

# **Constitution of Surfing New Zealand Incorporated**

June 2020

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# Constitution of Surfing New Zealand Incorporated

## 1. DEFINITIONS AND INTERPRETATION

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1.1 In these Rules:

**AGM** means Annual General Meeting;

**Appointed Board Member** means a Board Member appointed under Rule 16;

**BAP** means Board Appointments Panel;

**Board** means the Board of Directors of Surfing New Zealand;

**Board Member** means a member of the Board including Elected Board Members and Appointed Board Members;

**Chief Executive** means the Chief Executive Officer of Surfing New Zealand;

**Club** means a club described in Rule 7;

**Competitive Member** means the class of member described in Rule 9;

**Constitution** means this constitution;

**Elected Board Member** means a Board Member elected in Rule 16;

**General Meeting** means an AGM or SGM;

**Incorporated Associate** means an organisation incorporated under the Incorporated Societies Act 1908 and which has objects consistent with the Objects;

**Incorporated Club** means a Club incorporated under the Incorporated Societies Act 1908 and which has objects consistent with the Objects;

**Individual Member** means an individual described in Rule 9;

**Kaitiaki** means the Kaitiaki of Surfing New Zealand;

**Member** means and includes all classes of members of described in Rule 5;

**Objects** means the objects of Surfing New Zealand described under Rule 3;

**Ordinary Resolution** means a resolution passed by a majority of votes cast;

**Regional Body** means a regional body described in Rule 6;

**Register** means the register of Members specified in Rule 14;

**Rules** means these rules and "Rule" has a corresponding meaning;

**SGM** means Special General Meeting;

**Special Resolution** means a resolution passed by two-thirds of votes cast;

**Surfing New Zealand** means Surfing New Zealand Incorporated;

**Unincorporated Associate** means an organisation that is not incorporated under the Incorporated Societies Act 1908 or any other legislation and which has objects consistent with the Objects and which has three (3) or more members;

**Unincorporated Club** means a Club that is not incorporated under the Incorporated Societies Act 1908 or any other legislation and which has objects consistent with the Objects and which has three (3) or more members.

1.2 In these Rules:

- (a) the singular includes the plural and vice versa;
- (b) **Notices:** any notices or communications given by or behalf of Surfing New Zealand, the Board, the Chief Executive or the BAP may be given by any method of communication as determined by the Board;
- (c) **Person:** a reference to a person includes individuals, incorporated bodies and unincorporated groups;
- (d) **Regulation:** a reference to a regulation means and includes any regulation, by-law, policy, procedure, code, charter, provision or similar;
- (e) any reference to any Act or regulation includes any amendment to it and any replacement passed in substitution for it.

## 2. NAME

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2.1 The name of the incorporated society is Surfing New Zealand Incorporated (Surfing New Zealand).

2.2 The registered office of Surfing New Zealand is at a place as determined by the Board.

## 3. OBJECTS

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3.1 The objects of Surfing New Zealand are to:

- (a) be the national governing body in New Zealand to provide for the conduct encouragement, promotion, development and administration of surfing throughout New Zealand; in recognition of surfing's values, actively support the preservation and conservation of the coastal environment including through education and co-operating with organisations concerned with its conservation and preservation;
- (c) recognise and actively promote surfing's positive impact on the health and wellbeing of individuals and communities;
- (d) provide a range of events and activities that reflect the importance of participation as well as competition;
- (e) promote and manage drug free participation and competition in compliance with the Sports Anti-Doping Rules made by Drug Free Sport New Zealand;
- (f) affiliate and co-operate with other organisations that share similar objects and values including but not limited to international, national, regional and local bodies;

- (g) be considerate of local surfing communities and the unique place of Taha Maori in New Zealand / Aotearoa;
- (h) support the growth of a culturally responsive surfing community based upon sharing and respect.

