



Associations Incorporation Act 2009 (NSW) (Act)

Manly Warringah District Baseball Association Constitution

August 2023

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ASSOCIATIONS INCORPORATION ACT 2009 (NSW)

CONSTITUTION

of

MANLY WARRINGAH DISTRICT BASEBALL ASSOCIATION INCORPORATED

1. NAME OF ASSOCIATION

The name of the Association is Manly Warringah District Baseball Association Incorporated ("**Association**").

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless the contrary intention appears:

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

Affiliated Member means a current Member with the Association or a Club who is at least 18 years of age. Affiliated Members are registered non playing persons who assist the Association in any capacity such as, but not limited to, umpiring, coaching, ground maintenance, scoring, committee member or general volunteer.

Annual General Meeting (AGM) means the annual general meeting of the Association held in accordance with **clause 20**.

Association means Manly Warringah District Baseball Association Incorporated.

Board means the body consisting of the Directors.

Club means a Sport club which is a Member, or is otherwise affiliated with the Association.

Club Delegate means the person appointed from time to time to act for and on behalf of a Club and to represent the Club on the Board as a Director and to vote on behalf of the Club at General Meetings. Such Delegate must be concurrently serving on the Club's Board.

Competition Committee Delegate means the person appointed from time to time to act for and on behalf of a Competition Committee and to represent that Competition Committee on the Board as a Director. Such Delegate must be concurrently serving on that Competition Committee.

Competition Committees mean the Committees running the various organised Baseball competitions/programmes, under delegation from the Association, currently comprising of Junior League, Junior Representatives and Minor League Committee.

Constitution means this Constitution of the Association.

Director means a member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this Constitution.

Financial year means the year ending on the next 31 March following adoption and thereafter a period of 12 months commencing on 1 April and ending on 31 March each year.

General Meeting means the AGM or any SGM of the Association.

Incapacitated means unable to fulfil duties as required by this Constitution or the Act, including being able to:

- (a) understand the information relevant to the decisions that will have to be made in the role of Director;
- (b) retain that information to the extent necessary to make those decisions;
- (c) use or weigh that information as part of the decision making process; or
- (d) communicate the decisions in some way.

Intellectual Property means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Association or any activity of or conducted, promoted or administered by the Association in the Region.

Junior Playing Member means a currently registered, financial member of a Club or the Association, who is under the age of 18 years. If a Junior Playing Member turns 18 years of age during the season he/she will remain as a Junior Playing Member for the remainder of that season.

Life Member means an individual appointed as a Life Member of the Association under **clause 5.2**.

Member means a currently registered Member of the Association or a Club for the time being under **clause 5**

NSO means the National Sporting Organisation for the Sport, being Baseball Australia.

Objects means the objects of the Association in **clause 0**.

Parent/Guardian Member means the parent or legal guardian of a Junior Playing Member, as reported when the Junior Playing Member is registered.

Region means the geographical area for which the Association is responsible as recognised by the SSO.

Register means a register of Members kept and maintained in accordance with **clause 6.5(a)**.

Regulations means any Regulations made by the Board under **clause 34**.

Season means the junior baseball playing season as defined by the Association or, for Senior Playing Members who play in the Association's multiple competitions, the playing season they last registered for.

Senior Playing Member means a currently registered, financial playing Member of a Club or the Association, who is 18 years of age or older at the time of their registration.

Special General Meeting (SGM) means a special general meeting of the Association held under **clause 21**.

Special Resolution means a special resolution defined in the Act.

Sport means the sport of Baseball.

SSO means the State Sporting Organisation for the Sport, being Baseball New South Wales.

2.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

2.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

2.4 The Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Model rules under the Act are expressly displaced by this Constitution.

3. OBJECTS OF THE ASSOCIATION

The Association is established solely for the Objects. The Objects of the Association are to:

- (a) participate as a member of SSO so the Sport can be conducted, encouraged, promoted, advanced and administered in the Region;
- (b) conduct, encourage, promote, advance and administer the Sport throughout the Region;
- (c) ensure the maintenance and enhancement of the Association, the Clubs, the SSO, the NSO, the Members and the Sport, along with its standards, quality and reputation for the benefit of the Members and the Sport;

