



**THE  
CONSTITUTION  
OF  
SAILABILITY NSW**

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### 1.1 NAME OF THE ASSOCIATION

The name of the association shall be Sailability New South Wales Incorporated, hereinafter referred to as "Sailability NSW". The registered office of the association shall be at such address or addresses as the committee from time to time shall determine.

### 1.2 DEFINITIONS

In these rules, unless contrary intention pertains

- a) Words importing masculine gender shall include feminine gender and *vice versa*.
- b) Words importing singular number shall include the plural number and *vice versa*.
- c) "**Board**" means the Executive Committee of Sailability NSW.
- d) "**Branch**" means a Sailability club recognised by Sailability NSW.
- e) "**President**" means the Director appointed to be position of President by the Executive Committee following the Annual General Meeting.
- f) "**Director**" means a member of the Board.
- g) "**Member**" means financial ordinary member of Sailability NSW.
- h) "**PWD**" means person with a disability.
- i) "**Portfolio**" the Board will allocate portfolios and/or titles to Directors to suit the internal and external operating environment according to the skills, expertise, experience and qualifications of Directors at any given time under **clause 18**.
- j) "**Carer**" means the representative assisting a person with a disability.
- k) "**Able Bod**" refers to a person without a significant physical, mental, emotional or intellectual disability.
- l) "**Special General Meeting**" means a general meeting of Sailability NSW other than annual general meeting.
- m) "**Secretary**" means the Director appointed to the position of secretary by the board following the Annual General Meeting.
- n) "**Public Officer**" means the Director appointed to the position of public officer by the board following the Annual General Meeting.
- o) "**Treasurer**" means the Director appointed to the position of treasurer by the board following the Annual General Meeting.
- p) "**The Act**" means the *Associations Incorporation Act, 2009*.
- q) "**The Regulation**" means the *Association Incorporation Regulation, 2009*.
- r) "**Financial year**" means the year ending on the next 30 June following incorporation and thereafter a period of 12 months commencing on 1 July and ending on 30 June each year.
- s) "**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 New South Wales.
- t) "**Registrar**" is the Director appointed to the position of Registrar following the Annual General Meeting.

### 1.3 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.

#### 1.4 SEVERANCE

i) 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.

#### 1.5 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.

#### 1.6 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 25 of the Act, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

#### 1.7 BRANCH APPLICATION

A new group will become an authorised branch of Sailability NSW after making written application to the committee, providing the names and addresses of the elected President, Secretary and Treasurer and agreeing to comply with all safety recommendations and administrative procedures stipulated by the committee.

### 1.8 PHILOSOPHY

#### Mission Statement

**Sailability NSW will facilitate participation in sailing and boat usage at social, recreational and competitive levels on inland, estuary and ocean water, for people with disabilities regardless of age and level of disability.**

#### 1.8.1 Rationale

Sailability is the ideal means of supporting people with disabilities to enter the sport of sailing.

- i. Sailability can be the starting point for the normalisation of many disabled peoples' lives by empowering people to actively participate in administration of the organisation as well as participating in on-water activities.
- ii. Sailing is one of the few activities in which everyone can participate on an equal basis.
- iii. All people feel at home when surrounded by family and friends; PWD's are no exception.
- iv. There is a need for a venue where able bods can learn to understand disability.

#### 1.8.2 OBJECTIVES

- i. To provide a safe and fun environment where people with disabilities are accepted and encouraged to participate in the sport of sailing.
- ii. To implement safety and procedural policies in relationship to activities pertaining to disabled sailing around NSW.
- iii. To support people with disabilities to become intrinsically motivated to participate in the organisation at all levels, to increase self esteem, and empower PWDs to live happier and healthier lives.
- iv. To increase the range of recreational, competitive, therapeutic and training opportunities available to people with disabilities through the provision of sailing and power boating; and sail and power boat training programs - from fun and social activity to elite level competition.
- v. To provide and encourage training opportunities to members at whatever level they choose.
- vi. To provide sailing opportunities for people with disabilities throughout regional areas of NSW.
- vii. To provide support, information kits and training for new branches and volunteers.
- viii. To organise regatta and championship events at State level.
- ix. To liaise with sporting bodies, educational institutions, government agencies and other relevant bodies to represent the interests of the members of Sailability NSW.
- x. To implement fundraising and sponsorship activities to maintain the financial viability of Sailability NSW.