## 4. POWERS

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- 4.1 Surfing New Zealand has full powers, jurisdiction and authority and subject to this Constitution, may do all things to carry out its Objects including:
- (a) acquire or receive the benefit of any property and deal with property in any way (including borrow, invest, lend and give or obtain any security);
  - (b) control and raise money by any lawful method including by subscriptions, donations, fees, levies, entry or usage charges, sponsorship, government funding, community funding or otherwise;
  - (c) produce, develop, create, license and otherwise exploit, use and protect the intellectual property of Surfing New Zealand;
  - (d) make, alter, rescind and enforce this Constitution, and any regulations, for the governance, management and operation of Surfing New Zealand;
  - (e) determine, implement and enforce disciplinary, disputes and appeal procedures, including regulations for such and, conduct hearings and impose sanctions and penalties including for anti-doping;
  - (f) consider and settle disputes between Members;
  - (g) determine who are its Members and their entitlements and withdraw, suspend or terminate membership;
  - (h) enter into, manage and terminate contracts or other arrangements with employees, sponsors, Members and other persons;
  - (i) make, alter, rescind and enforce rules of competition;
  - (j) organise and control competitions, events and programmes;
  - (k) select national and other representative teams and squads;
  - (l) assign functions to and/or enter into agreements with organisations such as Sport New Zealand, the Sports Tribunal of New Zealand and the Drug Free Sport New Zealand;
  - (m) delegate powers of Surfing New Zealand to any person, Board, committee or sub-committee (the composition of any of which is not limited to Members) and to establish, fund and set terms of reference;
  - (n) establish, acquire or have interests in any persons or trusts and utilise the assets of Surfing New Zealand in, through or with them;
  - (o) purchase or otherwise acquire all or any part of the property and liabilities of any person, whose activities or objects are similar to those of Surfing New Zealand, or with which Surfing New Zealand is authorised to amalgamate or generally for any purpose designed to benefit Surfing New Zealand;

- (p) do any other acts or things which are incidental or conducive to the attainment of the Objects.
- 4.2 The powers listed in Rule 4.1 must only be used to further the Objects.
- 4.3 Surfing New Zealand agrees to be bound by and adopts the Sports Anti-Doping Rules ("SADR") made by Drug Free Sport New Zealand pursuant to the Sports Anti-Doping Act 2006, as its Anti-Doping Policy.

## **5. MEMBERSHIP**

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- 5.1 Membership of SNZ is open to any individual, any surfing club, or any organisation (in each case whether incorporated or not) within New Zealand willing to support the Objects.
- 5.2 The Members of Surfing New Zealand are:
  - (a) Regional Bodies - see Rule 6;
  - (b) Clubs - see Rule 7;
  - (c) Associates - see Rule 8;
  - (d) Individuals - see Rule 9;
  - (e) Life Members - see Rule 10.
- 5.3 The Board may create new categories of Membership:
  - (a) with rights and obligations determined by it, but excluding voting rights;
  - (b) even if the effect of creating a new category is to alter rights or obligations of an existing category of Members.

## **6. REGIONAL BODIES**

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- 6.1 Any Regional Body which is incorporated and wishes to be a Member of Surfing New Zealand must apply in writing to Surfing New Zealand for Membership as a Regional Body. The application is determined by the Board.

## **7. CLUBS**

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- 7.1 Any Club which wishes to be a Member of Surfing New Zealand must apply in writing to Surfing New Zealand for Club Membership.
- 7.2 An application by an Incorporated Club must include:
  - (a) a copy of the Certificate of Incorporation of the Club;
  - (b) a copy of the constitution of the Club;
  - (c) payment of the subscription due for the current year; and
  - (d) any other information reasonably requested by Surfing New Zealand.
- 7.3 An application by an Unincorporated Club must;

- (a) be signed by three (3) members of the Club;
  - (b) specify the residential address and name of the person authorised by the Club to receive correspondence, who must be one (1) of the members signing the application;
  - (c) include payment of the subscription for the current year; and
  - (d) include any other information reasonably requested by Surfing New Zealand.
- 7.4 The application is determined by the Board in its discretion. If approved, the Club membership is conditional upon:
- (a) A probationary period of one (1) year from date of the written notification of acceptance during which:
    - (i) the Club will have no voting rights at any General Meeting; and
    - (ii) the Board may terminate the Club's membership in the Board's sole discretion;
  - (b) any other terms of acceptance set for that Club by the Board.

## **8. ASSOCIATES**

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- 8.1 Any Associate which wishes to be a Member of Surfing New Zealand must apply in writing to Surfing New Zealand for Associate Membership.
- 8.2 An application by an Incorporated Associate must include:
- (a) a copy of the Certificate of Incorporation of the Associate;
  - (b) a copy of the constitution of the Associate;
  - (c) payment of the subscription due for the current year; and
  - (d) any other information reasonably requested by Surfing New Zealand.
- 8.3 An application by an Unincorporated Associate must;
- (a) be signed by three (3) members of the Associate;
  - (b) specify the residential address and name of the person authorised by the Associate to receive correspondence, who must be one (1) of the members signing the application;
  - (c) include payment of the subscription for the current year; and
  - (d) include any other information reasonably requested by Surfing New Zealand.
- 8.4 The application is determined by the Board in its discretion. If approved, the Associate membership is conditional upon:
- (a) a probationary period of one (1) year from date of the written notification of acceptance during which:
    - (i) the Associate will have no voting rights at any General Meeting, and
    - (ii) the Board may terminate the Associate's membership in the Board's sole discretion;
  - (b) any other terms of acceptance set for that Associate by the Board.

