



24-27 June 2016  
Mary MacKillop Place  
80 William Street  
North Sydney

## PROPOSED NCCA GOVERNANCE CHANGES

### 1. Executive Summary

The world, the NCCA and its member Churches have changed considerably since 1962, and even from 1994, and yet until this time, the legal and governance structure remains fundamentally the same as that established on 9 April 1962.

The NCCA legal structure is comprised of: the NCCA unincorporated entity, the NCCA incorporated entity and a public benevolent institution sub-entity (Act for Peace). As laws, church and donor requirements have evolved, this structure has become inappropriate. The primary issues are that:

- *Liability is not limited to the responsible entities.* For instance, member churches are exposed to potential liability through the unincorporated association of the NCCA and NCCA Ltd is exposed to potential liability through Act for Peace which has higher risks now that it is focused on conflict and disaster zones;
- *Proper governance of the operations of the NCCA is required* to ensure that it fulfills the purpose set for it by its member Churches. The required governing functions cannot be provided by a 40+ person NCCA Executive or an NCCA Board acting solely as trustee with no ordinary governance role; and
- *Confusion reigns with the current mix of legal entities and various bodies* and this has a high cost both time and financial, especially putting at risk potential grants.

For the past three years the NCCA members, through their representatives on the NCCA Executive and with expert advice, have considered how to improve the NCCA legal and governance structure. The proposed new legal and governance structure has the support of the NCCA Executive and is based on the expert advice received.

### 2. Beginnings /History

#### 2.1. Origins

In 1960 the Australian Council of Churches developed from the Australian Committee of the World Council of Churches (1946). On 9 April 1962 Australian Council of Churches Association Ltd was incorporated as a Company limited by guarantee with its Memorandum of Association and Articles of Association. The National Council of Churches came into being in 1994, replacing and expanding the membership of the Australian Council of Churches. The Constitution had been approved by intending members in 1993. Subsequent minor changes were made in 1996 and 2007.

Australian Council of Churches Association Ltd continued to exist to provide the same services to NCCA as it had to ACC. In December 1994, a new Memorandum of Association and Articles of Association were adopted for NCCA Ltd.

Virtually from its beginnings, NCCA has had an incorporated entity responsible for an unincorporated entity.

## **2.2. 1996 - Present**

Since 1996 NCCA Ltd has assumed additional responsibilities, including:

- as employer of all NCCA staff
- as the holder of Public Benevolent Institution (PBI) status for the NCCA's international aid agency arm, Act for Peace;
- as the contracting entity with external parties, such as government funding bodies.

In 2013-2014 the Directors of NCCA Ltd had expressed concerns that an inadequate governance framework exists to provide the Board with confidence that the Board is able to discharge properly its legal duties and compliance regulation.

## **3. Process of review**

### **3.1. NCCA Governance Review**

Tania Kearsley, Corporate Companion, conducted a review in May 2014. After receiving corrections regarding Act for Peace, Corporate Companion provided a revised report.

### **3.2. Participation of the NCCA Executive**

Mr Martin Drevikovsky and Mr David Penny, Directors of NCCA Ltd gave a presentation to the Executive in November 2014. At each subsequent meeting of the NCCA Executive aspects of the proposed changes have been considered.

Copies of the draft Constitution were provided to Executive present at the meeting in March 2016 and were subsequently distributed via email to all members of the Executive.

### **3.3. Involvement of the Heads of Churches**

The General Secretary gave a presentation to the Heads of Churches at their meeting in November 2015 and as members of the Executive all Heads of Churches received information.

## **4. Proposal**

### **4.1. Merging the functions of the unincorporated NCCA entity into the incorporated entity**

As an incorporated entity, NCCA Ltd will be responsible for the governance of NCCA.

Each church will be a member of the Company, and will appoint a person as a Member Nominee (the Head of Church or an appropriate senior person), to act on behalf of the church (Clause 16). Member nominees will meet in general meetings, specifically at least one annual general meeting.

Churches will nominate people with the appropriate skills (Clause 37) to act as directors of NCCA Ltd. The Board of NCCA Ltd will consist of not more than 12

Directors, of whom not more than 9 will be elected and not more than 3 will be appointed. A director will not come from every Member church.

#### 4.2. Comparing present and proposed

The activity of the National Council of Churches will continue through similar structures.

<b>Present</b>	<b>Proposed</b>
Forum - meets once every 3 years HoC, representatives	Forum – meets once every 3 years HoC, representatives, directors,
Executive – meets 3 times per year evening and day HOC, delegates, elected	Assembly – meets 3 times per year for one day HoC, delegates, invited
Executive Standing Committee	-
Commissions	Commissions
Networks	Networks
NCCA Ltd members = directors  Directors appointed by Forum after nominations by Member churches	NCCA Ltd Member churches represented by Member nominee Directors nominated by churches : ≤9 elected by Member nominees, ≤3 appointed by Directors
	Committees of the Board Board may appoint Committees as it decides
President	President
General Secretary	General Secretary
Treasurer	Treasurer

### 5. Implementation of Governance changes

#### 5.1. Prior to the Forum

The Directors of NCCA Ltd met on 5 April and resolved to increase the number of members of NCCA Ltd (NCCA Ltd Articles of Association, Clause 5).

The Members of NCCA Ltd met on 5 April and resolved:

- to adopt the new Constitution subject to its approval by the National Forum (Memorandum of Association Clause 9).
- to change the name from NCCA Ltd to National Council of Churches in Australia Ltd.

Each member church was invited to become a member of National Council of Churches in Australia Ltd. As at 21 June, 15 member churches have agreed to become a member of National Council of Churches in Australia Ltd.

## 5.2. Action of the Forum

The Forum is asked to resolve:

- **to express the gratitude of all member churches for the work of the Directors of NCCA Ltd for their generous and committed service of the National Council of Churches in Australia**
- **to elect all member churches to the National Council of Churches in Australia Ltd**
- **to approve the adoption of the Constitution of the National Council of Churches in Australia Ltd**

## 5.3. Following the Forum

5.3.1. The Member Nominees will hold an annual general meeting and elect up to nine Directors from those nominated by the member churches. (Constitution Clauses 18, 43).

Notice of this meeting will be 21 days unless the Member Nominees agree to a shorter period.

5.3.2. The Directors will meet and (*inter alia*)

- Appoint up to 3 Directors to ensure an appropriate balance of skills
- Consider the recommendation to incorporate Act for Peace
- Develop By-Laws
- Consider the mandate, size, membership of Commissions.

## 6. Act for Peace: from a sub-entity of NCCA Ltd to a wholly-owned subsidiary of NCCA Ltd

The 2014 legal and governance review of the NCCA also recommended, and the NCCA Executive and AfP Commission strongly support, the incorporation of AfP as a wholly owned subsidiary of NCCA Ltd. There are strong arguments for such change in the future.

It is recommended that the Forum resolve to:

**Request the NCCA Ltd Board to consider as a matter of priority the incorporation of Act for Peace as a subsidiary company of National Council of Churches in Australia Ltd and that a recommendation be prepared for the Members of NCCA Ltd.**