subject to the policy direction of the Board through the Executive Director.

28. INDEMNIFICATION OF MEMBERS, OFFICE-BEARERS AND EMPLOYEES

Every Office-Bearer, Board member, Member, or employee of the Association shall be indemnified against (and it shall be the Association's duty out of its funds to pay) all costs, losses, charges and expenses which any such Office-Bearer, Board member, Member, or employee of the Association may incur or become liable for by reason of any contract entered into, or act or deed done by him/her in the lawful discharge of any duty in accordance with these Rules. Further, the Association shall arrange for and fund such legal representation as may be required in any such case.

29. DATE OF MEETINGS

- (i) The Annual General Meeting of the Association shall be held within three months after the 30th of June in each year.
- (ii) A meeting of the Board shall be held each month on a day decided by the Board, except in the month of January or in the event of an occurrence which, in the opinion of the President, renders it impracticable to hold such a meeting. The President or Board may convene a Board meeting on any date it is deemed necessary.
- (iii) There shall be at least one General Meetings of the Association each year (which includes the Annual General Meeting).
- (iv) In addition to the meetings required to be held in accordance with sub-rule (iii), a General Meeting may be convened by the President or the Board whenever (s)he or it thinks fit, or must be convened if a requisition is lodged with the Executive Director by at least five Members acting together and whose signatures appear on the requisition.



- (v) The Executive Director at the direction of the Board shall give at least 7 days notice to Members of any General Meeting of the Association and shall also publish to Members the agenda for the meeting at least three days prior to the meeting, except as otherwise provided by these rules.
- (vi) All meetings shall be conducted at the registered office of the Association unless otherwise directed by the Executive.

30. CONDUCT OF BOARD MEETINGS

- (i) The President or, in the President's absence, the Deputy President shall chair Board Meetings. In the absence of the President and Deputy President, the Immediate Past President shall chair the Meeting. In the absence of all of the foregoing, the Board may appoint any one of its number present to preside at the meeting.
- (ii) All questions and matters which come before the Board shall be decided by the majority vote of the Board members present. Each such member, including the Chair, shall have one vote. In the case of an equality of votes the Chair shall be allowed an additional or casting vote.
- (iii) A quorum at any Board Meeting shall be 50% plus one of the eligible members.
- (iv) Non-elected Past Presidents may attend Board meetings without voting rights.

31. CONDUCT OF GENERAL MEETINGS

- (i) The President or, in the President's absence, the Deputy President shall preside at all General Meetings of the Association. In the event of the absence of the President and Deputy President, the meeting may appoint a Member present to preside.
- (ii) All questions and matters which come before a General Meeting shall be decided by a majority of the Building Industry Members (or their Nominated Representatives) present.
- (iii) Except as provided by Rules 20, seventeen (17) shall form a quorum at any General Meeting of the Association. If at a General Meeting a quorum is not present within 30 minutes of the advertised meeting time, the business of the meeting may be transacted at the next meeting of the Board.



- (iv) Except as provided by Rules 20, any Member may vote by proxy on any question or matter on which (s)he or it would have been entitled to vote had (s)he or its Nominated Representative been present at the meeting, such proxies to be exercised as follows:
 - (a) a proxy is valid only if prepared in accordance with the form at Schedule C to these Rules, and lodged with the Executive Director prior to the beginning of the meeting;
 - (b) the Executive Director shall hand all proxies to the person presiding at the meeting;
 - (c) proxies shall be applied in accordance with the vote of the presiding officer unless the person giving the proxy shall have indicated clearly and unambiguously on the form the way in which the proxy is to be applied; and
 - (d) should there be any ambiguity as to the way in which a proxy is to be applied that proxy shall be discarded and shall not be counted.

32. COMMITTEES

- (i) The Board or a General Meeting may appoint one or more Committees, which shall be advisory only.
- (ii) On appointment, the powers, duties and responsibilities of a Committee shall be clearly set out by the Board or the General Meeting, and the exercise of any powers shall be subject to the direction of the Board.