- (d) at all times promote mutual trust and confidence between the Association, the Clubs, the SSO, the NSO and the Members in pursuit of these Objects;
- (e) at all times act on behalf of, and in the interest of, the Members and the Sport in the Region;
- (f) promote the economic and community service success, strength and stability of the Association, the Clubs, the Members and the Sport in the Region;
- (g) affiliate and otherwise liaise with the SSO and adopt its rule and policy framework to further these Objects and the Sport;
- (h) use and protect the Intellectual Property;
- (i) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects;
- (j) strive for government, commercial and public recognition of the Association as the controlling body for the Sport in the Region;
- (k) abide by, promulgate, enforce and secure uniformity in the application of the rules of the Sport as may be determined from time to time by the NSO and as may be necessary for the management and control of the Sport and related activities in the Region;
- (l) advance the operations and activities of the Association and the Clubs throughout the Region;
- (m) review and/or determine any matters relating to the Sport which may arise, or be referred to it, by any Member;
- (n) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in Baseball Competitions and to award trophies and rewards to successful competitors and conduct Baseball Competitions with the region whether conducted by MWDBA or in which MWDBA participates;
- (o) recognise any penalty imposed by Clubs on their Members and act as arbiter (as required) on all matters pertaining to the conduct of the Sport in the Region, including disciplinary matters;
- (p) pursue such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of the Sport in the Region;
- (q) adopt and implement such policies as may be developed by NSO or SSO, including (as relevant and applicable) member protection, anti-doping, health and safety, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in the Sport;
- (r) represent the interests of its Members, its Clubs and of the Sport generally in any appropriate forum in the Region;
- (s) have regard to the public interest in its operations;
- (t) do all that is reasonably necessary to enable these Objects to be achieved and enable Members and Clubs to receive the benefits which these Objects are intended to achieve;

- (u) promote the health and safety of Members and all other participants in the Sport in the Region;
- (v) seek and obtain improved facilities for the enjoyment of the Sport in the Region; and
- (w) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

4. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association has, in addition to the rights, powers and privileges conferred on it under section 19 of the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act 2001 (Cth)*.

5. MEMBERS

The Association is the controlling body for the Sport within its Region and its authority shall be recognised by all Members, who shall adopt and obey this Constitution, the Regulations and policies of the Association.

5.1 Categories of Members

The Members of the Association shall consist of:

- (a) Clubs, which subject to this Constitution, shall be represented on the Board by one (1) Delegate, who shall have the right to receive notice of General Meetings and to be present, debate and vote on behalf of the Club at General Meetings;
- (b) Life Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and debate but not to vote at General Meetings;.
- (c) Affiliated Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and debate but not to vote at General Meetings;
- (d) Junior Playing Members, who subject to this Constitution, shall have no right to receive notice of General Meetings and no right to be present, debate or vote at General Meetings
- (e) Parent/Guardian Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate but not to vote at General Meetings.
- (f) Senior Playing Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present and to debate but not to vote at General Meetings and
- (g) such new or other categories of Members as may be established by the Board. Any new category of Member established by the Board can not be granted voting rights without the approval of the Association via a General Meeting.

5.2 Life Members

- (a) The Board may recommend to the AGM that any natural person who has rendered distinguished service to the Association or the Sport in the Region,

where such service is deemed to have assisted the advancement of the Sport in the Region, be appointed as a Life Member.

- (b) A resolution of the AGM to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Board must be a Special Resolution.
- (c) A person must accept or reject the Association's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the Register and, from the time of entry on the Register, the person shall be a Life Member.

5.3 Length of Membership

Other than for Life Members, membership of the Association will extend from the beginning of the Season until 11:59pm on the day prior to the start of the next playing Season. For Senior Playing Members, who may participate in multiple competitions per year, they remain a Member until 11:59pm on the day prior to the start of the same competition that they last signed up to (Example: a Senior Playing Member who only participates in Summer Minor League remains a member until 11:59pm of the day before the next Summer Minor League competition commences, despite not playing in Winter Minor League)

If the application for membership of the following categories:

- a. Junior Playing Member
- b. Parent/Guardian Member
- c. Senior Playing Member

is made after the playing season has begun then membership will begin from the point where the club accepts the membership and cease at 11:59pm on the day prior to the start of the next playing season.

6. CLUB AFFILIATION

6.1 Clubs

- (a) To be, or remain, eligible for membership, a Club must be incorporated or in the process of incorporation. This process must be complete within one year of applying for membership under this Constitution.
- (b) For such time as the Club is not incorporated, the secretary of any such unincorporated Club shall be deemed to be the Delegate (on behalf of the unincorporated entity). The secretary shall be entitled to exercise the same voting and other rights and have the same obligations and shall follow such procedures on behalf of the unincorporated Club as incorporated Members, to the extent that this is possible.
- (c) Any dispute or uncertainty as to the application of this Constitution to an unincorporated Club shall be resolved by the Board in its sole discretion.
- (d) Failure to incorporate within the period stated in **clause 6.1(a)** shall result in the expulsion of the secretary (acting on behalf of the unincorporated entity) from membership. The expelled unincorporated entity shall not be entitled to re-apply for membership until it becomes incorporated.

