

CONSTITUTION

Under the *Associations Incorporation Act 2009*



About this constitution

The constitution of an incorporated association forms the structure within which the association operates.

This constitution has been developed based on the NSW Fair Trading model constitution, which covers the matters required by law.

Further to this constitution, the Hunter Netball Guiding Principles articulate the practical application of processes and procedures undertaken by Hunter Netball to facilitate netball pathways in the Hunter region.

Incorporation

For the purpose of this constitution Hunter Netball applied to Fair Trading NSW for registration under the *Associations Incorporation Act 2009 (the Act)* on 17 May 2022.

Hunter Netball Incorporated – INC2200449 was registered on 20 May 2022.

Reporting requirements under the Act include:

- Financial statements must be submitted to the AGM
- Within one month of the AGM and no later than 7 months after the end of financial year a person authorised by the Committee must lodge with Fair Trading an:
 - Annual summary of financial affairs – Tier 2 (FormA12-T2)
- The Public Officer is the main point of contact for Hunter Netball and must reside in NSW they are required to:
 - Lodge Form A9 Notice of appointment of public office and notice of change of address within 28 days of becoming public officer or of any change to the entities address.
 - The official address must be in NSW

For further information about registry and accreditation with Fair Trading NSW please go to www.fairtrading.nsw.gov.au

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Part 1 Preliminary

1 Definitions

(1) In this constitution:

committee member means an office-bearer.

exercise a function includes perform a duty.

function includes a power, authority or duty.

office-bearer means a committee member who is elected to an office.

ordinary member means a member who is not an office-bearer, but who is the delegated registered member of a Netball Association within the Netball NSW boundaries described as Hunter Region.

register of members means the register of members maintained.

secretary, of Hunter Netball, means:

- (a) the person holding office under this constitution as secretary, or
- (b) if no person holds that office -the public officer of Hunter Netball.

general meeting, of Hunter Netball, means a general meeting of the Hunter Netball other than an annual general meeting.

subcommittee means a subcommittee established under clause.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2022*.

Note: The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this constitution.

(2) The *Interpretation Act 1987* applies to this constitution as if it were an instrument made under the Act.

Note: The Act, Part 4 deals with various matters relating to the management of associations.

Part 2 Members of Hunter Netball

2 Membership generally

(1) An individual is taken to be a member of Hunter Netball if:

- (a) The person is an elected office bearer of Hunter Netball.
- (b) The person is an ordinary member who is the nominated registered member delegate of a Netball Association within the Netball NSW boundaries described as Hunter Region.

3 Membership application

(1) All registered Netball Associations within the Netball NSW boundaries described as Hunter-Central Coast Region do not need to apply for ordinary membership.

(2) Registered Netball Associations outside of the Netball NSW boundaries described as Hunter-Central Coast Region, may apply to be an ordinary member of Hunter Netball and must be:

- (a) made in writing and lodged with the secretary.
- (3) The committee may determine that an application may be made or lodged by email or other electronic means.
- (4) The secretary must refer an application to the committee as soon as practicable after receiving the application.
- (5) The committee must approve or reject the application for ordinary membership as describe in (2)
- (6) As soon as practicable after the committee has decided the application, the secretary must:
 - (a) give the applicant written notice of the decision, including by email or other electronic means if determined by the committee, and
 - (b) if the application is approved - inform the applicant that the applicant is required to pay the annual subscription fee payable under clause 5 within 28 days of the day the applicant received the notice.
- (7) The secretary must enter the applicant's name in the register of members as soon as practicable after the applicant pays the annual subscription fee in accordance with subclause (5)(b).
- (8) The applicant becomes a member once the applicant's name is entered in the register.