- xi. To liaise with other States and Territories on appropriate matters such as event coordination and promotion of Sailability.
- xii. To liaise with Sailability NSW branches to coordinate events within NSW.

### **MEMBERSHIP QUALIFICATIONS**

- 2.1 There shall be two categories of membership:
  - (a) Ordinary Member (includes family Members).
  - (b) Associate Member
- 2.2 A person is qualified to be a member of the association if, but only if:
  - (a) the person is a person referred to in section 15.1(a), (b) or (c) of the Act and has not ceased to be a member of the association at any time after incorporation of the association under the Act; or
  - (b) the person is a natural person:
    - who has been approved for membership of the association by the committee of the association.
- 2.3 Members of the immediate family of an ordinary member, carers and volunteers shall be deemed associate members of Sailability NSW for the day upon signing the Daily Participation Register (Appendix 3).
- 2.4 Every ordinary member has a right to vote at Annual or Special General Meetings. An associate member shall not be entitled to vote at any meeting or to become an officer of Sailability NSW.

### **APPLICATION FOR ORDINARY MEMBERSHIP**

- 3.1 An application of a person for membership of the association:
  - (a) must be made by a member of the association in writing in the form set out in Appendix 1 to these rules; and
  - (b) must be lodged with the secretary of the association, accompanied by the fee payable as determined by the committee.
- 3.2 Where the committee determines to approve an application for membership, the secretary must enter the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association.

### **CESSATION OF MEMBERSHIP**

- 4.1 A person ceases to be a member of the association if the person:
  - (a) dies; or
  - (b) resigns membership; or
  - (c) is expelled from the association.

### **MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE**

- 5.1 A right, privilege or obligation which a person has by reason of being a member of the association:
  - (a) is not capable of being transferred or transmitted to another person; and
  - (b) terminates on cessation of the person's membership.

### **RESIGNATION OF MEMBERSHIP**

- 6.1 A member of the association is not entitled to resign that membership except in accordance with this rule.
- 6.2 A member of the association who has paid all amounts payable by the member to the association in respect of the member's membership may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- 6.3 If a member of the association ceases to be a member under clause (6.2), and in every other case where a member ceases to hold membership, the secretary must make an appropriate

entry in the register of members recording the date on which the member ceased to be a member.

### **REGISTER OF MEMBERS**

- 7.1 The registrar of the association must establish and maintain a register of members of the association specifying the name and address of each person who is a member of the association together with the date on which the person became a member.
- 7.2 The register of members' names must be kept at the principal place of administration of the association and must be open for inspection, free of charge, by any member of the association at any reasonable hour. Members' names only are open for inspection.

### **FEES AND SUBSCRIPTIONS**

- 8.1. The subscription fees for each category of membership shall be such sums as the Committee shall determine.
- 8.2. Subscription fees shall be payable at such time as the Committee determines.
- 8.3. Any member, whose subscription is outstanding for more than three months after the due date for payment shall cease to be a member of Sailability NSW .
- 8.4. The Committee may, on the application by or on behalf of a member waive or reduce the subscription payable.

### **MEMBERS' LIABILITIES**

- 9.1 The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association of the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by rule 8.

### **GRIEVANCE PROCEDURE**

- 10.1 The grievance procedure set out in this rule applies to disputes under these rules between a Member and another Member; or the Association.
- 10.2 Where the Board is advised or considers that a Member has allegedly: breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations, or any resolution or determination of the Board or any duly authorised committee; or
- acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Association, and/or Sport; or brought the Association, any or other Member or the Sport into disrepute; the Board may commence or cause to be commenced, disciplinary proceedings against that Member, and that Member, will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Association set out in the Regulations.
- 10.2 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.
- If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten (10) days, refer the dispute for resolution to an independent tribunal established by the Board in accordance with the procedures determined by the Board from time to time. Such a tribunal shall operate in accordance with the procedures expressed in the Regulations but subject always to the Act.
- 10.3 The Board may prescribe additional grievance procedures in Regulations consistent with this **Rule.**

## **DISCIPLINING OF MEMBERS**

- 11.1 A complaint may be made by any member of the association that some other member of the association:
- (a) has persistently refused or neglected to comply with a provision or provisions of these rules; or
  - (b) has persistently and willfully acted in a manner prejudicial to the interests of the association.
- 11.2 On receiving such a complaint, the board:
- (a) must cause notice of the complaint to be served on the member concerned; and
  - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the board in connection with the complaint; and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- 11.3 The board may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- 11.4 If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under rule 12.
- 11.5 The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned; or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under rule 12.4, whichever is the later.