33. SPECIAL INTEREST GROUPS

- (i) The Board may establish such Special Interest Groups as may from time to time seem to it to be appropriate to further the objects of the Association in respect of particular sectors of the industry.
- (ii) The Association's Golf and Bowls clubs shall be regarded as Special Interest Groups within the meaning of this rule.
- (iii) The Executive Director shall publicise the establishment of such a group, inviting any interested parties to join the Group, and membership of the Group shall be open to any party otherwise eligible under Rule 7 of these Rules to join the Association.
- (iv) Membership of any Special Interest Group shall be contingent on the party also being admitted to membership of the Association.



- (v) Within six months of the first meeting of any such Group a draft Constitution shall be submitted to the Board for its consideration and approval, such Constitution including provisions dealing with at least the following:
 - (a) the name and objects of the Group;
 - (b) membership; and
 - (c) Committee;

- (vi) The Board may, subject to review by a General Meeting, allocate funds for the purposes of a Special Interest Group on an annual basis, subject to the following:
 - (a) No payment of funds to a Group shall be made in any year unless and until the audited financial statement for the previous financial year ending 30 June has been received by the Executive Director. Should such financial statement not be received within twelve months of the end of a financial year, the Group shall forfeit its right to receive any monies due pursuant to this sub-rule. Financial statements to be provided pursuant to this sub-rule shall give details of the income, expenses, assets and liabilities of the Group.

 - (b) The funds of the Group may only be applied to further the objects of the Group and the Association at large and the expenses of its operation and management.

 - (c) From time to time the Executive shall adopt guidelines for the expenditure of Group funds, and Groups may expend funds only in accordance with such guidelines.

 - (d) Groups may not make any loan, grant or donation from their funds without having first obtained the approval of the Executive.

 - (e) Groups may not make any donation or other payment from their funds for political objects.

- (vii) Every Group shall provide a report of its activities to each meeting of the Board, which may take such action as it considers necessary to ensure that the activities of the Group are in accord with the objects of the Association and these Rules.

- (viii) On the dissolution of any such Group, or should it not meet at least once during any twelve month period in which case it shall be deemed to have been dissolved, any funds of the Group shall be transferred to the Association.



34. MASTER BUILDERS AUSTRALIA INC

Whilst the Association remains a member of Master Builders Australia Inc., unless otherwise decided by the Board, the President and Executive Director or their nominees shall be the representatives of the Association on the Board of that organisation.

35. OBSERVANCE OF RULES BY MEMBERS

- (i) In order to further the achievement of the objects of the Association and promotion of high standards of acceptable behaviour and ethical conduct by its Members and in the Industry generally, the Association has adopted the *Master Builders Australia National Code of Practice* [*“the National Code”*], and the Principles and standards of conduct prescribed by the National Code shall apply to and be binding on all Members of the Association.
- (ii) In addition the Association has adopted the Code of Tendering Practice set out at Schedule H to these Rules.
- (iii) It is of the highest importance that these Rules and the provisions of the Codes be strictly observed by all Members without violation or evasion
- (iv) As soon as possible after admission, the Executive Director shall provide a copy of the Rules of the Association to the Member, which, if posted, shall be deemed to have been received on the date it would be delivered in the normal course of post.
- (v) The procedures set out at Schedule G shall apply should any Member breach, or refuse or neglect to comply with a provision of these Rules or of the above-mentioned Codes, or any policy of the Association which may be adopted from time to time and published to Members, or act wilfully in a manner prejudicial to the interests of the Association, or be the subject of a complaint by a Member alleging any such behaviour.
- (vi) This Rule and the above Codes and the procedures set out at Schedule G do not apply to contractual disputes or disputes about technical issues. However, they may apply in respect of the conduct of a Member which arises out of or in connection with a dispute of a contractual or technical nature.
- (vii) Where a fine has been imposed on a Member, unless otherwise directed by the Board, all fines shall be paid to the Association within seven (7) days after notice thereof has been forwarded to the last known address of the Member by pre-paid registered post



or the equivalent service. All fines shall be paid into the general funds of the Association.

36. TRANSITIONAL PROVISIONS

Executive Officers and Councillors holding office at the date of commencement of these Rules will continue to hold office until the Annual General Meeting of the Association in 2010.

