

**CONSTITUTION FOR**

**Kiteboarding  
Western  
Australia  
Incorporated**

### **1. Name of Association**

The name of the Association is 'Kiteboarding Western Australia Incorporated', hereinafter referred to as the 'Association'.

### **2. Definitions**

In these rules, unless the contrary intention appears-

- (1) "Committee meeting" means meeting referred to in rule 16 (1);
- (2) "Committee member" means person referred to in paragraph (a), (b), (c), (d) or (e) of rule 10 (1);
- (3) "financial year" means the period commencing 1 July and ending on 30 June each year;
- (4) "general meeting" means meeting convened under rule 17;
- (5) "member" means member of the Association;
- (6) "ordinary resolution" means resolution other than a special resolution;
- (7) "special resolution" has the meaning given by section 51 of the Act;
- (8) "the Act" means the Associations Incorporation Act 2015;
- (9) "the Association" means the Association referred to in rule 1;
- (10) "the Chairperson" means-
  - (a) in relation to the proceedings at a Committee meeting or general meeting, the person presiding at the Committee meeting or general meeting in accordance with rule 12; or
  - (b) otherwise than in relation to the proceedings referred to in paragraph (a), the person referred to in rule 10 (1) (a) or, if that person is unable to perform his or her functions, the Vice Chairperson;
- (11) "the Committee" means the Committee of Management of the Association referred to in rule (1)
- (12) "the Secretary" means the Secretary referred to in rule 13;
- (13) "the Treasurer" means the Treasurer referred to in rule 14;
- (14) "the Vice-Chairperson" means the Vice-Chairperson referred to in rule 12.

### **3. Objects of Association**

- (1) The object of the Association is the safe development and promotion of Kitesurfing in Western Australia.
- (2) The property and income of the Association shall be applied solely towards the promotion of the object of the Association and no part of that property or income may be paid or

otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of this object.

(a) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (b).

(b) A payment to a member out of the funds of the Association is authorised if:

- i. the payment is in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
- ii. the payment is of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
- iii. the payment is of reasonable rent to the member for premises leased by the member to the Association; or
- iv. the reimbursement is of reasonable expenses properly incurred by the member on behalf of the Association.

#### **4. Powers of Association**

The powers conferred on the Association by section 13 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may;

- (1) acquire, hold, deal with, and dispose of any real or personal property;
- (2) open and operate bank accounts;
- (3) invest its money;
  - (a) in any security in which trust monies may lawfully be Invested; or
  - (b) in any other manner authorised by the rules of the Association;
- (4) borrow money upon such terms and conditions as the Association thinks fit;
- (5) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit,
- (6) appoint agents to transact any business of the Association on its behalf;
- (7) enter into any other contract it considers necessary or desirable; and
- (8) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene this Act or the rules of the Association.

#### **5. Qualifications for membership of Association**

(1) Membership of the Association is open to any person who supports the objects of the Association.

(2) There shall be the following categories of members:

(a) Full Membership

- i. available to persons having an interest in the safe promotion of Kitesurfing in Western Australia.
- ii. This class of members shall have full voting rights and be eligible to hold office.

(b) Affiliate Members

- i. available to associations and clubs with similar aims as the Association.
- ii. This class of members shall have full voting rights and be eligible to hold office.

(3) A person who wishes to become a member shall apply for membership to the Committee in the method determined from time to time by the committee.

## **6. Register of members of Association**

- (1) The Secretary shall, on behalf of the Association, keep and maintain the register of members in accordance with section 53 of the Act.
  - (a) The register shall detail the members' name and their email, postal or residential addresses;
  - (b) The register shall be so kept and maintained at place as determined by the committee; and
  - (c) The Secretary shall cause the name of a person who dies or who ceases to be a member under to be deleted from the register of members.

## **7. Subscriptions of members of Association**

- (1) The committee shall from time to time determine the amount of the annual subscription to be paid by each member.
- (2) Each member shall pay to the Treasurer, annually or on such other date as the Committee from time to time determines, the amount of the subscription determined under sub- rule (1).
- (3) Subject to sub-rule (4), a member whose subscription is not paid within 3 months after the relevant date fixed by or under subclause (2) ceases on the expiry of that period to be a member, unless the Committee decides otherwise.
- (4) A member is a financial member for the purposes of these rules if his or her subscription is paid on or before the relevant date fixed by or under sub-rule (2) or within 3 months thereafter.