## **RIGHT OF APPEAL OF DISCIPLINED MEMBER**

- 12.1 A member may appeal to the association in general meeting against a resolution of the committee under rule 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- 12.2 The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- 12.3 On receipt of a notice from a member under clause 12.1, the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- 12.4 At a general meeting of the association convened under clause 12.3:
- (a) no business other than the question of the appeal is to be transacted; and
  - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both; and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 12.5 If at the general meeting the association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

## **13. EXISTING DIRECTORS**

- (a) 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 Annual General Meeting 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.
- (b) The person known and appointed to the position of Executive Officer (or similar title) immediately prior to approval of this Constitution under the Act shall continue in that position following such approval, subject to any contractual arrangements.

## 14. 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 as the governing body for Sailability NSW shall be responsible for acting on State and local issues in accordance with the Objects and shall operate for the benefit of the Members and the community throughout NSW and shall govern in accordance with this Constitution and in particular the Objects.

## 15. COMPOSITION OF THE BOARD

### 15.1 Composition of the Board

The Board shall comprise:

15.1.1 **Four (4)** elected Directors; who must all be Individual Members and who shall be elected under **clause 15.3**; and

15.1.2 **Up to two (2)** appointed non-representative Directors; who shall not be Individual Members and who may be appointed by the Directors elected under **clause 16**.

Membership of the Board needs to reflect the membership of the Association. A Director cannot also be a Club Delegate.

### 15.2 Election and Appointment of Directors

(a) The elected Directors shall be elected under **clause 16**.

(b) The appointed Directors may be appointed under **clause 17**.

### 15.3 Portfolios

Following the Annual General Meeting the Board will allocate portfolios and/or titles to Directors to suit the internal and external operating environment and according to the skills, expertise, experience and qualifications of Directors at any given time include Directors to the positions of chairperson, vice-chairperson, the treasurer and the secretary/public officer and other positions as determined by the Board and they shall administer and manage the Association in accordance with the Act and this Constitution under **clause 18**.

## 16. ELECTED DIRECTORS

### 16.1 Nominations

(c) Nominations for elected Director Positions shall be called for twenty – one (21) days prior to the Annual General Meeting. When calling for nominations details of the necessary qualifications and job descriptions for the positions shall also be provided. Qualifications and job descriptions shall be as determined by the Board from time to time.

(d) Nominees for elected Director Positions must declare any position they hold in a Sailability affiliate including as an officer (howsoever described including as a Delegate) or as a full time employee.

(e) No more than three (3) nominees per Sailability affiliate is permitted to nominate for election or appointment as a Director.

### 16.2 Form of Nomination

Nominations must be:

16.2.1 In writing; On the prescribed form (if any) provided for that purpose;

- 16.2.2 Signed by an authorised representative from either one (1) Sailability Club, or two (2) a Director of the Association;
- 16.2.3 Certified by the nominee (who must be an Individual Member) expressing his/her willingness to accept the position for which he/she is nominated; and
- 16.2.4 Delivered to the Association not less than ten (10) days before the date fixed for the Annual General Meeting.

### **16.3 Elections**

- 16.3.1 If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected only if approved by the majority of Members entitled to vote.
- 16.3.2 If there are insufficient nominations received to fill all vacancies on the Board, or if a person is not approved by the majority of Members under **clause 16.3(a)**, the positions will be deemed casual vacancies under **clause 18.1**.
- 16.3.3 If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order, for each vacancy on the Board.
- 16.3.4 Voting shall be conducted in such manner and by such method as may be determined by the Board from time to time.

### **16.4 Term of Appointment for Elected Directors**

- 16.4.1 Directors elected under this **clause 16** shall be elected for a term of two (2) years or as determined by the board. Subject to provisions in this Constitution relating to earlier retirement or removal of Directors, elected Directors shall remain in office from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.

## **17 APPOINTED DIRECTORS**

### **17.1 Appointment of Directors**

The elected Directors may appoint up to two (2) appointed non representative Directors from outside the membership of the sport.