37. ALTERATION OF RULES

These Rules may be amended, added to or replaced in the following manner:

- (i) at a General Meeting any Member or the Nominated Representative of a Member may give notice of an intention to move a resolution to change the rules of the Association as indicated above, stating clearly in writing the suggested alteration;
- (ii) this resolution shall appear on the business paper of the next Annual General Meeting and shall be dealt with at that meeting, and if two thirds of the Members then present shall vote in favour of the resolution, or an amendment thereof, the rules shall be altered accordingly;
- (iii) the Board shall have the option of calling a further General Meeting to deal with the rules instead of waiting for the Annual General Meeting, which General Meeting shall have the like powers of amending or altering the rules as an Annual General Meeting.



SCHEDULES

NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "A" - NOMINATION FOR ELECTION TO BOARD

Rule 23 1(iv)

TO BE COMPLETED BY NOMINATOR:

I, of
(Name in BLOCK LETTERS)

..... Phone:
.....
(Residential Address in BLOCK LETTERS)

being

* a Building Industry Member of the Newcastle Master Builders' Association

OR

* the Nominated Representative of which
is a (Name in BLOCK LETTERS)

Building Industry Member of the Newcastle Master Builders Association

[* delete whichever is NOT applicable]

and having the right to vote, hereby nominate:

..... of
(Name in BLOCK LETTERS)

..... Phone:
(Residential Address in BLOCK LETTERS)

..... Date Signature of Nominator

TO BE COMPLETED BY NOMINEE:

I,
(Name in BLOCK LETTERS)

* a Building Industry Member of the Newcastle Master Builders' Association

OR

* the Nominated Representative of
which is a

(Name in BLOCK LETTERS)

Building Industry Member of the Newcastle Master Builders' Association

hereby **consent** to the above nomination.

..... Date Signature of Nominee

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



New South Wales

NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "B" - INFORMATION TO BE PROVIDED TO APPLICANTS FOR MEMBERSHIP

Rule 7(a)(ii)

In accordance with s237(3) of the NSW Industrial Relations Act 1996 and Rule 7(a)(ii), applicants for membership must be provided in writing with the following information as to the financial obligations arising from membership and the circumstances and manner in which they may resign:

MEMBERSHIP FEES

- * Details of the current Membership Fees
- * A copy of Rule 12 (Membership Fees) or the following summary thereof explaining how fees are set and the maximum fees under the Rules.

"Rule 12 of the Association's rules sets out how fees are set and the maximum fees which can be set.

- * Fees for the year become payable immediately after the anniversary of the date on which the Member joined the Association.
- * The level of fees for the year is set by the Board, but cannot be greater than the maximum amounts allowed under the Rules. If you would like further information on this simply ask for a copy of Rule 12.
- * The Rules allow the Board to increase the maximum amounts, but the Board cannot do so more than once each year and the increase must not be greater than CPI.
- * The actual fees shown are set on the basis of a flat annual subscription.
- * A General Meeting of the Association can impose extra fees or levies for special purposes as long as they are within the objects of the Association. Members must be given written notice that such a fee will be considered, via the Notice of Meeting.
- * The Association may also charge on a "user pays" system for services provided by staff or the use of Association equipment (e.g. plan printing, room hire).



RESIGNATION

- * A copy of Rule 9 (Resignation from Membership), or the following summary thereof explaining the circumstances and the manner in which a Member can resign from membership of the Association.

"Rule 9 of the Association's Rules sets out the circumstances and the manner in which a Member can resign from the Association. This is a summary of Rule 9.

- * A resignation must be IN WRITING and forwarded to the Executive Director;
- * Generally speaking a resignation will take effect one month from the date the resignation letter is received by the Association, or a later date if the letter specifies one.

However, if a Member ceases to be eligible to be a member the resignation will take effect on the later of: the day on which the Association receives the notice of resignation OR the day specified in the notice (which cannot be earlier than the day on which the Member ceases or will cease to be eligible to be a member).

The Association may refuse to accept a resignation if disciplinary action against the Member is under way or is intended.

A Member remains liable for all fees, subscriptions or levies payable in relation to the period of 6 months prior to the resignation taking effect, and is also liable for any other money owing to the Association up to the date the resignation takes effect (e.g. for documents, services provided on a user pays basis, attendance at functions etc). [Under Rules 13 and 14 any such fees or monies owing may be recovered by the Association].