6.2 Application for Affiliation

An application for Club membership to the Association must be:

- (a) from the applicant Club's secretary or its other nominated representative, in writing on the form prescribed from time to time by the Board (if any), and lodged with the Association;
- (b) accompanied by a copy of the applicant Club's constitution (which must be acceptable to the Association and must substantially conform to this Constitution) and the applicant Club's register of members; and
- (c) accompanied by the appropriate fee (if any).

By applying, an applicant Club acknowledges and agrees that they voluntarily agree to be bound by the rules, Regulations and policies of the Association (as well as those of the SSO and NSO) including but not only this Constitution.

6.3 Discretion to Accept or Reject Application

- (a) The Board may, acting in the best interests of the Association and in good faith, accept or reject an application whether the applicant Club has complied with the requirements in **clauses 6.1** and **6.2** or not. The Association shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Board accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Board.
- (c) Where the Board rejects an application it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Association.
- (d) There is no right of appeal where the Board rejects an application for membership, whether a new application or a renewal application.

6.4 Re-Affiliation

- (a) Clubs must re-affiliate annually with the Association in accordance with the procedures set down by the Association in Regulations from time to time. Members acknowledge and agree that membership renewal is not automatic. **Clause 6.3** applies to re-applications for membership.
- (b) Upon re-affiliation, a Club must lodge with the Association an updated copy of its constitution (including all amendments) and must provide details of any change in its Delegate and any other information reasonably required by the Association. Each Club must ensure that its constitution is amended to conform to any amendments made to this Constitution and/or to the SSO's constitution.

6.5 Deemed Membership

- (a) All members which or who are, prior to the approval of this Constitution under the Act, members of the Association, shall be deemed Members from the time of approval of this Constitution under the Act.
- (b) Clubs shall provide the Association with such details as are reasonably required by the Association under this Constitution within one (1) month of the approval of this Constitution under the Act.

- (c) Any persons prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.4(a)(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

7. REGISTER OF MEMBERS

7.1 Association to keep Register

The Association shall keep and maintain a Register in which shall be entered, as a minimum:

- (a) the full name, email address, date of birth, category of membership and date of entry of each Member to membership of the Association or Club; and
- (b) the full name, residential address, email address and date of entry to membership of each Special Director and Life Member; and
- (c) where applicable, the date of termination of membership of any Member or Club.

Clubs, Members, Directors and Life Members shall provide notice of any change and required details to the Association within one (1) month of such change.

7.2 Inspection of Register

Having regard to privacy and confidentiality considerations, inspection of the Register will only be available as required by the Act and under **clause 28.2(b)**. If permitted, only an extract of the Register, excluding the address or other direct contact details of any Life Member or Director, shall be available for inspection (but not copying) by Members.

7.3 Use of Register

Subject to the Act, confidentiality considerations and privacy laws, the Register may be used solely to further the Objects, in such manner as the Board considers appropriate.

8. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and the Regulations and the SSO's and NSO's constitution and regulations;
- (b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Board or other entity with delegated authority;
- (c) by submitting to this Constitution and Regulations they are subject to the jurisdiction of the Association, SSO and NSO;
- (d) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of the Sport;
- (e) neither membership of the Association nor this Constitution gives rise to:
 - (i) any proprietary right of Members in, to or over the Association or its property or assets;
 - (ii) any automatic right of a Member to renewal of their membership of the Association;

- (iii) subject to the Act and the Association acting in good faith, the right of Members to natural justice, unless expressly provided for in this Constitution;
- (f) they are entitled to all benefits, advantages, privileges and services of Association membership; and
- (g) a right, privilege or obligation of a person by reason of their membership of the Association:
 - (i) is not capable of being transferred or transmitted to another person; and
 - (ii) terminates upon the cessation of membership whether by death, resignation or otherwise.

9. DISCONTINUANCE OF MEMBERSHIP

9.1 Notice of Resignation

- (a) A Member having paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving one (1) months' notice in writing to the Association of such resignation or withdrawal.
- (b) A Club may not resign, disaffiliate or otherwise seek to withdraw from the Association without approval by Special Resolution of the Club. A copy of the relevant minutes of the Club meeting showing that the Special Resolution has been passed by the Club must be provided to the Association.
- (c) If a Club ceases to be a Member under this Constitution, the Association membership of all Members affiliated or registered with or through that Club shall not automatically cease at that time, but shall be dealt with in accordance with the Regulations.
- (d) When the Association receives notice of resignation of membership given under **clauses 9.1(a)** and **(b)**, it must make an entry in the Register that records the date on which the Member who or which gave notice ceased to be a Member.