### **17.2 Qualifications for Appointed Directors**

The appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition. They do not need to be Individual Members but must be natural persons. Appointed Directors cannot also be a Club Delegate they must come from outside the membership of the sport.

### **17.3 Term of Appointment for Appointed Directors**

- 17.3.1 Appointed Directors may be appointed by the elected Directors under this Constitution for a term of two (2) years, or as determined by the Board, which shall commence from the first Board meeting after the Annual General Meeting until after the conclusion of the second Annual General Meeting following.

## **18 VACANCIES On the board**

### **18.1 Casual Vacancies**

Any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

### **18.2 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:

- 18.2.1 Dies;
- 18.2.2 Becomes bankrupt or makes any arrangement or composition with his creditors generally;
- 18.2.3 Becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- 18.2.4 Resigns office in writing to the Association;
- 18.2.5 Is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;
- 18.2.6 Holds any office of employment with the Association;
- 18.2.7 Is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of her interest;
- 18.2.8 In the opinion of the Board (but subject always to this Constitution):
  - 18.2.8.1 Has acted in a manner unbecoming or prejudicial to the Objects and interests of the Association; or
  - 18.2.8.2 Has brought the Association into disrepute;
  - 18.2.8.3 Is removed by Special Resolution; or
  - 18.2.8.4 Would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth)*.

### **18.3 Board May Act**

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Director to a number sufficient to constitute such a quorum.

## **19 MEETINGS OF THE BOARD**

### **19.1 Board to Meet**

The Board shall meet as often as is deemed necessary in every financial 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. The Board shall consider every second meeting in every financial year to be set aside for discussion around strategy and policy and not operational matters.

## **19.2 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 chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote, the motion will be lost.

## **19.3 Resolutions not in Meeting**

19.3.1 A resolution in writing, signed or assented to by email, facsimile, telex, SMS or text or other 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.

19.3.2 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:

19.3.3 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;

19.3.3.1 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; If a failure in communications prevents clause 18.3, 19.3.2, 19.3.3 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, 19.3.2, 19.3.3 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

19.3.3.2 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 chairperson of the meeting is located.

## **19.4 Quorum**

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is five (5).

## **19.5 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.

## **19.6 Chairperson**

The Board shall appoint a chairperson from amongst its number. The chairperson shall be the nominal head of the Association and will act as chair of any Board meeting or General Meeting at which he is present. If the chairperson 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.

### **19.7 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.

### **19.8 Conflict of Interest**

A Director shall declare his interest in any:

- 19.8.1 Contractual matter;
- 19.8.2 Selection matter;
- 19.8.3 Disciplinary matter; or
- 19.8.4 Financial matter;

In which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself 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. In the event of any uncertainty as to whether it is necessary for a Director to absent himself 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.

### **19.9 Disclosure of Interests**

19.9.1 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.

19.9.2 All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

### **19.10 General Disclosure**

A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **clause 19.9** as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

### **19.11 Recording Disclosures**

Any declaration made, any disclosure or any general notice given by a Director in accordance with **clauses 18.8, 19.9** and/or **19.10** must be recorded in the minutes of the relevant meeting.

## **20 EXECUTIVE OFFICER**

### **21 Appointment of Executive Officer**

An Executive Officer may be appointed by the Board for such term and on such conditions as the Board thinks fit.

#### **21.1 Executive Officer to act as Secretary and Public Officer**

The Executive Officer shall act as and carry out the duties of Secretary and Public Officer of the Association and shall administer and manage the Association in accordance with the Act and this Constitution.

#### **21.2 Specific Duties**

The Executive Officer shall:

- 21.2.1 As far as practicable attend all Board meetings and all General Meetings;
- 21.2.2 Prepare the agenda for all Board and General Meetings;
- 21.2.3 Record and prepare minutes of the proceedings of all Board meetings and General meetings, and shall use his best endeavours to distribute those minutes to Regions and Clubs promptly from the date of the meeting; and
- 21.2.4 Regularly report on the activities of, and issues relating to, the Association.

#### **21.3 Board Power to Manage**

Subject to the Act, this Constitution, the Regulations and any policy directive of the Board, the Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association. No resolution passed by the Association in General Meeting shall invalidate any prior act of the Executive Officer or the Board which would have been valid if that resolution had not been passed.

#### **21.4 Executive Officer may employ**

The Executive Officer may in consultation with the Board, as appropriate, employ such personnel as are deemed necessary or appropriate from time to time and such appointments shall be for such period and on such conditions as the Executive Officer determines.