NEWCASTLE MASTER BUILDERS' ASSOCIATION
Schedule "C" - FORM OF PROXY FOR GENERAL MEETING

Rule 31(iv)

I,, of
(Membership Name in BLOCK LETTERS)

.....,
being-
(Membership Address in BLOCK LETTERS)

-* a Building Industry Member

-* a Life Member

-* the **Nominated Representative** of

....., a
(Membership Name in BLOCK LETTERS)

Building Industry Member of the Association,

(* Delete whichever is NOT applicable)

hereby instruct the President or other person presiding to vote in accordance with my instructions below at the General Meeting of the Association to be held on **[The date of the Meeting must be filled in or the Proxy will not be valid).**

(Delete whichever is NOT applicable)

(1) Vote on my behalf in the same way as you will vote yourself.

OR

(2) Vote as indicated on each of the motions numbered in the agenda paper as follows:

Motion Number	FOR	AGAINST
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----

Signed:

Date:.....

.....
Name in BLOCK LETTERS

Registered rules of **Newcastle Master Builders' Association** as at 7 December 2009



New South Wales

NEWCASTLE MASTER BUILDERS' ASSOCIATION
Schedule "D" - NOMINATION FOR ELECTION TO OFFICE
Rule 24(b)

TO BE COMPLETED BY NOMINATOR:

I, of
(name in BLOCK LETTERS)

..... Phone:
.....
(Residential Address in BLOCK LETTERS)

being

a member of the Board of the Newcastle Master Builders' Association

and having the right to vote, hereby nominate:
.....
(Name in BLOCK LETTERS)

of Phone:
.....
(RESIDENTIAL address in BLOCK LETTERS)

for election to the office of * Deputy President / Honorary Secretary/Treasurer
(*Delete whichever is not applicable. A separate form MUST be lodged for each Office for which the nominee is to be nominated)

.....

.....

Date

Signature of Nominator

TO BE COMPLETED BY NOMINEE:

I,
(Name in BLOCK LETTERS)

being a member of the Board of the Association as nominated, hereby
consent to the above nomination.

.....
Date

.....
Signature of Nominee

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New South Wales

NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "E" - NOMINATION FOR ELECTION AS EXECUTIVE DIRECTOR

Rule 25(i)

TO BE COMPLETED BY NOMINATOR:

I, of
(name in BLOCK LETTERS)

..... Phone:

.....
(Residential Address in BLOCK LETTERS)

being

a * Member of the Newcastle Master Builders' Association **OR**

the * Nominated Representative of

....., a
Building

(Membership Name in BLOCK LETTERS)

Industry Member of the Association,

(* Delete whichever is NOT applicable)

and having the right to vote, hereby nominate:

.....
(Name in BLOCK LETTERS)

ofPhone:

.....
(RESIDENTIAL Address in BLOCK LETTERS)

for election to the office of Executive Director

.....
Date Signature of Nominator

TO BE COMPLETED BY NOMINEE:

I,
(Name in BLOCK LETTERS)

hereby **consent** to the above nomination.

.....
Date Signature of Nominee

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New South Wales

NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "F" - BALLOT PAPER FOR ELECTION TO OFFICE

OF [Name of Office]

Rule 24

- [Name of Candidate]
- [Name of Candidate]
- [Name of Candidate]
- [Name of Candidate]
- [Name of Candidate]
- [Name of Candidate]

**Vote for the Candidate of your choice
by placing a CROSS (X) in the box
alongside the name of that Candidate.**

Vote for ONE CANDIDATE ONLY.