## **8. Resignation of members of Association**

- (1) A member who delivers notice in writing of his or her resignation from the Association to the Secretary or another Committee member ceases on delivery of that notice to be a member.
- (2) A person who ceases to be a member under sub-rule (1) remains liable to pay to the Association the amount of any subscription due and payable by that person to the Association but unpaid at the date of that cessation.

## **9. Expulsion of members of Association**

- (1) If the Committee considers that a member should be expelled from membership of the Association because of his or her conduct detrimental to the object and interests of the Association, the Committee shall communicate, either orally or in writing, to the member;
  - (a) notice of the proposed expulsion and of the time. date and place of the Committee meeting at which the question of that expulsion will be decided; and
  - (b) particulars of that conduct, not less than 30 days before the date of the Committee meeting referred to in paragraph (a).
- (2) At the Committee meeting referred to in a notice communicated under sub-rule (1), the Committee may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to the Committee, expel or decline to expel that member from membership of the Association and shall, forthwith after deciding

whether or not so to expel that member, communicate that decision in writing to that member.

- (3) Subject to sub-rule (5), a member who is expelled under sub-rule (2) from membership of the Association ceases to be a member 14 days after the day on which the decision so to expel him or her is communicated to him or her under sub-rule (2).
- (4) A member who is expelled under sub-rule (2) from membership of the Association shall, if he or she wishes to appeal against that expulsion, give notice to the Secretary of his or her intention to do so within the period of 14 days referred to in sub-rule (3).
- (5) When notice is given under sub-rule (4);
  - (a) the Association in a general meeting may, after having afforded the member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the general meeting, confirm or set aside the decision of the Committee to expel that member; and
  - (b) the member who gave that notice does not cease to be a member unless and until the decision of the Committee to expel him or her is confirmed under this sub-rule.

#### **10. Committee of Management**

- (1) The affairs of the Association shall be managed exclusively by a Committee of Management consisting of-
  - (a) a Chairperson;
  - (b) a Vice-Chairperson;
  - (c) a Secretary;
  - (d) a Treasurer; and
  - (e) not less than two other persons;all of whom shall be members of the Association and elected to membership of that Committee at an annual general meeting or appointed under sub-rule (6). An individual may hold more than one position on the Committee.
- (2) Subject to sub-rule (6), a Committee member's term will be from his or her election at an annual general meeting until the election at the next annual general meeting after his or her election, but he or she is eligible for re-election to membership of the Committee.
- (3) Except for nominees under sub-rule (6), a person is not eligible for election to membership of the Committee unless a member has nominated themselves for election or has permitted a nomination for themselves which has been put forward by another member.
- (4) A person who is eligible for election or re-election under this rule may at the annual general meeting concerned;
  - (a) propose or second himself or herself for election or re-election; and
  - (b) vote for himself or herself.
- (5) If the number of persons nominated for election to membership of the Committee does not exceed the number of vacancies in that membership to be filled-
  - (a) the Secretary shall report accordingly to; and
  - (b) the Chairperson shall declare those persons to be duly elected as members of the Committee at the annual general meeting concerned.

- (6) When a casual vacancy within the meaning of rule 15 occurs in the membership of the Committee-
- (a) the Committee may appoint a member to fill that vacancy; and
  - (b) a member appointed under this sub-rule shall;
    - i. hold office until the commencement of; and
    - ii. be eligible for election to membership of the Committee at the next following annual general meeting.
- (7) At the discretion of the committee, and authorised by a resolution of the Association, a committee member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred:
- (a) in attending a committee meeting or
  - (b) in attending a general meeting; or
  - (c) otherwise in connection with the Association's business.

## **11. Powers of the Committee**

- (1) The committee shall have power to:
- (a) subject to the prior approval of the members, borrow or raise money by making calls on members or otherwise, in addition to that already raised and to give security for money borrowed by the issue of bonds, debentures, bills of exchange or other security.
  - (b) To invest money not otherwise required for time being for the purposes of the Association in any investment in which trustees are authorised to invest by the laws of the State of Western Australia.
  - (c) To make such by-laws as may be necessary for the management, control and good order of the Association.
  - (d) To arrange all tournaments, competitions and fix dates therefore and to alter dates as occasion may require and to settle all disputes in connection therewith;
  - (e) To appoint sub-committees and delegate and of the committee's powers to such sub-committees;
  - (f) To construe the rules of the Association
  - (g) To re-elect to their discretion without entrance fees, ex-members who may wish to join as members; and
  - (h) To appoint persons to act as delegates to the Australian Kitesurfing Association or such other body in such special capacity as thought necessary or expedient and to terminate any such appointment at any time.

