

MULLALOO SURF LIFE SAVING CLUB

CONSTITUTION

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Mullaloo Surf Life Saving Club Constitution

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Version Control

Version	Date	Revised by	Comments
1.0	17/04/2012		Re-Write of Constitution as part of Corporate re-structure.
1.1	27/07/2012	AGM	As adopted by the membership at AGM 2012. Refer to Schedule 1 for details of Amendments.
1.2	11/07/2014	AGM	As adopted by the membership at AGM 2014. Refer to Schedule 1 for details of Amendments.
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ASSOCIATIONS INCORPORATION ACT 1987 (WA)

CONSTITUTION

of

MULLALOO SURF LIFE SAVING CLUB

1. NAME OF ASSOCIATION

The name of the association is Mullaloo Surf Life Saving Club (“**Association**”).

2. OBJECTS OF ASSOCIATION

The Association is a charitable community service based institution. The objects for which the Association is established are to:

- (a) Affiliate and participate as a member of Surf Life Saving Western Australia (“SLSWA”) and Surf Life Saving Australia Limited (“SLSA”), including compliance with relevant Policies through and by which surf life saving and the preservation of life in the aquatic environment can be conducted, encouraged, promoted, advanced and administered;
- (b) provide for the conduct, encouragement, promotion and administration of surf lifesaving throughout the community, as contracted with the local government authority and SLSWA.
- (c) at all times act on behalf of and in the interest of the Members, surf life saving and the community;
- (d) use and protect the Intellectual Property of the Association, SLSWA and SLSA
- (e) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects; no part of that property and capacity may be paid or otherwise distributed, directly or indirectly, to members of the Association, except in good faith in the promotion of these objects;
- (f) strive for Governmental, commercial and public recognition of the Association as the benchmark provider of aquatic safety and management
- (g) further develop surf lifesaving into an organised institution, to foster, regulate, organise and manage assessments, competitions, displays and other activities, and to issue badges, medallions and certificates and award trophies to successful Members;
- (h) promote the involvement and influence of standards, techniques, awards and education with bodies involved in surf lifesaving;
- (i) review and/or determine any matters relating to surf life saving which may arise, or be referred to it, by any Member;
- (j) pursue through itself or other such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of the Association and surf lifesaving;
- (k) ensure that environmental considerations are taken into account in all surf lifesaving and related activities conducted by the Association;

- (l) encourage Members to realise their potential in whichever area(s) of club activity they choose to participate in, by extending to them the opportunity of education, participation and development
- (m) establish, grant and support awards to Members and others, in honourable public recognition of meritorious rescues and , deeds of exceptional bravery from time to time performed in the course of surf life saving and other distinguished services and acts;
- (n) seek and obtain improved facilities for the enjoyment of the aquatic environment in the Local government precinct or as required by SLSWA and the Board of the Association
- (o) undertake to do all such things or activities which are necessary, incidental or conducive to the advancement of the Association and its Members

3. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association has in, addition to the powers and functions under the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act*.

4. APPLICATION OF INCOME

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

4.2 Except as prescribed in this Constitution:

- (a) 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
- (b) 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.

4.3 Nothing contained in **Rules 4.1** or **4.2** shall prevent payment in good faith of or to any Member for:

- (a) any services actually rendered to the Association whether as an employee or otherwise;
- (b) goods supplied to the Association in the ordinary and usual course of operation;
- (c) interest on money borrowed from any Member;
- (d) rent for premises demised or let by any Member to the Association;
- (e) 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.

5. LIABILITY OF MEMBERS

The liability of the Members of the Association is limited.

6. MEMBER'S CONTRIBUTIONS

Every Member of the Association undertakes to contribute to the assets of the Association in the event of it being 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 a Member 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).

7. 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 Association incorporated under the Act, registered or exempt charity, which has similar Objects to the Objects of the Association 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 registered or exempt charity will be determined by resolution of the Members of the Association at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Western Australia or other Court as may have or acquire jurisdiction in the matter.