**Should you vote by any other method
(for example: a tick, filling in the box, numbers)
your vote will be
INFORMAL AND WILL NOT BE COUNTED.**



NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "G" - CODE OF CONDUCT OF THE NEWCASTLE MASTER BUILDERS' ASSOCIATION

Rule 35

This Code prescribes the procedures for dealing with alleged breaches of:

- (a) the Rules of the Association;
- (b) the National Code; and
- (c) the Code of Tendering (Schedule H to the Rules)

1.0 Dealing with Complaints and Alleged Breaches

- 1.1 Where the matter relates to a dispute concerning an alleged breach of the Rules or Codes, before lodging any complaint the parties should meet at least once to try to explain their concerns and to endeavour to resolve the matter by mutual agreement. If this is unsuccessful then a written complaint may be made to the Executive Director of the Association setting out the details of the complaint.
- 1.2 On becoming aware of any breach, or refusal or neglect to comply with a provision of these Rules or of the Codes or a policy of the Association, or where a Member has acted wilfully in a manner prejudicial to the interests of the Association, or is the subject of a complaint alleging any such behaviour (and the parties have not been able to resolve the matter by discussions as provided in clause 1.1), the Executive Director shall investigate and, if possible, resolve the complaint by all reasonable means, including by means such as mediation or conciliation if appropriate. If in the opinion of the Executive Director, the complaint cannot be resolved or, although resolved, warrants further action he shall provide a report regarding the alleged conduct to the Executive of the Association.
- 1.3 The Executive shall consider the report at its next meeting or at a meeting called for that purpose. If a majority of the Executive present at the meeting consider it warranted, the Member concerned shall be summoned to appear before a meeting of the Executive to answer the allegations or alternatively the Executive may direct that the member be summoned before the next meeting of the Board or a meeting of the Board convened to deal with the matter;
- 1.4 The Member shall be advised of the allegation(s) to be answered and given reasonable time to consider them and prepare a response;
- 1.5 The Member must appear personally or by its Nominated Representative and shall not be entitled to be represented by a legal representative or an agent;

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New South Wales

- 1.6 Where the Executive has itself dealt with a matter in accordance with clause 1.2, it shall report its findings in respect of the allegations together with its recommendations as to further action to the next meeting of the Board;
- 1.7 Should the Board, having itself heard the details of the allegations and the member's response or having before it a report from the Executive detailing the same, decide by a majority that the Member has acted as alleged, the Board may impose one or more of the following:
- 1.7.1 reprimand the Member;
 - 1.7.2 direct the Member to undertake training or other remedial actions;
 - 1.7.3 impose a fine of up to \$5,000;
 - 1.7.4 suspend the Member for such period as it may determine; or
 - 1.7.5 expel the Member from the Association.
- 1.8 The Board or Executive may proceed to hear and determine such matters in the absence of a Member if it is satisfied that:
- 1.8.1 reasonable steps were taken to advise the Member of the allegations and of the time and place of the meeting convened to consider the allegations; and
 - 1.8.2 the Member has given no reasonable explanation for not appearing at the meeting.
- 1.9 Where a matter is dealt with in the absence of the Member, advice of the decision of the Board shall be delivered to the Member personally or by facsimile or forwarded to the last known address of the Member by pre-paid registered post or the equivalent service.
- 1.10 Where a matter has been the subject of a complaint lodged with the Executive Director as allowed under clause 1.1, the complainant shall be advised in writing of the Board's decision, forwarded to the last known address of the complainant by pre-paid registered post or the equivalent service.

2.0 Appeals to the Newcastle Master Builders Association Complaints and Appeals Board

2.1 Membership of the Newcastle Master Builders Association Appeals and Complaints Board

- 2.1.1 The Association shall establish the Newcastle Master Builders Association Appeals and Complaints Board ["the Newcastle ACB"] whose members shall comprise:
- (a) the Independent Chairperson appointed in accordance with clause 2.1.2; and
 - (b) the members for the time being of the Board of the Association; and



- (c) the persons appointed to the Panel of Independent Persons in accordance with clause 2.1.3; and
- (d) where a complaint has been made by the NSW or Federal Governments or their respective statutory authorities, an observer appointed by the relevant Government.

2.1.2 The Newcastle ACB shall be chaired by an Independent Chairperson nominated by the President of Newcastle Regional Law Society and agreed to by the Board of Newcastle MBA.