## **12. Chairperson**

- (1) Subject to this rule, the Chairperson shall preside at all general meetings and Committee meetings.
- (2) In the event of the absence from
- (a) a general meeting of-
    - i. the Chairperson, the Vice-Chairperson; or
    - ii. both the Chairperson and the Vice-Chairperson. a member elected by the other members present at the general meeting;
- or
- (b) a Committee meeting of-
    - i. the Chairperson, the Vice-Chairperson; or
    - ii. both the Chairperson and the Vice-Chairperson,

a Committee member elected by the other Committee members present, shall preside at the general meeting or Committee meeting, as the case requires.

### **13. Secretary**

- (1) The Secretary shall-
  - (a) co-ordinate the correspondence of the Association;
  - (b) keep full and correct minutes of the proceedings of the Committee and of the Association;
  - (c) comply on behalf of the Association with-
    - i. section 53 of the Act in respect of the register of members of the Association;
    - ii. section 35 of the Act in respect of the rules of the Association; and
    - iii. section 58 of the Act in respect of the record of the office holders, and any trustees, of the Association;
  - (d) have custody of all books, documents, records and registers of the Association, other than those required by rule 14 to be kept and maintained by, or in the custody of, the Treasurer; and
  - (e) perform such other duties as are imposed by these rules on the Secretary.

### **14. Treasurer**

- (1) The Treasurer shall-
  - (a) be responsible for the receipt of all moneys paid to or received by, or by him on behalf of, the Association and shall issue receipts for those moneys in the name of the Association;
  - (b) pay all moneys referred to in paragraph (a) into such account or accounts of the Association as the Committee may from time to time direct;
  - (c) make payments from the funds of the Association with the authority of a general meeting or of the Committee and in so doing ensure that all payments are authorised by himself or herself and at least one other authorised committee member;
  - (d) comply on behalf of the Association with sections 66 and sections 68 & 70, 71 & 73 or 74 & 76, depending on tier level, of the Act in respect to the accounting records of the Association;
  - (e) whenever directed to do so by the Chairperson, submit to the Committee a report, balance sheet or financial statement in accordance with that direction;
  - (f) have custody of all securities, books and documents of financial nature and accounting records of the Association; and
  - (g) perform such other duties as are imposed by these rules on the Treasurer.

### **15. Casual vacancies in membership of Committee**

- (1) A casual vacancy occurs in the office of a Committee member and that office becomes vacant if the Committee member;
  - (a) dies;
  - (b) resigns by notice in writing delivered to the Chairperson or, if the Committee member is the Chairperson, to the Vice-Chairperson;
  - (c) is convicted of an offence under the Act;
  - (d) is permanently incapacitated by mental or physical ill-health;
  - (e) is absent from more than;
    - i. 3 consecutive Committee meetings; or

- ii. 3 Committee meetings in the same financial year, of which he or she has received notice without tendering an apology to the person presiding at each of those Committee meetings;
- (f) ceases to be a member of the Association; or
- (g) is the subject of a resolution passed by a general meeting of members terminating his or her appointment as a Committee member.

#### **16. Proceedings of Committee**

- (1) The Committee shall meet together for the dispatch of business not less than eight (8) times per year and the Chairperson may at any time convene a meeting of the Committee.
- (2) Each Committee member has a deliberative vote.
- (3) A question arising at a Committee meeting shall be decided by a majority of votes, but, if there is an equality of votes, the person presiding at the Committee meeting shall have a casting vote in addition to his or her deliberative vote.
- (4) At a Committee meeting five (5) Committee members, who are present in person or via technology, constitute a quorum.
- (5) Subject to these rules, the procedure and order of business to be followed at a Committee meeting shall be determined by the Committee members present at the Committee meeting.
- (6) A Committee member having any direct or indirect pecuniary interest referred to in section 42 or 43 of the Act shall comply with that section.