## **22 DELEGATIONS**

### **22.1 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 such duties and functions, and with such powers, as the Board determines from time to time. In exercising its power under this clause the Board must take into account broad stakeholder involvement

### **22.2 Delegation by Instrument**

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

- 22.2.1 This power of delegation; and
- 22.2.2 A function imposed on the Board or the Executive Officer by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.

### **22.3 Delegated Function Exercised in Accordance With Terms**

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

### **22.4 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 19** 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 and shall provide any other reports, minutes and information as the Board may require from time to time.

### **22.5 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.

### **22.6 Revocation of Delegation**

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

## **23 ANNUAL GENERAL MEETING**

- 23.1.1 An Annual General Meeting of the Association shall be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Board, and after the audit of accounts including Branch Accounts. All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

## **24 SPECIAL GENERAL MEETINGS**

### **24.1 Special General Meetings May be Held**

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this clause more than eighteen (18) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

### **24.2 Requisition of Special General Meetings**

- 24.2.1 The Chairperson in the absence of the appointment of an Executive Officer shall on the requisition in writing of not less than five percent (5%) of voting Members convene a Special General Meeting.
- 24.2.2 The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Members making the requisition and be sent to the Association and may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.
- 24.2.3 If the Chairperson in the absence of the appointment of a Executive Officer does not cause a Special General Meeting 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 Special General Meeting to be held not later than three (3) months after that date.

- 24.2.4 A Special General Meeting 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.

## **25 NOTICE OF GENERAL MEETING**

- 25.1.1 Notice of every General Meeting shall be sent by email to each branch delegate. The branch delegate is then responsible for notifying every Member of their Branch by email or post. The auditor, Executive Officer and Directors shall also be entitled to notice of every General Meeting, which shall be sent to their last notified address. No other person shall be entitled as of right to receive notices of General Meetings.
- 25.1.2 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.
- 25.1.3 At least seven days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:
- 25.1.3.1 The agenda for the meeting;
  - 25.1.3.2 Any notice of motion received from Members entitled to vote.

## **26 BUSINESS**

- 26.1.1 The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Board and auditors, the election of Directors under this Constitution and the appointment of the auditors.
- 26.1.2 All business that is transacted at a General Meeting and all business that is transacted at an Annual General Meeting, with the exception of those matters set down in **clause** 26.1.1 shall be special business.

## **27 NOTICES OF MOTION**

Members entitled to vote may submit notices of motion for inclusion as special business at a General Meeting.

## **PROCEEDINGS AT GENERAL MEETINGS**

### **28.1 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 shall be 5 Executive Committee Members and 5 Branch Representatives.

### **28.2 Chairperson to preside.**

The chairperson of the Board shall, subject to this Constitution, preside as chair at every General Meeting except:

- 27.1.1 In relation to any election for which the chairperson is a nominee; or
- 27.1.2 Where a conflict of interest exists.

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

### **28.3 Adjournment of Meeting**

- 28.3.1 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 chairperson 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.

28.3.2 The chairperson 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.

28.3.3 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.

28.3.4 Except as provided in **clause 28.3.2, 28.3.3** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### **28.4 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:

28.4.1 The chairperson; or

28.4.2 A simple majority of Delegates on behalf of their Members.

#### **28.5 Recording of Determinations**

Unless a poll is demanded under **clause 28.4**, a declaration by the chairperson 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.

#### **28.6 Where Poll Demanded**

If a poll is duly demanded under **clause 28.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

### **29 VOTING AT GENERAL MEETINGS**

#### **29.1 Members Entitled to Vote**

Each financial Member entitled to vote shall be entitled to one (1) vote at General Meetings but shall subject to this Constitution have, and be entitled to exercise, those rights set out in **clause 5.1**. The Directors and Executive Officer shall have no right to vote at General Meetings.

#### **29.2 Chairperson May Exercise Casting Vote**

Where voting at General Meetings is equal the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote the motion will be lost.

#### **29.3 Postal Voting**

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

### **30 PROXY VOTING**

**30.1** Proxy Voting shall not be permitted at General Meetings.

## **31 STATE CONFERENCE of association**

### **31.1 State Conference**

The Association shall hold a strategic State Conference at least once each three years. The object of the strategic State Conference is to:

- 31.1.1 Inform the Board of significant membership issues;
- 31.1.2 Assist the Board to design or review the Association's strategic plan and direction;
- 31.1.3 Discuss national, state, and local issues;
- 31.1.4 Provide feedback to the Board on the results of its governance decisions in practice at Member level.