4 Register of members

- (1) The secretary must establish and maintain a register of members of the association.
- (2) The register:
 - (a) may be in written or electronic form, and
 - (b) must include, for each member:
 - (i) the member's full name, and
 - (ii) a residential, postal or email address, and
 - (iii) the date on which the Netball Association became a member, and
 - (iv) if they cease to be a member - the date on which they ceased to be a member, and
 - (c) must be kept in New South Wales:
 - (i) at the Hunter Netball main premises, or
 - (ii) if Hunter Netball has no premises - at the Hunter Netball official address, and
 - (d) must be available for inspection, free of charge, by members at a reasonable time, and
 - (e) if kept in electronic form - must be able to be converted to hard copy, where requested.
- (3) If the register is kept in electronic form, the requirements in subclause (2)(c) and (d) apply as if a reference to the register is a reference to a current hard copy of the register.
- (4) A member may obtain a hard copy of the register, or a part of the register, on

payment of a fee of not more than \$1, as determined by the committee, for each page copied.

- (5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that the information not be made available.
- (6) A member must not use information about a member obtained from the register to contact or send material to the member, unless:
 - (a) the information is used to send the member:
 - (i) a newsletter, or
 - (ii) a notice for a meeting or other event relating to Hunter Netball, or
 - (iii) other material relating to Hunter Netball, or
 - (b) it is necessary to comply with a requirement of the Act or the Regulation.

5 Fees and subscriptions

- (1) The fee to be paid to Hunter Netball by an ordinary member, including those who are outside of the Hunter region and their application to be a member of the association has been approved is:
 - (a) An amount determined by the committee – refer guiding principles.
- (2) All elected committee members and the ordinary member delegate of a Netball Association must be a financial member of Netball NSW.

6 Members' liabilities

The liability of a member of Hunter Netball is to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 5:

- (a) the debts and liabilities of Hunter Netball,
- (b) the costs, charges, and expenses of the winding up Hunter Netball.

7 Disciplinary action against members

- (1) A person may make a complaint to the committee that a member of Hunter Netball has:
 - (a) failed to comply with a provision of this constitution, or
 - (b) willfully acted in a way prejudicial to the interests of Hunter Netball.
- (2) The committee may refuse to deal with a complaint if the committee considers the complaint is trivial or vexatious.
- (3) If the committee decides to deal with the complaint, the committee must do so in accordance with Netball NSW policies.

8 Right of appeal against disciplinary action

- (1) A member may appeal against a resolution of Hunter Netball in accordance with Netball NSW policies.

9 Resolution of internal disputes

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation:
 - (a) a dispute between 2 or more committee members of Hunter Netball, but only if the dispute is between the members in their capacity as members, or
 - (b) a dispute between 1 or more ordinary members and Hunter Netball.
- (2) If the dispute is not resolved by mediation within 3 months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.
- (3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

10 Membership entitlements not transferable

A right, privilege, or obligation that a person has because the person is a member of Hunter Netball:

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of Hunter Netball.

11 Committee Member resignation

- (1) A committee member of Hunter Netball may resign from being a member by giving the secretary written notice of at least 1 month, or another period determined by the committee, of the member's intention to resign.
- (2) The committee member ceases to be a member on the expiration of the notice period.

12 Cessation of membership

A person ceases to be a committee member of Hunter Netball if the person:

- (a) dies, or
- (b) resigns from being a member, or
- (c) is expelled from Hunter Netball,

An ordinary member ceases to be a member of Hunter Netball if the Netball Association:

- (a) fails to pay the annual subscription fee payable under clause 5(2) within 3 months of the due date, or
- (b) the Netball Association is no longer a registered Association of Netball NSW

Part 3 Committee

Division 1 Constitution

13 Functions of committee

Subject to the Act, the Regulation, this constitution, and any resolution passed by Hunter Netball in general meeting, the committee:

- (a) is to control and manage the affairs of Hunter Netball, and
- (b) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of Hunter Netball.

14 Composition of committee

- (1) The committee must have a minimum 5 members and no more than 7 with a total of an odd number as elected in accordance with clause 15, consisting of:
 - (a) the following office-bearers:
 - (i) the Chair,
 - (ii) the Secretary,
 - (iii) the Treasurer, and
 - (b) at least 2 or up to 4 ordinary committee members.