9.2 Discontinuance for breach

Notwithstanding anything in the Act or this Constitution:

- (a) membership of the Association may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations, including but not limited to the failure to pay any monies owed to the Association, failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee;
- (b) membership shall not be discontinued by the Board under **clause 9.1(a)(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach; and
- (c) where a Member fails, in the Board's view to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.1(a)(a)** by the Board giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.

- (d) membership of the Association may be discontinued by the Board upon conviction of a criminal offence. Clause 9.2(b) will not apply in these circumstances.

9.3 Discontinuance for failure to re-affiliate

Membership of the Association may be discontinued by the Board if a Club has not re-affiliated with the Association within one (1) month of re-affiliation falling due. The Register shall be amended to reflect any discontinuance of membership under this **clause 0** as soon as practicable.

9.4 Member to Re-Apply

A Member or Club whose membership has been discontinued under **clauses 9.1(a) or 0**:

- (a) must seek renewal and re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board. There is no right of appeal where the Board refuses to re-admit a former Member under this clause.

9.5 Forfeiture of Rights

A Member or Club who or which ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any property of the Association including Intellectual Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately. Where a Club ceases to be a Member it shall also forfeit all representation rights on the Board and at General Meetings.

9.6 Delegate Position Lapses

The position of Delegate shall lapse immediately on cessation of membership of a Club.

9.7 Membership may be Reinstated

Membership which has been discontinued under this **clause 9** may be reinstated at the discretion of the Board, with such conditions as it deems appropriate.

9.8 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may be refunded by the Board, solely at the Board's discretion, on a pro-rata basis to the Member upon discontinuance.

10. DISCIPLINE

- (a) Where the Board is advised or considers that a Member or Club has allegedly:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations, the SSO or the NSO's constitution or regulations or any resolution or determination of the Board or any duly authorised committee; or
 - (ii) acted in a manner unbecoming of a Member, or prejudicial to the Objects and/or interests of the Association, SSO, NSO and/or the Sport; or
 - (iii) brought the Association, SSO, NSO, any other Member or the Sport into disrepute;

the Board may commence or cause to be commenced, disciplinary proceedings against that Member or Club.

That Member or Club will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Association set out in the Regulations or as otherwise determined by the Board.

- (b) The Board may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations or as otherwise determined by the Board.

11. SUBSCRIPTIONS AND FEES

- (a) The annual membership subscription (if any) and any fees or other levies payable by Members to the Association, the time for and manner of payment, shall be as determined by the Board.
- (b) The Board is empowered to prevent any Member or Club whose annual subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of the Association, including but not limited to the right to vote at General Meetings. There is no right to natural justice or any right of appeal where the Board exercises its power under this **clause 11(b)**.

12. EXISTING DIRECTORS

The members of the administrative or governing body (by whatever name called) of the Association in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next AGM following such adoption of this Constitution. After this General Meeting, the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

13. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board. In particular, the Board shall act in accordance with the Objects and shall operate for the benefit of the Members and the Sport and community throughout the Region.

14. COMPOSITION OF THE BOARD

14.1 Composition of the Board

The Board shall comprise of::

- (a) One (1) appointed Director from each existing Club and Competition Committee, who must all be registered Members and who shall be appointed under **clause 15**;
- (b) Up to three (3) appointed Specialist Directors, who must all be registered Members and who may be appointed by the existing Directors in accordance with **clause 0**.

For the avoidance of doubt, **clause 14.1(a)** is intended to ensure fairness, equity and balance to the Board by giving one vote to each Club and each Competition line. If the

number of Clubs or Competition lines increase or decrease, the total number of Board Directors increases or decreases accordingly.

14.2 Portfolios

The Board may allocate portfolios and/or titles to Directors, such as Chairman or Secretary. Subject to this Constitution and any properly passed resolution of the Board, the allocation of portfolios or titles does not affect the powers and duties of Directors.

15. APPOINTED CLUB AND COMPETITION DELEGATES

15.1 Nominations

- (a) Nominations for Club and Competition Delegate positions for Board Directors shall be called for at least twenty one (21) days prior to the Annual General Meeting. Each Club and Competition Committee can only choose their own Delegate and only one Delegate per Club or Competition Committee may be appointed.
- (b) Nominees for appointed Director positions must declare the position they hold in the Club or the Competition Committee.

15.2 Form of Nomination

Nominations must be:

- (a) in writing;
- (b) on the prescribed form (if any) provided for that purpose;
- (c) signed by an authorised representative from the relevant Club or Competition Committee;
- (d) certified by the nominee (who must be a Member) expressing their willingness to accept the position for which they are nominated; and
- (e) delivered to the Association not less than seven (7) days before the date fixed for the AGM.