8. DEFINITIONS AND INTERPRETATION

8.1 Definitions

In this Constitution unless the contrary intention appears:

“**Act**” means the *Associations Incorporation Act 1987* (WA) as amended from time to time.

“**Association**” means **Mullaloo Surf Life Saving Club**.

“**Board**” means the body managing the Association and consisting of the Directors under **Rule 28**.

“**By Laws**” means any By-Laws made by the Board under **Rule 33**.

“**Constitution**” means this Constitution of the Association.

“**Delegate**” means the person appointed from time to time to act for and on behalf of the Association and to attend, debate and vote at general meetings of SLSWA.

“**Director**” means a member of the Board appointed in accordance with this Constitution.

“**Financial year**” means the year ending 31st March in each year. “**General Meeting**” means the annual or any special general meeting of the Association.

“**Individual Member**” includes Full Members, Registered Members and Life Members of the Association as provided for in the By Laws.

“**Intellectual Property**” means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment, images (including photographs, television, videos or films) or service marks (whether registered or registrable) relating to the Association or any championship, competition, series or event or surf lifesaving activity of or conducted, promoted or administered by the Association.

“**Life Member**” means an individual appointed as a Life Member of the Association under Rule 11.3.

“Member” means a member for the time being of the Association as provided under Rule 11.

“Objects” means the objects of the Association under **Rule 3**.

“Officer” means a member of the Association that is appointed to a position created or established under the provisions of Rule 32.1 of this Constitution.

“President” means the President for the time being of the Association.

“Register” means the data base administered by SLSA from time to time, currently known as SurfGuard.

“Seal” means the common seal of the Association and includes any official seal of the Association.

“SLSA” means Surf Life Saving Australia Limited.

“SLSWA” means the body recognised by SLSA as the body administering surf lifesaving in Western Australia.

“Special Resolution” means a resolution passed in accordance with the Act, i.e. a Special Resolution concerning a change to the Constitution, or Objects, or dissolution of Mullaloo Surf Life Saving Club.

“State” means and includes a State or Territory of Australia.

“Surf Life Saving Club” means a surf lifesaving club which is a member of or otherwise affiliated with SLSWA or SLSA.

8.2 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 or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other gender;
- (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.

8.3 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.

8.4 Expressions in 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.

8.5 Sole Purpose

The Association is established solely for the Objects.

8.6 Model Rules

The model rules under the Act are expressly displaced by this Constitution.

9. STATUS AND COMPLIANCE OF ASSOCIATION

9.1 Recognition of Association

Subject to compliance with this Constitution, the SLSWA constitution, and the SLSA constitution the Association shall continue to be recognised as a Member of SLSWA and shall administer surf lifesaving activities in accordance with the Objects.

9.2 Compliance of Association

The Members acknowledge and agree the Association shall:

- (a) be or remain incorporated in Western Australia;
- (b) appoint a Delegate annually to represent the Association at general meetings of SLSWA;
- (c) nominate such other persons as may be required to be appointed to SLSWA committees from time to time under this Constitution or the SLSWA constitution or otherwise;
- (d) forward to SLSWA a copy of its constituent documents and details of its Directors;
- (e) adopt the objects of SLSWA (in whole or in part as are applicable to the Association) and adopt rules which reflect, and which are, to the extent permitted or required by the Act, generally in conformity with the SLSWA constitution;
- (f) apply its property and capacity solely in pursuit of the Objects and surf lifesaving;
- (g) do all that is reasonably necessary to enable the Objects to be achieved;
- (h) act in good faith and loyalty to ensure the maintenance and enhancement of surf lifesaving, its standards, quality and reputation for benefit of the Members and surf lifesaving;
- (i) at all times act on behalf of and in the interests of the Members and surf lifesaving; and
- (j) by, adopting the objects of SLSWA, abide by the SLSWA Constitution.

- (k) Maintain the constitution and its rules in an up to date condition, and upon request of a member of the association, shall make available those rules for the inspection of the Member and the Member may make a copy of or take an extract from the rules but shall have no right to remove the rules for that purpose.