## **9. INDIVIDUAL MEMBERS**

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9.1 There are two (2) categories of Individual Members:

- (a) A Competitive Member is an individual who wishes to align with the Objects, be associated with Surfing New Zealand activities and be eligible to compete in Surfing New Zealand competitive events (acknowledging that some events may be restricted to NZ Citizens) and who becomes an Individual Competitive Member by:
  - (i) becoming a member of a Club by completing the membership requirements of the Club (as determined by the Club) and by doing so becomes an Individual Competitive Member of Surfing New Zealand; or
  - (ii) becoming a member of Surfing New Zealand directly by completing the Individual Competitive Membership requirements of Surfing New Zealand;
- (b) A Recreational Member is an individual who wishes to align with the Objects and be associated with Surfing New Zealand activities but not be eligible to compete in Surfing New Zealand competitive events, and who becomes an Individual Recreational Member by becoming a member of Surfing New Zealand directly by completing the Individual Recreational Membership requirements of Surfing New Zealand.

9.2 Every application for individual membership is in writing and must:

- (a) be signed by the applicant;
- (b) provide the name, residential address, date of birth and occupation of the applicant;
- (c) include payment of the subscription due for the current year; and
- (d) include any other information reasonably requested by Surfing New Zealand.

## **10. LIFE MEMBERS**

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10.1 Life membership may be granted in recognition and appreciation of outstanding service by an individual for the benefit of Surfing New Zealand. Any such person may be nominated for life membership of Surfing New Zealand but must be nominated by a Regional Body.

10.2 Nominations in writing, setting out the grounds for the nomination must be received by Surfing New Zealand at least 60 days before a General Meeting. The Board must determine, in its discretion whether or not the nomination should be forwarded to a General Meeting for determination by the Members by Special Resolution at the General Meeting.

10.3 The benefits of Life Membership are determined by the Board.

## **11. MEMBERS RIGHTS AND OBLIGATIONS**

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11.1 Members acknowledge and agree that:

- (a) All applications for membership (except Life Membership which has its own process) will be determined by, or on behalf of the Board in the discretion of the decision maker.
- (b) they are bound by this Constitution and the regulations of Surfing New Zealand;



- (c) they are bound by the Sports Anti-Doping Rules (see Rule 4.3);
- (d) to receive membership entitlements, they must meet all requirements of membership set out in this Constitution or as otherwise set by Surfing New Zealand;
- (e) the failure to comply with Rule 11.1 may result in withdrawal of membership entitlements but does not excuse them from being bound by this Constitution;
- (f) they are entitled to all rights, entitlements, and privileges of membership conferred by this Constitution.
- (g) Any Membership fee and levy must be paid as and when required by Surfing New Zealand.
- (h) No Member will be entitled to enter or organise any competition, be a Board member, hold office or any position in Surfing New Zealand or be entitled to attend or vote at any General Meeting unless all fees and levies have been paid by that member as required by Surfing New Zealand.

11.2 Each Member that is not an individual (for example Clubs, Regional Bodies and Associates) must:

- (a) administer, promote and develop surfing in accordance with the purposes of the Member, the Objects, this Constitution and any regulations of Surfing New Zealand;
- (b) if it is required to be incorporated (for example Regional Bodies, Incorporated Clubs and Incorporated Associates), maintain incorporation under the Incorporated Societies Act 1908;
- (c) on request, provide to Surfing New Zealand a copy of its constitution and any proposed amendments to it;
- (d) adopt the Objects and adopt a constitution which is not inconsistent with this Constitution;
- (e) amend its constitution if Surfing New Zealand determines that any rule in it is inconsistent with this Constitution or the regulations of Surfing New Zealand and in respect of Clubs then of the Regional Body of which a Club is a member. If a Club is not a member of a Regional Body then the relevant Regional Body (if any) stipulated by Surfing New Zealand as the appropriate one for the region in which that Club is based;
- (f) act in good faith with loyalty to Surfing New Zealand to ensure the maintenance and enhancement of surfing and Surfing New Zealand, and its reputation, and to do so for the collective and mutual benefit of the Members and surfing;
- (g) operate with, and promote, mutual trust and confidence between Surfing New Zealand and the Members;
- (h) maintain a register of its members and provide the register as requested by Surfing New Zealand, and provide written notice of any change to the details of itself and its members, to Surfing New Zealand within thirty (30) days of the change taking place;
- (i) in collecting personal information from individuals, seek the consent of the individual concerned and at all times comply with the Privacy Act 1993; and
- (j) at all times act in the interests of the Members and surfing.