15.3 Term of Appointment for Directors

Directors appointed under this **clause 15** shall be appointed for a term of one (1) year. Subject to provisions in this Constitution relating to earlier retirement or removal of Directors, Directors shall remain in office from the conclusion of the AGM at which the appointment occurred until the conclusion of the AGM following.

16. APPOINTED SPECIAL DIRECTORS

16.1 Appointment of Specialist Directors

The Board may appoint up to three (3) Specialist Directors.

16.2 Qualifications for Specialist Directors

The appointed Specialist Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition.

16.3 Term of Appointment for Specialist Directors

Specialist Directors may be appointed by the existing Directors under this Constitution for a term of up to one (1) year, which shall commence from the first Board meeting after their appointment until the conclusion of the following AGM.

17. VACANCIES ON THE BOARD

17.1 Casual Vacancies

Any casual vacancy occurring in the position of Director must be filled by the responsible Club or Competition Committee nominating a new Director within 7 days or, in the case of a Specialist Director, the remaining Board Directors choosing from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

17.2 Grounds for Termination of Director

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) after reasonable consideration by the Board, is determined by the Board to have become Incapacitated and the Board reasonably expects the Director will remain Incapacitated for a period exceeding 3 months, provided always that:
 - (i) the Director is first given the opportunity to make written or oral submissions to the Board before a determination is made; and
 - (ii) any determination made under this **clause 17.2** shall be made with the Directors acting reasonably; or
- (d) resigns their office in writing to the Association;
- (e) in the case of a Club or Competition Committee Delegate, resigns from or is no longer a committee member of that Club or Competition Committee,
- (f) is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;
- (g) holds any office of employment with the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of their interest;
- (i) in the reasonable opinion of the Board (but subject always to this Constitution) has:
 - (i) acted in a manner unbecoming or prejudicial to the Objects and interests of the Association; or
 - (ii) brought themselves or the Association into disrepute;
- (j) is removed by Special Resolution; or

- (k) would otherwise be prohibited from being a Director of a corporation under the *Corporations Act 2001 (Cth)*.

17.3 Board May Act

If a casual vacancy or vacancies arises in the office of a Director or Directors, the remaining Directors may act only if the number of remaining Directors is sufficient to constitute a quorum at a meeting of the Board. Otherwise the meeting shall be deferred until such time as there are sufficient Directors available again to constitute such a quorum.

18. MEETINGS OF THE BOARD

18.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act) and subject to this Constitution may adjourn and otherwise regulate its meetings as it thinks fit. A Director may at any time convene a meeting of the Board within a reasonable time.

18.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors shall for all purposes be deemed a determination of the Board. All Directors shall have one (1) vote on any question. Where voting is equal, the motion will be lost.

18.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by any form of visible or other electronic communication by all the Directors for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Directors.
- (b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Board may be held where one (1) or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board or this Constitution and such notice specifies that Directors are not required to be present in person;
 - (iii) if a failure in communications prevents **clause 18.3(b)(i)** from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held then the meeting shall be suspended until **clause 18.3(b)(i)** is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated or adjourned; and
 - (iv) any meeting held where one (1) or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there

present the meeting shall be deemed to be held at the place where the chair of the meeting is located.

18.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is 75% of the total number. A quorum must remain present throughout the meeting.

18.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than fourteen (14) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than four (4) days prior to such meeting.

18.6 Chair

The Board shall appoint a chair from amongst its number. The chair shall be the nominal head of the Association and will act as chair of any Board meeting or General Meeting at which they are present. If the chair is not present, or is unwilling or unable to preside at a board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only.

18.7 Directors' Interests

A Director is disqualified by holding any place of profit or position of employment in the Association or in any company or incorporated association in which the Association is a shareholder or otherwise interested or from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested will be void unless approved by the Board.

18.8 Conflict of Interest

A Director shall declare their interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) financial matter;

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent themselves from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the vote shall not be counted. If there is any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

18.9 Disclosure of Interests

- (a) The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the relevant matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a matter after it is made or entered into the declaration of the interest must be

made at the first meeting of the Board held after the Director becomes so interested.

- (b) All disclosed interests must also be disclosed to each AGM.

18.10 General Disclosure

A general notice that a Director is a member of any specified firm or company and that they are “interested” in all transactions with that firm or company is sufficient declaration under **clause 0** as regards such Director and the said transactions. After such general notice it is not necessary for the Director to give a special notice relating to any particular transaction with that firm or company.

18.11 Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Director in accordance with **clauses 18.8, 0** and/or **18.9(a)** must be recorded in the minutes of the relevant meeting and otherwise in accordance with the Act.

19. DELEGATIONS

19.1 Board may Delegate Functions

The Board may, by instrument in writing, create or establish or appoint special committees, individual officers and consultants to carry out specific duties and functions. The Board will determine what powers these committees are given. In exercising its power under this clause the Board should take into account broad stakeholder involvement and, where possible, gender diversity.