9.3 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 surf lifesaving are to be conducted, promoted, encouraged, advanced and administered.;
- (b) to ensure the maintenance and enhancement of surf lifesaving, its standards, quality and reputation for the benefit of the Members and surf lifesaving;
- (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 surf lifesaving and its maintenance and enhancement;
- (d) to promote the economic and community services 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 surf lifesaving and the Members;
- (f) where the Association considers or is advised that a Member has allegedly:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws, or any resolution or determination of the Association; or
 - (ii) acted in a manner prejudicial to the Objects and interests of the Association and/or surf lifesaving; or
 - (iii) brought the Association, any Surf Life Saving Club or surf lifesaving into disrepute;

the Association may after allowing the Member a reasonable opportunity to explain, adjudicate and if necessary penalise the Member with such penalty as it thinks appropriate. Rule 17 is applicable and full details of Grievance, Judicial and Discipline procedures are contained in the Club By-Laws.

10. ASSOCIATION'S CONSTITUTION

10.1 Constitution of the Association

The Constitution will clearly reflect the objects of SLSWA and shall generally conform with the SLSWA constitution, subject to any requirements in the Act, and at least to the extent of:

- (a) the objects of SLSWA;
- (b) the structure and membership categories of SLSWA;
- (c) recognising SLSA as the national peak body for surf lifesaving in Australia, in accordance with the SLSA Constitution;
- (d) recognising SLSWA as the peak body for surf lifesaving in Western Australia;

- (e) recognising SLSA as the final arbiter on matters pertaining to surf lifesaving in Australia, including disciplinary proceedings;
- (f) such other matters as are required to give full effect to the SLSWA constitution;

with such incidental variations as are necessary having regard to the Act.

10.2 Operation of the SLSWA Constitution

- (a) The Association will take all steps to ensure its Constitution is in conformity with the SLSWA constitution at least to the extent set out in **Rule 10.1** and in respect of those matters set out in **Rule 10.1** shall ensure this Constitution is amended in conformity with future amendments made to the SLSWA constitution, subject to any prohibition or inconsistency in the Act.
- (b) The Association shall provide to SLSWA a copy of its Constitution and all proposed amendments to this document. The Association acknowledges and agrees that SLSWA has power to veto any proposed provision in its Constitution which, in SLSWA's opinion, is contrary to the objects of SLSWA.

11. MEMBERS

Membership shall be open to any natural person who wishes to further the objects and interests of the Association.

Any person seeking membership shall make application in accordance with the provisions of this Constitution.

Membership shall bring the advantages and privileges, as provided in this Constitution and the By Laws. Any person who is a member of the Association, except Junior Members, is entitled to hold any position or office of the Association.

11.1 Categories of Members

- (a) The members of the Association shall consist of: Individual Members, who shall have the right to be present, to debate and to vote at General Meetings. For the avoidance of doubt only Individual Members having attained the age of 15 years will be entitled to vote at General Meetings.
- (b) Life Members, who shall have the right to be present, debate and vote at General Meetings;
- (c) Such new categories of Members, created in accordance with Rule 11.2 below.

11.2 Creation of New Classes

The Board has the right and power from time to time to create new categories or classes of membership with such rights, privileges and obligations as are determined applicable, even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Membership

11.3 Life Members

The Board may appoint, on recommendation from a Committee duly convened for the purpose, any natural person who has rendered distinguished service to the Association and surf life saving, where such service is deemed to have assisted the advancement of the Association and surf life saving.

An appointment to confer Life Membership must be accepted or rejected by the person 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.

12. SUBSCRIPTIONS AND FEES

The annual membership subscription (if any) and fees payable by Members to the Association, the time for and manner of payment shall be as determined by the Board from time to time.

13. APPLICATION

13.1 Application for Membership

An application for membership by an individual ("applicant") must be:

- (a) in writing on the form prescribed from time to time by SLSWA and/or SLISA, from the applicant or its nominated representative and lodged with the Association;
- (b) accompanied by the appropriate fee, if any.