- 11.3 Membership is annual, expiring on December 31. The membership requirements in this Constitution and any regulations must be completed by each Member by December 31 to renew their membership.

## **12. RESIGNATION AND TERMINATION OF MEMBERSHIP**

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- 12.1 A Member may resign by notice in writing to Surfing New Zealand. The resignation takes effect from the end of the current financial year in which it occurs but the Member resigning remains liable to pay all fees, levies and any other amounts to the end of that year. Upon resignation the Member ceases to hold himself or herself out as a Member and must return any property owned by Surfing New Zealand.
- 12.2 Membership may also be suspended or terminated as a result of a complaints or disciplinary process if a Member is found to have failed to comply with this Constitution or any regulations of Surfing New Zealand or if a Member acts in a manner which is determined in accordance with such process to be harmful to Surfing New Zealand or inconsistent with the standards of behaviours expected of a Member.
- 12.3 A Member whose membership is suspended or terminated as a result of a complaint or disciplinary process may appeal or have the matter reviewed if there is any such process specified in any regulations of Surfing New Zealand. For Termination also see Rule 24.

## **13. MEMBERSHIP FEES**

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- 13.1 Surfing New Zealand will annually determine:
- (a) any membership or other fees payable by each Member;
  - (b) the due date for such fees; and
  - (c) the manner for payment of such fees.

## **14. REGISTER OF MEMBERS**

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- 14.1 Surfing New Zealand keeps and maintains a Register recording the full name, address, class of membership, date of birth (for individuals), and the date of entry of each Member and any other details about each Member as reasonably required to manage memberships or as required by law or as agreed by that Member.

## **15. KAITIAKI (PATRON)**

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- 15.1 Surfing New Zealand has a Kaitiaki (Patron).
- 15.2 Nominations for the Kaitiaki (Patron) are made in the same manner and at the same time as nominations for Appointed Board Members under Rule 18 but instead of being referred to the BAP the nominations are referred to the Board. The Board will:
- (a) assess the experience and ability of the nominees to perform the Kaitiaki (Patron) role as set by the Board; and

- (b) consult with such Members in such timeframe and manner, all as determined by the Board.
- 15.3 The Kaitiaki (Patron) selected by the Board after the assessment/consultation process:
- (a) will be invited by the Board to be the Kaitiaki (Patron);
  - (b) will be appointed at the AGM;
  - (c) will hold office for one (1) year until the conclusion of the next AGM; and
  - (d) may be re-appointed for further subsequent and consecutive terms.
- 15.4 The Kaitiaki (Patron) is entitled:
- (a) to attend and speak at General Meetings but with no right to vote;
  - (b) if requested by the Board, to attend and speak at Board meetings but with no right to vote.

## 16. BOARD

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- 16.1 The governance of Surfing New Zealand is vested in the Board, which may exercise all the powers of Surfing New Zealand and do all things which are not expressly required to be undertaken by Surfing New Zealand at a General Meeting. The Board comprises:
- (a) four (4) individuals elected at the AGM (**Elected Board Members**) being:
    - (i) the North Island Elected Member who is elected by North Island Club Delegates and North Island Regional Body Delegates, and who must have their primary residence in the North Island;
    - (ii) the South Island Elected Member who is elected by South Island Club Delegates and South Island Regional Body Delegates, and who must have their primary residence in the South Island;
    - (iii) the General Elected Board Member elected from among and by the Club Delegates, the Associate Delegates and the Regional Body Delegates; and
    - (iv) the Maori Elected Board Member who is an individual who identifies him or herself as being of the Maori race or a descendent of such individual, and who is elected by the Club Delegates, the Associate Delegates and the Regional Body Delegates.
  - (b) four (4) individuals appointed in accordance with Rule 17 (**Appointed Board Members**).

## 17. BOARD APPOINTMENTS PANEL

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- 17.1 A **Board Appointments Panel** (BAP) is responsible for appointing the four (4) Appointed Board Members.
- 17.2 The BAP comprises three (3) individuals:

- (a) one (1) being the Chairperson of the Board (or his/her nominee), or if s/he is seeking re-appointment or re-election to the Board, then another Board Member not seeking re-appointment or re-election, as determined by the Board;
  - (b) one (1) nominee who is an independent professional experienced in governance and the functions and appointment process of directors and/or trustees in New Zealand, as determined by the Board; and
  - (c) one (1) nominee who is independent of the Board and who has an interest and understanding of surfing in New Zealand, as determined by the Board; and
  - (d) at all times, the Board takes into account and endeavours to ensure a reasonable representation of gender on the Panel.
- 17.3 No person will be eligible to be a member of the BAP, or to remain on the BAP, if any of the circumstances listed in Rule 18.10 have occurred, or occur to that person, as if every reference to a Board Member in that Rule is to an appointee to, or a member of, the BAP.
- 17.4 If the Board is unable to, or fails to appoint the BAP, it is appointed by an individual nominated for that purpose by Sport New Zealand.
- 17.5 The convenor of the BAP is the Chairperson of the Board or his/her nominee.
- 17.6 The members of the BAP remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Board Member for which the BAP was established. This is not to extend beyond the tenure of three (3) years. There is no limit to the number of occasions a person can be appointed to the BAP.
- 17.7 The BAP operates independently of the Board and is responsible for:
- (a) identifying and inviting suitable applicants to be Appointed Board Members;
  - (b) advertising and inviting members of the public to apply to be an Appointed Board Member;
  - (c) receiving and assessing applications and making enquiries and holding interviews and meetings as it sees fit;
  - (d) deciding the appointees.
- 17.8 The BAP determines the Appointed Board Members, based on merit taking into account the following factors about the applicant and the Board as a whole:
- (a) prior experience as a director, trustee, or experience in any other governance role;
  - (b) knowledge of, and experience in surfing generally, at international, national, and/or local level;
  - (c) occupational skills, abilities and experience;
  - (d) knowledge of, and experience in, community, sports and/or not for profit organisations;
  - (e) the desire for conflicts of interest on the Board to be minimised;
  - (f) the desire for a wide range of skills and experience on the Board including skills in commerce, finance, marketing, law or business generally;

- (g) the desire to always achieve at least 40% representation of female members on the Board; and
  - (h) an appreciation of Kaupapa Maori so as to reflect the values of and endeavour to have the voice of Mana Whenua.
- 17.9 No member of the BAP may apply to be a Board Member while a member of the BAP.
- 17.10 The BAP:
- (a) meets when required and in such manner as it thinks fit, including by teleconference;
  - (b) has a quorum of three (3) BAP members for each meeting;
  - (c) makes appointments by unanimous decision.
- 17.11 All information received by the BAP, and its deliberations, are kept confidential except to the extent required by law. Any BAP member who considers s/he may have a potential conflict of interest in considering an applicant, must declare that potential conflict to the convenor. If the convenor considers it appropriate to do so, s/he may require that member to vacate their position on the BAP. If the convenor considers s/he may have a potential conflict of interest, he or she must notify the Board and if the Board considers it appropriate to do so, it may require that member to vacate their position on the BAP.
- 17.12 Any vacancy in the membership of the BAP is filled with a replacement member from the same category under Rule 17.2 from which the vacancy arises.
- 17.13 The Board may remove any member of the BAP if the Board considers, in its sole discretion, that:
- (a) the member has a conflict of interest which has not been satisfactorily resolved to the Board's satisfaction by the convenor;
  - (b) there are circumstances which may give rise to a question of actual or apparent bias in the BAP's composition and/or process; or
  - (c) any of the circumstances listed in Rule 18.10 have occurred to the member.
- 17.14 Before removing any member from the BAP, the Board must notify the member of its proposal to remove them and give the member and the other members of the BAP the opportunity to make submissions on the proposed removal.

## **18. APPOINTMENT AND ELECTION OF BOARD MEMBERS**

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- 18.1 The Board Members are appointed and elected as follows:
- (a) the BAP determines the recruitment and selection process for Appointed Board Members;
  - (b) after completion of its process and no later than 60 days' prior to the AGM the BAP notifies the Chief Executive, the Board, the successful applicants and the unsuccessful applicants of the Appointed Board Member(s) who are to assume office at the completion of the AGM;
  - (c) not later than 55 days prior to the AGM the Chief Executive notifies the Members of the new Appointed Board Members;