19.2 Delegation by Instrument

In the establishing instrument, the Board may delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law, or this Constitution.

19.3 Delegated Function Exercised in Accordance With Terms

A function, the exercise of which has been delegated under this clause, may, whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

19.4 Procedure of Delegated Entity

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **clause 18** above. The entity exercising delegated powers shall make decisions in accordance with the Objects, and shall promptly provide the Board with details of all material decisions. The entity shall also provide any other reports, minutes and information as required by the Board from time to time.

19.5 Delegation may be Conditional

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

19.6 Revocation of Delegation

The Board may, by resolution and/or instrument in writing, at any time, revoke, wholly or in part, any delegation made under this clause. The Board may also amend or repeal any decision made by such body or person under this **clause 19**.

20. ANNUAL GENERAL MEETING

- (a) An AGM of the Association shall be held in accordance with the Act and this Constitution and on a date and at a venue determined by the Board.
- (b) All General Meetings other than the AGM shall be SGMs and shall be held in accordance with this Constitution.

21. SPECIAL GENERAL MEETINGS

21.1 SGMs May be Held

The Board may, whenever it thinks fit, convene a SGM of the Association and where, but for this clause, more than fifteen (15) months would elapse between AGMs, shall convene a SGM before the expiration of that period.

21.2 Requisition of Special General Meetings

- (a) The Board will convene a SGM when at least fifty per cent (50%) of Members entitled to vote submit a requisition in writing.
- (b) The requisition for a SGM shall state the object(s) of the meeting, shall be signed by the Members making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Members making the requisition.
- (c) If the Board does not cause a SGM to be held within one (1) month after the date on which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a SGM to be held not later than three (3) months after that date.
- (d) A SGM convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

22. NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to every Member entitled to receive notice at the electronic address appearing in the Register kept by the Association. The auditor and Directors shall also be entitled to notice of every General Meeting. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (c) At least twenty-eight (28) days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:
 - (i) the agenda for the meeting; and
 - (ii) any notice of motion received from Members entitled to vote.

- (d) Notice of every General Meeting shall be given in the manner authorised in **clause 38**.

23. BUSINESS

- (a) The business to be transacted at the AGM includes the consideration of accounts and the reports of the Board and auditors, the appointment of Directors under this Constitution and subject to the requirements of the Act, the appointment of the auditors.
- (b) All business that is transacted at a General Meeting and all business that is transacted at an AGM, with the exception of those matters set down in **clause 23(a)** shall be special business.
- (c) No business other than that stated on the notice for a General Meeting shall be transacted at that meeting.

24. NOTICES OF MOTION

Members entitled to vote may submit notices of motion for inclusion as special business at a General Meeting. All notices of motion must be submitted in writing to the Board not less than fourteen (14) days (excluding receiving date and meeting date) prior to the General Meeting.

25. PROCEEDINGS AT GENERAL MEETINGS

25.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Association shall be 100% of Clubs represented by their Delegates. For the purposes of ensuring a quorum at an AGM, the Clubs may nominate a proxy for their Delegate, where required, provided this is done in writing by the authorised Club representative (Club President or Secretary) prior to the commencement of the AGM.

25.2 Chair to preside

The chair of the Board shall, subject to this Constitution, preside as chair at every General Meeting except where a conflict of interest exists.

If the chair is not present, or is unwilling or unable to preside, the Directors present shall appoint another Director to preside as chair for that meeting only.

25.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting, a quorum is not present the meeting shall be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the chair may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The chair may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (c) When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **clause 0(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

25.4 Voting Procedure

At any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chair; or
- (b) a simple majority of Delegates on behalf of their Members.

25.5 Recording of Determinations

Unless a poll is demanded under **clause 25.3(a)**, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

25.6 Where Poll Demanded

If a poll is duly demanded under **clause 25.3(a)** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

25.7 Procedural Irregularities

- (a) No decision of the Association, the Board or any Board authorised entity shall be invalid merely because of a failure to give proper notice under this Constitution or the Regulations or other irregularity in procedure required by this Constitution or the Regulations unless a person suffers substantial prejudice as a result of that failure to give proper notice or irregularity in procedure.
- (b) The Association, the Board or other Board authorised entity may confirm an earlier decision which may have been otherwise invalid because of a failure to give proper notice or other irregularity in procedure and the decision shall be deemed to be valid from the time it was originally made.

26. VOTING AT GENERAL MEETINGS

26.1 Members Entitled to Vote

Each Club shall be entitled to one (1) vote at General Meetings which, subject to this clause shall be exercised by the Club's Delegate. No other Member shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise, those rights set out in **clause 5.1**. The Competition Committee Delegates and Special Directors shall have no right to vote at General Meetings.