13.2 Discretion to Accept or Reject Application

- (a) The Association may accept or reject an application whether the applicant has complied with the requirements in **Rule 13.1** or not, and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Membership of the Association shall be deemed to commence upon acceptance of the application by the Association. The Register shall be updated accordingly as soon as practicable.
- (c) If the Association rejects an application, it shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Association. No reasons for rejection need be given.

13.3 Re-Application

- (a) Members must re-apply for membership of the Association in accordance with the procedures set down by the Association from time to time (see also **Rule 13.2**).
- (b) Upon re-application a Member must provide details of any change in their personal details, and any other information reasonably required by the Association.

13.4 Deemed Membership

- (a) All individuals who are, prior to the approval of this Constitution, members of the Association shall be deemed Members of the Association from the time of approval of this Constitution under the Act.
- (b) The Members shall provide the Association with such details as may be required by the Association under this Constitution as soon as practicable from approval of this Constitution under the Act.

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

14. REGISTER OF MEMBERS

14.1 Register

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

- (a) the full name, address, class of membership and date of entry of the name of each Member; and
- (b) the full name, address and date of entry of the name of each Director and Delegate.

Members shall provide notice of any change and required details to the Association within one month of such change.

14.2 Inspection of Register

An extract of the Register, including the address or other direct contact details of any Member, Director or Delegate, shall be available for inspection, upon the reasonable request of a member of the Association. Upon request, the Register is to be made available for the inspection of members, who may make a copy or take an extract of the Register.

14.3 Use of Register

Subject to confidentiality considerations and privacy laws, the Register may be used by the Association to further the Objects, as the Board considers appropriate.

14.4 Right of SLSWA to Register

The Association shall provide a copy of the Register at a time and in a form acceptable to SLSWA, and shall provide regular updates of the Register to SLSWA. The Association agrees that SLSWA may utilise the information contained in the Register and the Register itself to further the objects of SLSWA, subject always to reasonable confidentiality considerations and privacy laws.

15. 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 By-Laws, the SLSWA constitution and regulations and the SLSA constitution and regulation;
- (b) they shall comply with and observe this Constitution and the By-Laws, and any determination, resolution or policy which may be made or passed by the Board or any other entity with delegated authority;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Association, SLSWA and SLSA;
- (d) the Constitution and By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of surf lifesaving in the community

- (e) they are entitled to all benefits, advantages, privileges and services of Association membership.

16. DISCONTINUANCE OF MEMBERSHIP

16.1 Notice of Resignation

A Member having paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving notice in writing to the Association of resignation or withdrawal.

16.2 Discontinuance by Breach

- (a) Membership of the Association may be discontinued by the Board upon breach of any Rule of this Constitution, including but not limited to the failure to pay any monies owed to the Association, failure to comply with the By-Laws or any resolution or determination made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **Rule 16.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view, to adequately explain or remedy the breach, that Member's membership shall be discontinued under **Rule 16.2(a)** by the Association giving written notice of the discontinuance.

16.3 Failure to Re-Apply

If a Member has not re-applied for Membership with the Association within one month of re-application falling due, that Member's membership will be deemed to have lapsed from that time. The Register shall be amended to reflect any lapse of membership under this **Rule** as soon as practicable.

16.4 Member to Re-Apply

A Member whose membership has been discontinued or has lapsed under **Rule 16.3**:

- (a) must seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board.

16.5 Forfeiture of Rights

A Member who 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 surf lifesaving equipment or other 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.

16.6 Membership may be Reinstated

Membership which has been discontinued under **Rule 16** may be reinstated at the discretion of the Board, upon such conditions as it deems appropriate.

16.7 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may be refunded at the discretion of the Board.

17. GRIEVANCES, JUDICIAL AND DISCIPLINE

The Association adopts the Grievances, Judicial and Discipline Regulations of SLSWA, as amended from time to time, to ensure uniformity in the way in which the purposes of the Association and surf lifesaving are to be conducted, promoted, encouraged and administered throughout Western Australia. The procedures and mechanisms for resolving disputes and complaints will be set out in the By-Laws.