15 Election of committee members

- (1) All candidates must be a registered financial member of Netball NSW to nominate as a candidate for election as an office-bearer.
- (2) Where possible no more than 2 financial members from any one Netball Association within the Hunter region boundaries may apply for election.
- (3) The nomination must:
 - (a) Be made in writing, and
 - (b) detail the position being nominated for, and
 - (c) detail the name of the Netball Association where the candidate holds their primary netball registration with Netball NSW, and
 - (d) be lodge via the advertised process at least 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (4) If insufficient nominations are received to fill all vacancies:
 - (a) the candidates nominated are taken to be elected, and
 - (b) a call for further nominations must be made at the meeting.
- (5) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (6) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (7) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.

- (8) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.

16 Terms of office

- (1) Subject to this constitution, a committee member holds office from the day the member is elected until immediately before the next annual general meeting.
- (2) A member is eligible, if otherwise qualified, for re-election.
- (3) There is no limit on the number of consecutive terms for which a committee member may hold office.

17 Vacancies in office

- (1) A casual vacancy in the office of a committee member arises if the member:
 - (a) dies, or
 - (b) ceases to be a member of Hunter Netball, or
 - (c) resigns from office by written notice given to the secretary, or
 - (d) is removed from office by Hunter Netball under this clause, or
 - (e) is absent from 3 consecutive meetings of the committee without the consent of the committee, or
 - (f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (g) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
 - (i) becomes a mentally incapacitated person.
- (2) The committee may appoint a member of Hunter Netball to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.
- (3) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

18 Secretary

- (1) The secretary must keep minutes of:
 - (a) all elections of committee members, and
 - (b) the names of committee members present at a meeting of the committee or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (2) The minutes must be:
 - (a) kept in written or electronic form, and
 - (b) for minutes of proceedings at a meeting -signed, in writing or by electronic means, by:

- (i) the member who presided at the meeting, or
- (ii) the member presiding at the subsequent meeting.

19 Treasurer

The treasurer of Hunter Netball must ensure—

- (a) all money owed to Hunter Netball is collected, and
- (b) all payments authorised by Hunter Netball are made, and
- (c) correct books and accounts are kept showing the financial affairs of Hunter Netball, including full details of receipts and expenditure relating to Hunter Netball activities.

20 Delegation to subcommittees

- (1) The committee may:
 - (a) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
 - (b) appoint 1 or more members of Hunter Netball to be the members of the subcommittee.
- (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than:
 - (a) this power of delegation, or
 - (b) a duty imposed on the committee by the Act or another law.

Note: The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.

Division 2 Procedure

21 Committee meetings

- (1) The committee must meet at least 3 times in each 12-month period at the place and time determined by the committee.
- (2) Additional meetings of the committee may be called by any committee member.
- (3) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee.

22 Notice of committee meeting

- (1) The secretary must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
 - (a) the business described in the notice, and
 - (b) business that the committee members present at the meeting unanimously agree is urgent business.

23 Quorum

- (1) The quorum for a meeting of the committee is 3 committee members.
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
 - (a) to the same meeting channel, and
 - (b) to the same time of the same day in the following week, or
 - (c) a time and meeting channel advised by the Chair.
- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.

24 Chairing committee member

- (1) The following committee member chairs at a meeting of the committee:
 - (a) the chair,
 - (b) if the chair is absent – the chair will nominate an alternate committee member to chair.
- (2) The member chairing at the meeting has:
 - (a) a deliberative vote, and
 - (b) in the event of an equality of votes - a second or casting vote.

25 Voting

A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

26 Acts valid despite vacancies or defects

- (1) Subject to clause 23(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or subcommittee.

27 Transaction of business outside meetings or by telephone or other electronic means

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other

members.

- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:
 - (a) the approval of a resolution under subclause (2), or
 - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

Note: The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

Part 4 General meetings of Hunter Netball

28 Annual general meetings

- (1) Hunter Netball must hold its first annual general meeting within 18 months of the day it was registered under the Act.
 - (a) For the records of this constitution Hunter Netballs application was lodged with NSW Fair Trading on 17 May 2022 and Hunter Netball Incorporated was registered with NSW Fair Trading on 20 May 2022.
- (2) Hunter Netball must hold subsequent annual general meetings within:
 - (a) 6 months of the last day of the financial year, or
 - (b) the later period allowed or prescribed in accordance with the Act, section 37(2)(b).
- (3) Subject to the Act and subclauses (1) and (2), the annual general meeting is to be held at the place and time determined by the committee.
- (4) The business that may be transacted at an annual general meeting includes the following:
 - (a) confirming the minutes of the previous annual general meeting,
 - (b) receiving reports from the committee on Hunter Netball activities during the previous financial year,
 - (c) electing office-bearers,
 - (d) receiving and considering financial statements or reports required to be submitted to members of the association under the Act.

29 General meetings

- (1) The committee may call a general meeting whenever the committee thinks fit.
- (2) The committee must call a general meeting if the committee receives a request made by at least 5% of the total number of members, and where practicable hold said meeting within 28 days of being called.
- (3) The request:
 - (a) must be in writing, and

- (b) must state the purpose of the meeting, and
 - (c) must be signed by the members making the request,
 - (d) must be lodged with the secretary, and
 - (e) may be in electronic form and signed and lodged by electronic means.
- (4) A general meeting held under subclause (3) must be conducted, as far as practicable, in the same way as a general meeting called by the committee.

30 Notice of general meeting

- (1) The secretary must give each member Netball Association notice of a general meeting:
- (a) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
 - (b) otherwise - at least 14 days before the meeting.
- (2) The notice must specify:
- (a) the place and time at which the meeting will be held, and
 - (b) the nature of the business to be transacted at the meeting, and
 - (c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
 - (d) for an annual general meeting - that the meeting to be held is an annual general meeting.
- (3) The only business that may be transacted at the meeting is:
- (a) the business specified in the notice, and
 - (b) for an annual general meeting - business referred to in clause 28(4).
- (4) A member may give written notice to the secretary of business the member wishes to raise at a general meeting.
- (5) If the secretary receives a notice under subclause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

31 Quorum

- (1) The quorum for a general meeting is 5 members of Hunter Netball entitled to vote under this constitution.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
- (a) if called on the request of members - is dissolved, or
 - (b) otherwise - is adjourned:
 - (i) to the same channel and time of the same day in the following week.
- (4) If a quorum is not present within half an hour of the time an adjourned

meeting commences, but there are at least 3 members present, the members present constitute a quorum.

32 Adjourned meetings

- (1) The member chairing at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another channel, time.
- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the secretary must give each member oral or written notice, at least 1 day before the adjourned meeting, of:
 - (a) the time and channel at which the adjourned meeting will be held, and
 - (b) the nature of the business to be transacted at the adjourned meeting.

33 Chairing member

- (1) The following member chairs at a general meeting:
 - (a) the Chair,
 - (b) if the Chair is absent – their nominated committee member
- (2) The member chair at the meeting has:
 - (a) a deliberative vote, and
 - (b) in the event of an equality of votes - a second or casting vote.

34 Voting

- (1) A member is not entitled to vote at a general meeting unless the member:
 - (a) is at least 18 years of age, and
 - (b) is a financial member.
- (2) Each member has 1 vote.
- (3) A question raised at the meeting must be decided by:
 - (a) a show of hands, or
 - (b) if clause 36 applies - an appropriate method as determined by the committee, or
 - (c) a ballot, but only if:
 - (i) the member chairing at the meeting moves that the question be decided by ballot, or
 - (ii) at least 5 members agree the question should be determined by ballot.
- (4) A ballot must be conducted in accordance with the directions of the member chairing.
- (5) A member cannot cast a vote by proxy.