26.2 Tied Vote

Where voting at General Meetings is equal, the motion fails.

26.3 Postal or Electronic Voting

No motion shall be determined by a postal or electronic ballot unless determined by the Board. If the Board so determines, the postal or electronic ballot shall be conducted under procedures determined by the Board from time to time.

27. GRIEVANCE PROCEDURE

- (a) The grievance procedure set out in this clause rule applies to disputes arising under this Constitution between a Member and:
 - (i) another Member; or
 - (ii) the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.
- (c) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties may refer the dispute to:
 - (i) any independent tribunal established by the SSO in accordance with the procedures determined by the SSO from time to time; or
 - (ii) a community justice centre for mediation under the *Community Justice Centres Act 1983 (NSW)*.
- (d) The Board may prescribe additional grievance procedures in Regulations consistent with this **clause 27**.
- (e) If the dispute is not resolved the Board may take whatever steps it considers appropriate in regard to the dispute in the best interests of the Association and the Members concerned.

28. RECORDS AND ACCOUNTS

28.1 Records

The Association shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board and shall produce these as appropriate at each Board or General Meeting.

28.2 Records Kept in Accordance with Act

- (a) Proper accounting and other records of the Association including books, minutes, documents and securities shall be kept in accordance with the Act and otherwise shall be kept in the care and control of the Board.
- (b) Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records, accounts, books, securities or other relevant documents of the Association will be open for inspection by the Members.
- (c) The Association shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

28.3 Board to Submit Accounts

The Board shall submit to the Members at the AGM the statements of account of the Association in accordance with this Constitution and the Act.

28.4 Accounts Conclusive

The statements of account when approved or adopted by an AGM shall be conclusive except as regards any error discovered in them within three months (3) after such approval or adoption.

28.5 Accounts to be available to Members

The Board shall ensure all persons entitled to receive notice of AGMs under this Constitution, receive or have access to a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

28.6 Negotiable Instruments

All cheques, promissory notes, bankers, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) duly authorised Directors or in such other manner as the Board determines.

29. AUDITOR

- (a) A properly qualified auditor or auditors shall be appointed by the Association in General Meeting. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with the *Corporations Act* and generally accepted principles, and/or any applicable code of conduct. The auditor may be removed by the Board.
- (b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

30. INCOME

- (a) Income and property of the Association shall be:
 - (i) derived from such sources; and
 - (ii) managed in such manner;as the Board determines from time to time subject to the Act and this Constitution.
- (b) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (c) Except as prescribed in this Constitution or the Act:
 - (i) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member or Director; and
 - (ii) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.

- (d) Nothing in **clauses 30(b)** or **30(c)** shall prevent payment in good faith of or to any Member for:
- (i) any services actually rendered to the Association whether as an employee, Director or otherwise;
 - (ii) goods supplied to the Association in the ordinary and usual course of operation;
 - (iii) interest on money borrowed from any Member;
 - (iv) rent for premises demised or let by any Member to the Association;
 - (v) any out-of-pocket expenses incurred by the Member on behalf of the Association;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

31. WINDING UP

- (a) Subject to this Constitution the Association may be wound up or cancelled in accordance with the Act.
- (b) The liability of the Members of the Association is limited.
- (c) Every Club undertakes to contribute to the assets of the Association if it is wound up or cancelled while they are a Member, or within one (1) year after ceasing to be a Member, for payment of the debts and liabilities of the Association contracted before the time at which it ceases to be a Member and the costs, charges and expenses of winding up or cancelling the registration of the Association, such an amount not exceeding one dollar (\$1.00).

32. DISTRIBUTION OF PROPERTY ON WINDING UP

If, upon winding up or cancellation of the Association, there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed amongst the Members. Instead, the assets or property shall be given or transferred to another organisation(s) that has objects similar to the Objects. Such organisation(s) must prohibit the distribution of its income and property among its members to an extent at least as great as is imposed on the Association by this Constitution. Such organisation(s) will be determined by the Members in General Meeting at or before the time of winding up or cancellation. If this does not occur, the decision is to be made by such judge of the Supreme Court of New South Wales or other Court as may have or acquire jurisdiction in the matter.

33. ALTERATION OF CONSTITUTION

This Constitution shall not be altered except by Special Resolution.

34. REGULATIONS

34.1 Board to Formulate Regulations

The Board may formulate, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association, the advancement of the Objects and the Sport in the Region. Such Regulations must be consistent with the Constitution, the SSO and NSO's constitutions, any regulations made by the SSO or NSO and any policy directives of the Board.

34.2 Regulations Binding

All Regulations are binding on the Association and all Members.