- (d) Any individual wishing to be elected as an Elected Board Member must no later than 50 days prior to the AGM, supply to the Chief Executive a form recording their nomination in writing signed by two (2) Members eligible to vote for such Board position and accompanied by a statement of up to 500 words in support of their candidacy;
  - (e) not later than 45 days prior to the AGM the Chief Executive must notify Members of the names and statements in support of the candidates for election at the AGM as Elected Board Members.
- 18.2 Applicants for positions as Board Members may not hold or continue to hold, a position as an employee of Surfing New Zealand if they are appointed or elected as a Board Member.
- 18.3 Subject to Rules 18.6 and 18.12, the term for all Board Members is three (3) years, expiring on conclusion of the relevant AGM. A Board Member may be re-elected for a maximum of one (1) subsequent and consecutive term of office. For the purpose of this Rule 18.3:
  - (a) all terms served by a Board Member prior to the terms commencing immediately after the 2020 AGM will be regarded as just one (1) term of three (3) years for that individual;
  - (b) the one (1) year terms to be served by the Appointed Board Members referred to in Rule 18.6 (c) are not included;
  - (c) the two (2) year terms to be served in Rules 18.6 (a), (b) and (d) are included; and
  - (d) any term of less than two (2) years served by an individual filling a Board vacancy is not included.
- 18.4 No more than three (3) new Board Members will be elected or appointed annually but this restriction does not apply to:
  - (a) the Board elected or appointed at the first AGM under this new Constitution;
  - (b) The elections or appointments to fill vacancies.
- 18.5 Four (4) Appointed Board Members will be appointed by the BAP and four (4) Elected Board Members will be voted in at the first AGM held under the new Constitution.
- 18.6 To establish the rotation of Board Members the initial terms of the eight (8) Board Members elected or appointed at the first AGM held under the new Constitution are:
  - (a) one of the North Island Elected Board Member and the South Island Elected Board Member has a term of two (2) years and the other of them has a term of three (3) years;
  - (b) one of the General Elected Board Member and the Maori Elected Board Member has a term of two (2) years and the other of them has a term of three (3) years;
  - (c) two (2) of the Appointed Board Members has a term of one (1) year;
  - (d) one (1) of the Appointed Board Members has a term of two (2) years;
  - (e) one (1) of the Appointed Board Members has a term of three (3) years.
- 18.7 The allocation of the terms in Rule 18.6 to Board Members is determined by agreement or failing agreement by lot between the respective candidates for the terms.
- 18.8 **Vacancies on the Board:** If there is a vacancy on the Board of:

- (a) An Appointed Board Member and:
    - (i) the vacancy arose six (6) months or more after the last AGM, the remaining Board Members may appoint a person of their choice to fill the vacancy or the Board may leave the vacancy unfilled until the next AGM;
    - (ii) the vacancy arose less than six (6) months after the last AGM the Board must refer the appointment to the BAP which should seek to fill the vacancy in accordance with Rule 18, with such modifications as to timing as it considers appropriate to fill the vacancy as soon as reasonably practicable;
  - (b) An Elected Board Member:
    - (i) Surfing New Zealand must unless agreed otherwise by a majority of the Members eligible to vote for the position, call for nominations and conduct an election by secret ballot whether in person or by postal or electronic voting to fill the vacancy.
- 18.9 An individual who fills a vacancy under Rule 18.8 continues the term of the Board Member they replace.
- 18.10 **Ineligibility:** An individual seeking appointment, election, or to remain in office as a Board Member is eligible to do so whether or not they are a Member of Surfing New Zealand, but the following individuals are not eligible for appointment, election, or to remain in office as a Board Member:
- (a) an employee of, or contractor to Surfing New Zealand;
  - (b) an undischarged bankrupt or is subject to a condition not yet fulfilled or any order under the Insolvency Act 1967;
  - (c) an individual who has been convicted of any offence punishable by a term of imprisonment of two (2) or more years (whether or not imprisonment is imposed) unless that individual has obtained a pardon or has served the sentence imposed;
  - (d) an individual who is prohibited from being a director or officer or promoter or of being involved in management of a company or society, trust, charity or other organisation;
  - (e) an individual who is subject to a property order made that the person is lacking in competence to manage their own affairs under the Protection of Personal and Property Rights Act 1988.
- 18.11 If any of the circumstances listed in Rule 18.10 occur to a Board Member, that Board Member is deemed to have vacated his/her office upon the relevant authority making an order or finding against the Board Member of any of those circumstances. If a Board Member becomes an employee of Surfing New Zealand then upon appointment to such position, that Board Member is deemed to have vacated his/her office as a Board Member.
- 18.12 A Board Member who is no longer eligible because they have served the maximum term allowed may still stand again or be considered by the BAP if the BAP decides there is no reasonable replacement.
- 18.13 **Removal of Board Member:** The Members in an SGM called for this purpose may, by Special Resolution, remove any Board Member if the Members consider the Board Member has breached his or her duties as specified in Rule 19.

- 18.14 Upon receiving a request for an SGM for the purpose of removing a Board Member, the Chief Executive notifies the Members of the SGM in accordance with this Constitution and also sends the notice to all Board Members.
- 18.15 Before voting on the resolution to remove a Board Member, the Board Member affected by the proposed resolution is given the opportunity prior to and at the SGM to make submissions in writing and/or verbally to the Board and the Members about the proposed resolution.
- 18.16 The Board may, with the approval of a motion by no less than two-thirds of the other Board members (i.e. excluding the Board Member who is the subject of the motion), remove any Board Member from the Board, before the expiry of their term if the Board considers the Board Member concerned has seriously breached their duties as specified in Rule 19 such that immediate removal is considered appropriate. Before considering such a motion:
- (a) the Board Member is notified that a Board meeting is to be held to discuss the proposal to remove the Board Member from office; and
  - (b) the Board Member is given an opportunity to make submissions about the proposed motion to the Board in writing prior to the Board meeting and/or by submission in person at the Board meeting.