### **31.2 Attendees at Strategic State Conference**

The following persons may attend State Conference of the Association:

- 31.2.1 Individual Financial Members;
- 31.2.2 Branch Financial Members;
- 31.2.3 Life Members;
- 31.2.4 The Directors; and
- 31.2.5 Such other persons the Board considers should be invited.

## **32 RECORDS AND ACCOUNTS**

### **32.1 Records**

The Association and its branches 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.

### **32.2 Records Kept in Accordance with Act**

Proper accounting and other records shall be kept in accordance with the Act. The books of account shall be kept in the care and control of the Director Secretary/Public Officer in the absence of the appointment of an Executive Officer.

### **32.3 Association to Retain Records**

The Association shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

### **32.4 Board to Submit Accounts**

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

### **32.5 Accounts Conclusive**

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

### **32.6 Accounts to be sent to Members**

The Director Secretary/Public Officer in the absence of the appointment of an Executive Officer shall cause to be sent to all persons entitled to receive notice of Annual General Meetings in accordance with this Constitution, 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).

### **32.7 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 at Incorporation and Branch level.

## **33 AUDITOR**

33.1.1 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 Association in General Meeting.

33.1.2 The accounts of the Association shall be examined and the correctness of the profit and loss accounts, balance sheet and cash flow statement ascertained by an auditor or auditors at the conclusion of each Financial Year.

## **34 INCOME**

34.1 Income and property of the Association shall be derived from such sources as the Board determines from time to time.

34.2 The income and property of the Association shall be applied solely towards the promotion of the Objects.

34.3 Except as prescribed in this Constitution or the Act:

34.3.1 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; and

34.3.2 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.

34.4 Nothing in **clauses 34.2** or **34.3** shall prevent payment in good faith of or to any Member for:

34.4.1 Any services actually rendered to the Association whether as an employee, Director or otherwise;

34.4.2 Goods supplied to the Association in the ordinary and usual course of operation;

34.4.3 Interest on money borrowed from any Member;

34.4.4 Rent for premises demised or let by any Member to the Association;

34.4.5 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.

## **35 WINDING UP**

35.1.1 Subject to this Constitution the Association may be wound up in accordance with the Act.

35.1.2 The liability of the Members of the Association is limited.

35.1.3 Every Member undertakes to contribute to the assets of the Association if it is wound up while a Member, or within one 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 the Association, such an amount not exceeding one dollar (\$1.00).

## **36 DISTRIBUTION OF PROPERTY ON WINDING UP**

If upon winding up or dissolution 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 but shall be given or transferred to another organisation or organisations having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association by this Constitution. Such organisation(s) to be determined by the Members in General Meeting at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of New South Wales or other Court as may have or acquire jurisdiction in the matter.

## **37 ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution at a Special General Meeting of the Association.

## **38 REGULATIONS**

### **38.1 Board to Formulate Regulations**

The Board shall formulate issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association, the advancement of the purposes of Sailability NSW as it thinks necessary or desirable. This includes Regulations covering the operation of branches. Such Regulations must be consistent with the Constitution and any policy directives of the Board.

### **38.2 Regulations Binding**

All Regulations are binding on the Association and all Members.

### **38.3 Regulations Deemed Applicable**

All clauses, rules, by-laws and regulations of the Association 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.

### **38.4 Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of Bulletins approved by the Board and prepared and issued by the Director Secretary/Public Officer in the absence of an Executive Officer.

In accordance with accreditation clubs shall take reasonable steps to distribute information in the Bulletins to Individual Members. The matters in the Bulletins are binding on all Members.

## **39 ASSOCIATION'S CONSTITUTION**

### **39.1 Constitution of the Association**

This Constitution will clearly reflect the objects of the sport and will reflect the rules of Sailability NSW, subject always to the Act.

### **39.2 Register**

The Association shall maintain, in a form acceptable in accordance with the Act, a Register of all members under **clause 4**.

## **40 NOTICE**

40.1.1 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 facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address, or in the case of a Delegate, to the last notified address, facsimile number or electronic mail address.

40.1.1 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.

40.1.2 Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.

40.1.3 Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.