35 Postal or electronic ballots

- (1) Hunter Netball may hold a postal or electronic ballot, as determined by the committee, to decide any matter other than an appeal under clause 8.
- (2) The ballot must be conducted in accordance with Schedule 2 of the Regulation.

36 Transaction of business outside meetings or by telephone or other means

- (1) Hunter Netball may transact its business by the circulation of papers, including by electronic means, among all members of Hunter Netball.
- (2) If Hunter Netball transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of Hunter Netball made at a general meeting.
- (3) Hunter Netball may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member chairing at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of:
 - (a) the approval of a resolution under subclause (2), or
 - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of Hunter Netball.

Part 5 Administration

37 Change of name, objects, or constitution

An application for registration of a change in the entities name, objects or constitution made under the Act, section 10 must be made by:

- (a) public officer, or
- (b) a committee member.

38 Funds

- (1) Subject to a resolution passed by Hunter Netball, Hunter Netball funds may be derived from the following sources only:
 - (a) annual fees payable by members,
 - (b) sponsorships, donations, or grants, and
 - (c) other sources as determined by the committee.
- (2) Subject to a resolution passed by Hunter Netball its funds and assets must be used to pursue the objects in the way that the committee determines.
- (3) As soon as practicable after receiving money, Hunter Netball must:
 - (a) deposit the money, without deduction, to the credit of the Hunter Netballs authorised deposit-taking institution account, and

- (b) issue a receipt for money received to the person from whom the money was received.
- (4) All outgoing funds must be created and authorised by electronic financial instrument by 2 authorised delegates, being the Treasurer, Chair and / or Secretary of Hunter Netball.

39 Insurance

Hunter Netball may take out and maintain insurance as appropriate for its assets and liabilities.

40 Non-profit status

Subject to the Act and the Regulation, Hunter Netball must not conduct its affairs in a way that provides a pecuniary gain for a member of Hunter Netball.

41 Service of notices

- (1) For the purposes of this constitution, a notice may be given to or served on a person:
 - (a) by delivering the notice to the person personally, or
 - (b) by sending the notice by pre-paid post to the address of the person, or
 - (c) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.
- (2) A notice is taken to have been given to or served on a person, unless the contrary is proved:
 - (a) for a notice given or served personally - on the date on which the notice is received by the person, or
 - (b) for a notice sent by pre-paid post - on the date on which the notice would have been delivered in the ordinary course of post, or
 - (c) for a notice sent by electronic transmission:
 - (i) on the date the notice was sent, or
 - (ii) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

42 Custody of records and books

Except as otherwise provided by this constitution, all records, books, and other documents relating to the association must be kept in New South Wales:

- (a) at Hunter Netballs main premises, in the custody of either of the following persons, as determined by the committee:
 - (i) the public officer,
 - (ii) a member of Hunter Netball, or
- (b) there are no premises - at Hunter Netballs official address, in the custody of the public officer.

43 Inspection of records and books

- (1) The following documents must be available for inspection, free of charge, by members of Hunter Netball at a reasonable time:
 - (a) this constitution,
 - (b) minutes of committee meetings and general meetings of Hunter Netball,
 - (c) records, books, and other documents relating to Hunter Netball.
- (2) A member may inspect a document referred to in subclause (1):
 - (a) in hard copy, or
 - (b) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
 - (a) that relates to confidential, personal, commercial, employment or legal matters, or
 - (b) if the committee considers it would be prejudicial to the interests of Hunter Netball for the member to do so.

44 Financial year

Hunter Netball financial year is:

- (a) the period commencing on the date of incorporation of the association and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year, commencing on 1 July and ending on the following 30 June.

45 Distribution of property on winding up

- (1) Subject to the Act and the Regulation, in a winding up of Hunter Netball, the surplus property of Hunter Netball must be transferred to another organisation:
 - (a) with similar objects, and
 - (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause:
surplus property has the same meaning as in the Act, section 65.