## 19. DUTIES OF THE BOARD

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- 19.1 **Duties of Board Members:** The duties of each Board Member are to:
- (a) regularly attend Board meetings and General Meetings of Surfing New Zealand;
  - (b) provide good governance for Surfing New Zealand;
  - (c) exercise the powers of the Board for proper purposes;
  - (d) regularly monitor and review the performance of Surfing New Zealand;
  - (e) act in good faith and in the best interests of Surfing New Zealand at all times;
  - (f) act, and ensure Surfing New Zealand acts, in accordance with this Constitution;
  - (g) formulate regulations as are appropriate for Surfing New Zealand;
  - (h) where appropriate, engage in activities to promote, market, represent and fundraise for Surfing New Zealand;
  - (i) disclose to the Board the nature and extent of any interest in a transaction or proposed transaction as soon as the Board Member becomes aware of the fact that s/he has such interest;
  - (j) take such other steps as determined by the Board in respect of any interest of that Board Member that is the same as or similar to those specified in Rule 17.13, which may include, without limitation, abstaining from deliberations and/or vote;
  - (k) not disclose information that the Board Member would not otherwise have available other than in his or her capacity as a Board Member, to any person, or make use of or act on the information except:
    - (i) as agreed by the Board for the purposes of Surfing New Zealand;



- (ii) as required by law; or
  - (iii) to persons, or for reasons identical to those specified in sections 145(2) and 145(3) of the Companies Act 1993;
- (l) do such other things within these Rules as the Board agrees to promote the Objects.

19.2 **Situations Not Provided For Are Determined By The Board:** If any situation arises that, in the opinion of the Board, is not provided for in this Constitution or any regulations, the matter will be determined by the Board.

## 20. BOARD MEETINGS AND PROCEDURE

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- 20.1 At its first meeting following the AGM, the Board must elect a Chairperson.
- 20.2 Except to the extent specified in this Constitution, the Board regulates its own procedure.
- 20.3 The role of a Chairperson is to chair meetings of the Board and to represent the Board and guide the organisation while also supervising the CEO. If the Chairperson is unavailable, another Board Member appointed by the Board undertakes the Chairperson's role during the period of unavailability.
- 20.4 Board meetings may be called at any time by the Chairperson or three (3) Board Members but generally the Board meets at regular intervals agreed by the Board.
- 20.5 The quorum for a Board meeting is five (5) Board Members of the Board.
- 20.6 Each Board Member has one (1) vote. On a tied vote the Chairperson has an additional casting vote. Voting is by voices or upon request of any Board Member by a show of hands or by a ballot. Proxy and postal voting are not permitted.
- 20.7 A resolution in writing, signed or consented to by email, facsimile or other forms of visible or other electronic communication by the required majority for such resolution is as valid as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents in the same form each signed by one (1) or more Members of the Board.
- 20.8 Any Board Member may participate in any meeting of the Board and vote on any proposed resolution without being physically present. This may only occur at meetings by telephone, through video conference or by other electronic communication provided that prior notice of the meeting is given to all Board Members and all persons participating in the meeting are able to hear each other effectively and simultaneously. Participation by a Board Member in this manner at a meeting constitutes the presence of that Board Member at that meeting.
- 20.9 The Board may, by majority vote, pay an honoraria and/or reimburse its Board Members for their actual and reasonable expenses incurred in the conduct of Surfing New Zealand's business. Prior to doing so the Board must establish a policy to be applied to any question of reimbursement and the payment of the honoraria.

## 21. CHIEF EXECUTIVE

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- 21.1 There is a Chief Executive of Surfing New Zealand employed on terms determined by the Board.

- 21.2 The Chief Executive is under the direction of the Board and is responsible for the day-to-day management of Surfing New Zealand within any authority delegated by the Board.
- 21.3 The Chief Executive may attend Board meetings if required by the Board, but has no vote.