18. ANNUAL GENERAL MEETING

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

19. NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to every Member entitled to receive notice, at the address appearing in the Register kept by the Association. The auditor (if any) 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 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 thirty (30) days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with a request for any items relating to the following:
 - (i) the agenda for the meeting;
 - (ii) nominee/s for Board positions;
 - (iii) any notice of motion received from Members; and
 - (iv) any Special Resolution.
- (d) Nominations for Board positions, notice/s of motion, notice of amendment/s to the Constitution and items of General Business are to be lodged with the Club Administrator not less than twenty-one (21) days prior to the AGM
- (e) Distribution of the Agenda which includes proposed amendments to the Constitution, list of nominees for Board positions and General Business, to be posted/circulated to members ten (10) days prior to the AGM.

20. BUSINESS

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, the reports of the Board and auditors, the election of Directors under this Constitution, the appointment of the auditors, and the motion for affiliation with SLSWA.

- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in **Rule 20 (a)** shall be special business.
- (c) No business other than that stated on the notice shall be transacted at that meeting.

21. NOTICES OF MOTION

Members shall be entitled to submit notices of motion for inclusion as special business at a General Meeting. All notices of motion must be submitted in writing to the Administrator not less than twenty-one (21) days (excluding receiving date and meeting date) prior to the General Meeting.

22. SPECIAL GENERAL MEETINGS

22.1 Special General Meetings May be Held

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association.

22.2 Requisition of Special General Meetings

- (a) The Association shall on the requisition in writing of 10% of eligible voting Members of the Association convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, and shall be signed by all 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 or more of the Members making the requisition.
- (c) If the Administrator does not cause a Special General Meeting to be held within one 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 months after that date.
- (d) 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.

23. PROCEEDINGS AT GENERAL MEETINGS

23.1 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 thirty (30) Members, as in Rule 11.1, represented personally.

23.2 President to Preside

The President shall, subject to this Constitution, preside as chairman at every General Meeting except:

- (a) in relation to any election for which the President is a nominee; or
- (b) where a conflict of interest exists.

If the President is not present, or is unwilling or unable to preside then the Deputy President will act as Chairman or in the absence of the Deputy President, the Directors shall appoint one of their number to preside as Chairman for that meeting only.

23.3 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 chairman 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 chairman 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 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 **Rule 23.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

23.4 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 chairman; or
- (b) a simple majority of Members present at the meeting.

A Special Resolution requires endorsement by 75% of eligible voting members who are present at the meeting.

23.5 Recording of Determinations

Unless a poll is demanded under **Rule 23.4**, a declaration by the chairman 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.

23.6 Where Poll Demanded

If a poll is duly demanded under **Rule 23.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

24. VOTING AT GENERAL MEETINGS

24.1 Members entitled to Vote

Each Member entitled to vote as set out in **Rule 11.1** shall have one vote at General Meetings which, subject to this Constitution, shall be exercised by each Member. The Directors shall have the right to attend and debate, but not vote, at General Meetings.

24.2 Casting Vote

Where voting at General Meetings is equal, the status quo will remain.

25. PROXY VOTING

Proxy voting shall not be permitted at any General Meeting.

26. EXISTING DIRECTORS

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

27. 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.

28. COMPOSITION OF THE BOARD

28.1 Composition of the Board

The Board shall comprise:

- (a) the President;
- (b) five (5) other Directors;

who must all be Individual Members and who shall be elected under **Rule 29**.

A Deputy President shall be appointed by the Board from the five other Directors.

28.2 Right to Co-Opt

It is expressly acknowledged that the Board may co-opt any person with appropriate experience or expertise to assist the Board in respect of such matters and on such terms as the Board thinks fit. Any person so co-opted shall not be a Director, and shall not exercise the rights of a Director, but shall act in an advisory role only.

28.3 Appointment of Delegate

- (a) The Board shall, from amongst its members, appoint a Delegate to attend general meetings of SLSWA for such term as the Board determines, and otherwise in accordance with the SLSWA Constitution.
- (b) The Association must advise the SLSWA Chief Executive Officer in writing of its Delegate.