2.1.3 From time to time the Executive Director and the Independent Chairperson shall jointly appoint one or more people to be members of the Panel of Independent Persons referred to at clause 2.1.1(b). To be eligible for appointment, a person must satisfy the following criteria:

- (a) requisite industry history and involvement in a building or construction related discipline;
- (b) has the ability to be impartial and objective and to exercise sound and balanced judgement;
- (c) has the ability to objectively assess the relevant factors from the point of view of both the Member and the Complainant (where relevant);
- (d) is not a present or past staff member or director of a Member;
- (e) has not acted or does not act for a Member;
- (f) is not retained by a Member in any other capacity, either currently or in the past;
- (g) has not and does not provide consultancy or other services for a Member; and
- (h) has no shareholding or other interest in a Member's corporation.

2.2 Lodgement of Appeals and Procedure of the Newcastle Master Builders Association Appeals and Complaints Board

2.2.1 If a Member or a complainant (where the matter was the subject of a complaint under clause 1.1) is aggrieved at the decision of the Board, (s)he or it may appeal to the Newcastle ACB.

2.2.2 Written notice of an appeal must be given to the Executive Director within 7 days of either the Member or complainant receiving written advice of the Board's decision or of the date 3 working days after the advice of the Board's decision would have been received in the ordinary course of post, whichever is the earlier.

2.2.3 Four members of the Newcastle ACB shall hear and determine any appeal, unless the Member and Complainant (where relevant) otherwise agree in writing.



2.2.4 In consultation with the Independent Chairperson, the Executive Director shall appoint four members of the Appeals and Complaints Board, two of whom shall be members of the Board of the Association (provided that they have not had any prior involvement in dealing with the matter) and at least one of whom shall be drawn from the panel of Independent Persons, to hear and determine the complaint. So far as is practicable (but with due regard to considerations such as time, expense and location) such appointments shall be rotated amongst the available members.

2.2.5 The Newcastle ACB shall hear and determine the appeal by way of rehearing. In conducting the hearing, the Newcastle ACB may determine its own procedure, subject to that procedure complying with clause 3.5.2 of the National Code to the extent that Independent Chairperson believes is reasonably practicable.

2.2.6 With the leave of the Newcastle ACB, a Member may be represented by a legal practitioner or agent.

2.2.7 The Newcastle ACB may make any decision and impose any sanction which the Board of the Association may make or impose under clause 1.7 of this Schedule.

3.0 Appeals to the Master Builders Australia Appeals and Complaints Board

3.1 If a party to an appeal reasonably believes that the manner in which the complaint was handled or the decision made by the Newcastle ACB was unreasonable, unfair or unjust, or that a decision of the Newcastle ACB will adversely and seriously affect the Member's commercial interests, then the party may appeal to the Appeals and Complaints Board of Master Builders Australia.

3.2 A party who wishes to appeal to the Appeals and Complaints Board of Master Builders Australia must comply with the procedures for such appeals prescribed under the National Code.

3.3 The decision of the Appeals and Complaints Board of Master Builders Australia shall be binding and final.



NEWCASTLE MASTER BUILDERS' ASSOCIATION

Schedule "H" - CODE OF TENDERING PRACTICE

Rule 35

The Association adopts the following Code of Tendering Practice:

Members of the Association will not engage in collusion in tendering. For the purposes of this Code, "collusion" is defined as:

- (a) agreement between tenderers as to which tenderer will be successful;
- (b) any meeting of tenderers to discuss tenders prior to the submission of their tenders if the client is not invited to attend that meeting;
- (c) exchange of information between tenderers in relation to the prices or components of prices included in any tender that they have submitted or are to submit to the client where such exchange of information occurs prior to the close of tenders;
- (d) exchange of information between tenderers in relation to the conditions of contract included in any tender that they have submitted to the client where such exchange of information occurs prior to the close of tenders;
- (e) agreement between tenderers for the payment of money or the giving of any benefit to any unsuccessful tenderer by the successful tenderer;
- (f) any assistance to any tenderer to submit a cover tender (that is, a tender submitted which has been deliberately priced in order not to win the contract);
- (g) any agreement between tenderers prior to submission of tenders to fix the rate of
- (h) payment of industry association fees where the payment of such fees is conditional upon the tenderer winning the contract.

Any alleged breach shall be dealt with in accordance with Rule 35 of these Rules. A serious breach of this Code may result in expulsion from membership.