#### **17. General meetings**

- (1) The Committee-
  - (a) may at any time convene a special general meeting;
  - (b) shall convene annual general meetings within the time limits provided for the holding of annual general meetings by section 50 of the Act that is, in every calendar year within 6 months after the end of the Association's financial year or such longer period as may in a particular case be allowed by the Commissioner; and
  - (c) shall, within 30 days of-
    - i. receiving a request in writing to do so from not less than 2% of members, convene a special general meeting for the purpose specified in that request; or
    - ii. the Secretary receiving a notice under rule 9 (4), convene a special general meeting for the purpose of dealing with the appeal to which that notice relates.
- (2) The members making a request referred to in sub-rule (1) (c) (i) shall;
  - (a) state in that request the purpose for which the special general meeting concerned is required; and
  - (b) sign that request.
- (3) If a special general meeting is not convened within the relevant period of 30 days referred to-
  - (a) in sub-rule (1) (c) (i), the members who made the request concerned may themselves convene a special general meeting as if they were the Committee: or



- (b) in sub-rule (1) (c) (ii), the member who gave the notice concerned may himself convene a special general meeting as if he or she were the Committee.
- (4) When a special general meeting is convened under sub-rule (3) (a) or (b)-
  - (a) the Committee shall ensure that the members or member convening the special general meeting are supplied, free of charge, with particulars of all members; and
  - (b) the Association shall pay the reasonable expenses of convening and holding the special general meeting.
- (5) Subject to sub-rule (8), the Secretary shall give to all members not less than 14 days' notice of a general meeting and of any motions to be moved at the general meeting.
- (6) A notice given under sub-rule (5) shall specify;
  - (a) when and where the general meeting concerned is to be held; and
  - (b) particulars of the business to be transacted at the general meeting concerned and of the order in which that business is to be transacted.
- (7) In the case of an annual general meeting, the order in which business is to be transacted is;
  - (a) first, the consideration of the accounts and reports of the Committee;
  - (b) second, the election of Committee members to replace outgoing Committee members; and
  - (c) third, any other business requiring consideration by the Association in a general meeting.
- (8) The Secretary shall give to all members not less than 21 days' notice of a general meeting at which a special resolution is to be proposed and of any other motions to be moved at that general meeting.
- (9) The Secretary may give a notice under sub-rule (5) or (8) by;
  - (a) serving it on a member personally; or
  - (b) sending it by email to a member at the email address of the member appearing in the register of members; or
  - (c) sending it by post to a member at the address of the member appearing in the register of members kept.
- (10) When a notice is sent by post under sub-rule (9) (c), sending of the notice shall be deemed to be properly effected if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail.

#### **18. Quorum in proceedings at general meetings**

- (1) At a general meeting 10 members or 20% of financial members, whichever is the lesser, present in person or by proxy constitute a quorum.
- (2) If within 30 minutes after the time specified for the holding of a general meeting in a notice given under rule 17 (5) or (8)-
  - a. as a result of a request or notice referred to in rule 17 (1) (c) or as a result of action taken under rule 17 (3) a quorum is not present, the general meeting lapses; or
  - b. otherwise than as a result of a request, notice or action referred to in paragraph (a), the general meeting stands adjourned to the same time on the same day in the following week and to the same venue.

- (3) If within 30 minutes of the time appointed by sub-rule (2) (b) for the resumption of an adjourned general meeting a quorum is not present, the members who are present in person or by proxy may nevertheless proceed with the business of that general meeting as if a quorum were present.
- (4) The Chairperson may, with the consent of general meeting at which a quorum is present, and shall, if so directed by such a general meeting, adjourn that general meeting from time to time and from place to place.
- (5) There shall not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.
- (6) When a general meeting is adjourned for a period of 30 days or more, the Secretary shall give notice under rule 17 of the adjourned general meeting as if that general meeting were a fresh general meeting.
- (7) At a general meeting-
  - a. an ordinary resolution put to the vote shall be decided by a majority of votes cast on a show of hands; and
  - b. a special resolution put to the vote shall be decided in accordance with section 51 of the Act.
- (8) A declaration by the Chairperson of a general meeting that a resolution has been passed as an ordinary resolution thereat shall be evidence of that fact unless, during the general meeting at which the resolution is submitted, a poll is demanded in accordance with sub-rule (9).
- (9) At a general meeting, a poll shall be demanded by the chairperson at the general meeting or by three or more members present in person or by proxy and, if so demanded, shall be taken in such manner as the Chairperson directs.
- (10) If a poll is demanded and taken under sub-rule (9) in respect of an ordinary resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.
- (11) A poll demanded under sub-rule (9) on the election of a person to preside over a general meeting or on the question of an adjournment shall be taken forthwith on that demand being made.