## **41 PATRONS AND VICE PATRONS**

The Association at its Annual General Meeting may appoint annually on the recommendation of the Board a chief Patron and such number of Patrons as it considers necessary, subject to approval of that person or persons.

## **42 INSURANCE AND INDEMNITY**

42.1.1 The Association shall take out appropriate insurance on behalf of all financial members and every Director and employee of the Association;

42.1.2 Financial members shall bear the cost of such insurances and the Board shall levy shall fees to cover the cost;

42.1.3 Directors, employees of the Association and Members of Committees 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.

42.1.4 The Association shall indemnify its Directors, employees and Members of Committees against all damages and losses (including legal costs) for which any such Director, employee and/or Members of Committees 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;

- ii. In the case of an employee, performed or made in the course of, and within the scope of their employment by the Association; and
- iii. In the case of a member of a Committee of Management of State Branch or Regional Committee, performed or made in the course of, and within the scope of their duties as determined by the Association.
- iv. other members as nominated by the committee.

42.2 Each member of the committee is, subject to these rules, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

42.3 In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

## MEMBERSHIP APPLICATION



SAILABILITY NSW INC AND ITS BRANCH:.....

I hereby apply to become a member of Sailability NSW Inc and its above Branch.

In the event of my admission as a member, I agree to be bound by the rules of Sailability NSW Inc and its above Branch for the time being in force and agree to abide by all decisions by a Committee Member with regard to activities at a Sailability event. My relevant personal details, which I understand are necessary to complete the membership database, are:

Family Name:		Given Name:	
Address:			
Home Phone:		Mobile Phone:	
Email:			Date of Birth:

My next of kin:		Relationship to me:	
Address:			
Home Phone:	Work phone:	Mobile Phone:	

I understand that the following personal information is optional but will assist Sailability NSW and its above Branch with organisation of events and future development planning:

I have a disability: YES / NO	Type of disability:		
I need assistance: YES / NO	Type of assistance:		
I have a family member / friend / carer to help me: YES / NO		I use a wheelchair: YES / NO	
I have sailed before: YES / NO	Details:		

I would like to be involved in the Branch Committee: YES / NO	My relevant skills are:
I would like to be a Volunteer on sailing days: YES / NO	My relevant skills are:
I heard about Sailability from:	

Membership to Sailability NSW Inc	(to 30 June 200 ):\$
Membership to Sailability Branch	(to 30 June 200 ):\$
Total Membership due:	\$

Signature:		Date:
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APPENDIX 2  
(Rule 16.2)

## BOARD NOMINATION FORM

**I hereby nominate,** \_\_\_\_\_  
(full name)

of \_\_\_\_\_  
(address)

**Proposed,**  
Name of proposer \_\_\_\_\_  
(full name)

of \_\_\_\_\_  
(address)

**Seconded,**  
Name of seconder \_\_\_\_\_  
(full name)

of \_\_\_\_\_  
(address)

Name & signature of nominee who consents to the nomination

Name \_\_\_\_\_ Signature \_\_\_\_\_

### **Candidate Information**

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

Home address: \_\_\_\_\_

Home phone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Work phone number: \_\_\_\_\_

Employment/Position: \_\_\_\_\_

Education: \_\_\_\_\_

Previous experience (if any) with **(name or org)**

---

Please circle any of the following skills or experience as candidate you possess.

Finance, accounting

Grant writing

Fundraising and special events

Public relations, communications

Other \_\_\_\_\_

Management, administration

Nonprofit experience

Teaching experience, curriculum development

Contacts, networking

Other \_\_\_\_\_

Affiliations or organizations the candidate belongs to (e.g., membership, professional, civic).

---

**This form must be**

1. Signed by two affiliated Sailability NSW financial members as shown in the Sailability NSW register of members as the proposer and seconder
2. Signed by the nominee
3. Include details of qualifications and relevant experience
4. Returned to the "Returning Officer" of Sailability NSW by 5pm on (date/year)

In accordance with the Sailability NSW Constitution and regulations the positions of director to be declared vacant by rotation at the Annual General Meeting to be held at .....on the (date/time/year) are:

Number of positions of elected directors being: (....)

Number of appointed directors being (....)

Any queries must be addressed to the "Returning Officer" (address), (phone number)

Nominees shall be provided a copy of the Sailability NSW Constitution and rules

Thank you for your nomination