29. ELECTION OF DIRECTORS

29.1 Nominations of Candidates

- (a) Nominations for candidates to be elected to the Board shall be called for by the Association not less than thirty (30) days prior to the Annual General Meeting. When calling for nominations, the Association shall also provide details of the necessary qualifications and job description for the positions (if any).

Qualifications and job descriptions shall be as determined by the Board from time to time.

- (b) Nominations of candidates for election as Directors (including the President) shall be:
- (i) made in writing, signed by two Members and accompanied by the written consent of the nominee (which may be endorsed on the form of nomination); and
 - (ii) delivered to the Association not less than twenty-one (21) days before the date fixed for the holding of the Annual General Meeting. The Association shall send the nominations to the Members entitled to receive notice under this Constitution together with the agenda for that General Meeting.
- (c) If insufficient nominations are received to fill all available vacancies on the Board the candidates nominated shall, subject to declaration by the chairman, be deemed to be elected.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall, subject to declaration by the chairman, be deemed to be elected.
- (e) 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.

29.2 Voting procedures

Elections shall be conducted by such means as is prescribed by the Board.

29.3 Term of Office of Directors

The Directors shall be elected in accordance with this Constitution annually, and subject to this Constitution, shall hold office from the conclusion of the Annual General Meeting at which they were elected until the conclusion of the Annual General Meeting two years from date of election. Directors may be re-elected for subsequent term(s).

The initial election of Directors under this Constitution shall occur at the next Annual General Meeting with the objective of providing continuity, as follows:

- The President and two Directors shall be elected for a term of two years
- The remaining three Directors shall be elected for a term of one year.

30. VACANCIES OF DIRECTORS

30.1 Grounds for Termination of Office 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 his creditors generally;

- (c) 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;
- (d) resigns his office in writing to the Association;
- (e) is absent from meetings without the consent of the Board;
- (f) without the prior consent or later ratification of the Members at a General Meeting holds any office of profit under the Association;
- (g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (h) is removed by Special Resolution;
- (i) has been expelled or suspended from membership (without further recourse under these Rules or the SLSWA Rules); or
- (j) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

30.2 Remaining Directors 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 Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

30.3 Casual Vacancy

In the event of a casual vacancy in the office of any Director, the Board may appoint a Member to the vacant office and the person so appointed may continue in office up to the conclusion of the next Annual General Meeting.

31. MEETINGS OF THE BOARD

31.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business and subject to this Constitution may adjourn and otherwise regulate its meetings as it thinks fit. As a minimum, the Board shall meet not less than six times each financial year. A Director may at any time convene a meeting of the Board within a reasonable time.

31.2 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 be deemed a determination of the Board. All Directors shall have one vote on any question. Should the voting be equal the status quo will apply.

31.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by telegram, cablegram, radiogram, facsimile, telex 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 or more of the Directors.

- (b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of Board may be held where one 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 these Rules and such notice specifies that Directors are not required to be present in person;
 - (iii) in the event that a failure in communications prevents **Rule 31.3(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 **Rule 31.3(b)(i)** is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated or adjourned; and
 - (iv) any meeting held where one 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 Chairman of the meeting is located.

31.4 Board Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is a majority of four (4) members of the Board.

31.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than seven (7) days oral or written notice of the meeting of the Board must be given to each Director.

31.6 Conflict of Interest

A Director shall declare his/her interest in any contractual, selection, disciplinary or other matter in which a conflict of interest arises or may arise, and shall absent him/herself from discussions of such matter and shall not be entitled to vote in respect of such matter. In the event of uncertainty as to whether it is necessary for a Director to absent him/herself from discussion or 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. All disclosed interests must be submitted to the Annual General Meeting in accordance with the Act.

32. DELEGATIONS

32.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint from amongst its own members, or otherwise, special committees, sub-committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the Board determines.

32.2 Delegation by Instrument

The Board may in the establishing instrument 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 or by resolution of the Association in General Meeting.

32.3 Delegated Function Exercised in Accordance With Terms

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

32.4 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 **Rule 31**. The entity exercising delegated powers shall make decisions in accordance with the Objects, and shall promptly provide the Association with details of all material decisions and shall provide any other reports, minutes and information as the Association may require from time to time.