34.3 Regulations Deemed Applicable

All clauses, rules, by-laws and regulations of the Association (by whatever name) in force at the date of the approval of this Constitution insofar as such clauses, rules, by-laws and regulations are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be Regulations and shall continue to apply and be in operation.

34.4 Changes Binding on Members

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by such means as are determined and approved by the Board from time to time and prepared and issued by the Board. Clubs shall take reasonable steps to distribute such changes to Members. All changes are binding on all Members.

35. STATUS AND COMPLIANCE OF ASSOCIATION

35.1 Recognition of Association

The Association is a member of SSO and is recognised by SSO as the controlling authority for Sport in the Region and subject to compliance with this Constitution and the SSO and NSO's constitutions shall continue to be so recognised and shall administer Sport in the Region in accordance with the Objects.

35.2 Compliance of Association

The Members acknowledge and agree the Association shall:

- (a) be or remain incorporated in New South Wales;
- (b) apply its property and capacity solely in pursuit of the Objects and the Sport;
- (c) do all that is reasonably necessary to enable the Objects to be achieved;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of the Sport, its standards, quality and reputation for the benefit of the Members and the Sport;
- (e) at all times act in the interests of the Members and the Sport;
- (f) not resign, disaffiliate or otherwise seek to withdraw from SSO without approval by Special Resolution; and
- (g) abide by the SSO's and NSO's constitutions and the rules of the Sport

35.3 Operation of Constitution

The Association and the Members acknowledge and agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and the Sport are to be conducted, promoted, encouraged, advanced and administered throughout the Region; and
- (b) to ensure the maintenance and enhancement of the Sport, its standards, quality and reputation for the benefit of the Members and the Sport;

- (c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of the Sport and its maintenance and enhancement;
- (d) to promote the economic and community service success, strength and stability of each other and to act interdependently with each other in pursuit of their respective objects;
- (e) to act in the interests of Sport and the Members; and
- (f) that should a Member, including but not only Clubs, have governance, administrative, operational or financial difficulties the Board may act (but is not obliged) to assist the Member in whatever manner the Board considers appropriate.

36. ASSOCIATION'S CONSTITUTION

36.1 Constitution of the Association

This Constitution will clearly reflect the objects of the SSO and will generally conform to the SSO's constitution, subject always to the Act.

36.2 Register

The Association shall maintain, in a form acceptable to SSO but otherwise in accordance with the Act and this Constitution, a Register of all Clubs and if appropriate all individual Members.

37. STATUS AND COMPLIANCE OF CLUBS

37.1 Compliance

Clubs acknowledge and agree that they shall:

- (a) be or remain incorporated in New South Wales;
- (b) nominate a Delegate annually to attend Board and General Meetings, and shall inform the Association of the details of that person accordingly;
- (c) provide the Association with copies of their audited accounts, annual financial reports and other associated documents as soon as practicable, following the Club's Annual General Meeting;
- (d) recognise the Association as the authority for Sport in the Region, the SSO as the authority in New South Wales and the NSO as the national authority for Sport;
- (e) adopt and implement such communications and Intellectual Property policies as may be developed by the Association and/or the SSO from time to time; and
- (f) have regard to the Objects in any matter of the Club pertaining to Sport.

37.2 Club Constitutions

- (a) A Club's constituent documents will clearly reflect the Objects and will conform to this Constitution.
- (b) Clubs will take all reasonable steps necessary to ensure their constituent documents conform to this Constitution.

- (c) Clubs shall provide to the Association a copy of their constituent documents and all amendments to these documents. Clubs acknowledge and agree that the Association has power to veto any provision in a Club constitution which, in the Association's opinion, is contrary to the Objects.
- (d) The constituent documents of each Club shall, at the earliest available opportunity, but within one year of the commencement of this Constitution, recognise the Association as the authority for Sport in the Region, the SSO as the authority for Sport in New South Wales and the NSO as the national authority for Sport in Australia.

37.3 Register

All Clubs shall maintain, in a form acceptable to the Association, a Register of all members of the Club. Each Club shall provide a copy of the Register at a time and in a form acceptable to the Association, and shall provide regular updates of the Register to the Association.

38. NOTICE

- (a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice by sending the notice by pre-paid post or by electronic mail to the Member's registered or electronic mail address or prominently posting the notice on the Association's website.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected three (3) days after posting. Where a notice is sent by electronic mail or by posting the notice on the Association's website, service of the notice shall be deemed to be effected the next business day after it was sent or posted.

39. INDEMNITY

- (a) Every Director and employee of the Association shall be indemnified, out of the property and assets of the Association, against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Association shall indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
 - (i) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
 - (ii) in the case of an employee, performed or made in the course of, and within the scope of their employment by the Association.