#### **19. Minutes of meetings of Association**

- (1) The Secretary shall cause proper minutes of all proceedings of all general meetings and Committee meetings to be taken.
- (2) The Chairperson shall ensure that the minutes taken of a general meeting or Committee meeting under sub-rule (1) are checked as correct by the Chairperson of the general meeting or Committee meeting to which those minutes relate or of the next succeeding general meeting or Committee meeting, as the case requires.

- (3) When minutes have been checked as correct under this rule, they shall, until the contrary is proved, be evidence that-
  - (a) the general meeting or Committee meeting to which they relate was duly convened and held;
  - (b) all proceedings recorded as having taken place at the meeting did in fact take place thereat; and
  - (c) all appointments or elections purporting to have been made at the meeting have been validly made.

## **20. Voting rights of members of Association**

- (1) Subject to these rules, each financial member present in person or by proxy at a general meeting is entitled to a deliberative vote.
- (2) A member who is a body corporate may appoint in writing a natural person, whether or not he or she is a member, to represent it at a particular general meeting or at all general meetings.
- (3) An appointment made under sub-rule (2) shall be so made by a resolution of the board or other governing body of the body corporate concerned;
  - (a) which resolution is authenticated under the common seal of that body corporate; and;
  - (b) a copy of which resolution is lodged with the Secretary.
- (4) A person appointed under sub-rule (2) to represent a member which is a body corporate shall be deemed for all purposes to be a member until that appointment is revoked by the body corporate or, in the case of an appointment in respect of a particular general meeting, which appointment is not so revoked, the conclusion of that general meeting.

## **21. Proxies of members of Association**

A member (in this rule called "the appointing member") may appoint in writing another member who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any general meeting.

## **22. Rules of Association**

- (1) The Association may alter or rescind these rules, or make rules additional to these rules in accordance with the procedure set out in sections 30, 31 and 33 of the Act which is as follows:
  - (a) Subject to sub-rule (d) and (e), the Association may alter its rules by special resolution but not otherwise;
  - (b) Within one month of the passing of a special resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner notice of the special resolution setting out particulars of the alteration together with a certificate given by a member of the Committee certifying that the resolution was duly passed as a special resolution and that the rules of the Association as so altered conform to the requirements of this Act;
  - (c) An alteration of the rules of the Association does not take effect until sub-rule (b) is complied with;

- (d) An alteration of the rules of the Association having effect to change the name of the association does not take effect until sub-rules (a) to (c) are complied with and the approval of the Commissioner is given to the change of name;
  - (e) An alteration of the rules of the Association having effect to alter the objects or purposes of the association does not take effect until sub-rules (a) to (c) are complied with and the approval of the Commissioner is given to the alteration of the objects or purposes.
- (2) These rules bind every member and the Association to the same extent as if every member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

### **23. Common seal of Association**

The Association does not have a common seal.

### **24. Indemnity**

Every officer and committee member of the Association shall be indemnified out of the funds of the Association against all costs, charges, damages, or expenses incurred by him by reason of any contract or covenant entered into or by any act done or default made by him in any way in the execution of his duty as such officer save and except such as may have been occasioned by his only negligence.

### **25. Inspection of records, etc. of Association**

A member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

### **26. Affiliation**

The Association may affiliate with any other organization whose objects are broadly consistent with those of the Association.

### **27. Disputes and mediation**

- (1) The grievance procedure set out in this rule applies to disputes under these rules between;
- (a) a member and another member; or
  - (b) a member and the Association; or
  - (c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.
- (2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (3) 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 10 days, hold a meeting in the presence of a mediator.
- (4) The mediator must be;

- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement;
    - i. in the case of a dispute between a member and another member, a person appointed by the Committee of the Association;
    - ii. in the case of a dispute between a member or relevant non-- member (as defined by sub-rule (1) (c)) and the Association, a person who is a mediator appointed to, or employed with, a not for profit organisation.
- (5) A member of the Association can be a mediator.
- (6) The mediator cannot be a member who is a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must;
- (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party;  
and
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute.
- (10)The mediation must be confidential and without prejudice.
- (11)If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **28. Distribution of surplus property on winding up of Association**

If upon the winding up or dissolution of the Association there remains after satisfactory of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members but shall be given or transferred -

- (a) to another association incorporated under the Act; or
- (b) for charitable purposes which incorporated association or purposes, as the case requires shall be determined by the resolution of the members.