32.5 Delegation may be Conditional

A delegation under this Rule 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.

32.6 Revocation of Delegation

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

33. BY-LAWS

33.1 Board to Formulate By-Laws

The Board may formulate, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of the Association, the advancement of the Objects and surf lifesaving in the Local government authority and surrounds as it thinks necessary or desirable. Such By-Laws must be consistent with the Constitution, the SLSWA constitution, the SLSA constitution and any regulations or by-laws made by SLSWA or SLSA. If any By-Laws are inconsistent with the SLSWA or SLSA constitution and regulations, the By-Laws shall be null and void and will be inapplicable.

33.2 By-Laws Binding

All By-Laws made under this Rule shall be binding on the Association and Members of the Association.

33.3 By-Laws 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 By-Laws under this Rule.

33.4 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Members of the Association by means of Notices approved and issued by the Board.

34. FUNDS, RECORDS AND ACCOUNTS

34.1 Source of Funds

The Board will determine the sources from which the funds of the Association are to be, or may be, derived, and the manner in which such funds are to be managed.

34.2 Association to Keep 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.

34.3 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 Board.

Records and documentation of the Association can be inspected in accordance with the Act by members but not taken away.

34.4 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.

34.5 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.

34.6 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 (3) months after such approval or adoption.

34.7 Accounts to be Sent to Members

The Board 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 (if any) and every other document required under the Act (if any).

34.8 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 duly authorised Directors or in such other manner as the Board determines.

35. 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 Association in General Meeting.
- (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.

36. NOTICE

36.1 Manner of Notice

- (a) Notices may be given 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.
- (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 days after posting.
- (c) 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.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

36.2 Notice of General Meeting

Notice of every General Meeting shall be given in the manner authorised in this Constitution.

37. SEAL

37.1 Safe Custody of Seal

The Board shall provide for safe custody of the Seal.

37.2 Affixing Seal

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two Directors.

38. ALTERATION OF CONSTITUTION

38.1 Majority Vote

- (a) The Constitution of the Association shall only be altered by special resolution, passed at a General Meeting by a three quarters majority of the members present, in accordance with the Act, and in compliance with all other procedures under the Act (if any).
- (b) In addition, there shall be no alteration or amendment to **Rule 41** without the consent of the relevant Minister or other authorised person under the Act.

38.2 Notification of Amendment

- (a) Within one month after the membership endorse any amendment or alteration to the Constitution, the Association shall lodge with the Commissioner for Corporate Affairs notice of the special resolution as required by the Act. Similar notice shall be lodged with the Director of Liquor Licensing particularising the proposed change.
- (b) The Association acknowledges and agrees that no amendment of or alteration to the Constitution shall take effect until lodged and accepted by the Department of Commerce in Western Australia and the Director of Liquor Licensing.

39. INDEMNITY

39.1 Directors to be Indemnified

Every Director, officer, auditor, manager, employee or agent of the Association shall be indemnified out of the property or assets of the Association against any liability incurred in his/her capacity as Director, officer, auditor or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour or in which he/she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the Court.

39.2 Association to Indemnify Directors

The Association shall indemnify its Directors, officers, managers and employees against all damages and costs (including legal costs) for which any such Director, officer, manager or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his/her employment by the Association.

40. DISSOLUTION

Subject to **Rules 6** and **7**, the Association may be wound up in accordance with the provisions of the Act.

41. AUTHORITY TO TRADE

The Association is authorised to trade in accordance with the Act.

42. LIQUOR LICENSE OBLIGATIONS

42.1 To the extent the Association remains licensed under the Liquor Control Act 1988, as amended, the Board, its Committees and members shall at all times observe and comply with provisions of the Liquor Control Act with regard to operation and conduct of the Associations liquor license. Such provisions ensuring compliance shall be included in the Constitution, Rules and By-laws of the Association.

42.2 The Association acknowledges and agrees that no amendment of or alteration to the By Laws, relevant to conduct of the Liquor license shall be made without approval or authority, in writing, from the Director of Liquor Licensing.

END OF CONSTITUTION