## 22. GENERAL MEETINGS

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- 22.1 Surfing New Zealand must hold an AGM once every year at such time, date and place as the Board determines but not more than 15 months after the last AGM.
- 22.2 Any other General Meeting is a SGM.
- 22.3 **AGM:** Surfing New Zealand must give Members at least 120 days' written notice of the AGM.
- 22.4 By no later than 30 days before the date set for the AGM, proposed motions (including alterations to the Constitution), and other items of business must be received in writing by the Chief Executive from the Members and/or the Board.
- 22.5 The following items of business are discussed at the AGM:
- (a) the receipt from the Board of an audited annual financial report for the preceding financial year;
  - (b) the announcement of any new Appointed Board Members;
  - (c) the election of Elected Board Members;
  - (d) the appointment of scrutineers for the meeting;
  - (e) any motion(s) proposing to alter the Constitution;
  - (f) any other motions; and
  - (g) any other items of business properly submitted for consideration at the AGM.
- 22.6 In addition to the notification to Members of the candidates for election by no later than 45 days prior to the date of the AGM (Rule 18), an agenda of items of business for the AGM is sent to the Board and the Members by no later than 21 days before the date of the AGM. No additional items of business not listed on the agenda can be voted on but may be discussed by unanimous agreement of the meeting.
- 22.7 **SGM:** The Board must call a SGM upon a written request from:
- (a) the Board itself; or
  - (b) Members with signed support for their request from all of the following:
    - (i) 35% of the number of Incorporated Clubs; and
    - (ii) 35% of the number of Unincorporated Clubs; and
    - (iii) 35% of the number of Associates.
- 22.8 The written request for an SGM must state the purpose for which the SGM is requested.
- 22.9 The SGM must only deal with the business for which the SGM is requested.

- 22.10 Not less than 30 days notice of the SGM together with a copy of the written request for the AGM is communicated to Members and the Board. The Board can shorten the period of notice if the Board in its discretion determines that the SGM business is of such urgency that a shorter period of notice is to be given.
- 22.11 **Minutes:** Minutes are kept of General Meetings and are available upon request by Members.
- 22.12 Any irregularity, error or omission in notices, agendas and relevant papers of General Meetings or the omission to give notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the meeting does not invalidate the meeting nor prevent the meeting from considering the business of the meeting provided that:
- (a) The Chairperson in his or her discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error or omission;
  - (b) A motion to proceed is put to the meeting and a majority, of two-thirds of votes cast, is obtained in favour of the motion to proceed.
- 22.13 **Quorum:** No business is transacted at any General Meeting unless a quorum is present at the time when the meeting is due to commence. The quorum for a General Meeting is 40% of the Members who are entitled to vote. The quorum must be present at all times during the meeting.
- 22.14 If a quorum is not obtained within half an hour of the intended commencement time of the General Meeting is adjourned to such other day, time and place as determined by the Board. If no quorum is obtained at the further General Meeting, the Members present are deemed to be a valid quorum for the AGM but not for a SGM.
- 22.15 **Participation Without Being Physically Present:** If the Board allows it for the particular General Meeting, Members eligible to do so may participate and vote in a General Meeting without being physically present. This may only occur by telephone, through video conference or by other electronic communication specified by the Board, and provided that
- (a) prior notice of the Member intention to be present by such means is given to, and as required by Surfing New Zealand; and
  - (b) all persons participating in the General Meeting are able to hear each other effectively and simultaneously.
- Participation by a Member in this manner at a General Meeting constitutes their presence at that meeting.
- 22.16 **Control of General Meetings:** The Chairperson of Surfing New Zealand presides at the General Meeting but if unavailable another member of the Board (appointed by the Board) presides. In the absence of both, the Members present elect a chairperson.
- 22.17 **Voting:** The following persons are eligible to be present and vote at a General Meeting:
- (a) one (1) delegate of each Club; and
  - (b) one (1) delegate of each Associate;
  - (c) one (1) delegate from each Regional Body.

Individual Members may attend a General Meeting but do not have voting rights.

- 22.18 **Votes in Elections:** The voting entitlement for electing Elected Board Members is:
- (a) one (1) delegate of each North Island Club is eligible to vote on the election of the North Island Elected Board Member, the General Elected Board Member and the Maori Elected Board Member;
  - (b) one (1) delegate of each South Island Club is eligible to vote on the election of the South Island Elected Board Member, the General Elected Board Member and the Maori Elected Board Member;
  - (c) one (1) delegate of each North Island Regional Body is eligible to vote on the election of the North Island Elected Board Member, the General Elected Board Member and the Maori Elected Board Member;
  - (d) one (1) delegate of each South Island Regional Body is eligible to vote on the election of the South Island Elected Board Member, the General Elected Board Member and the Maori Elected Board Member;
  - (e) one (1) delegate of each Associate is eligible to vote on the election of the General Elected Board Member and the Maori Elected Board Member.
- 22.19 **Method of Voting:** Voting is by voices or show of hands as determined by the Chairperson of the meeting unless a secret ballot is called for and approved by Ordinary Resolution. Postal, e-mail or electronic votes will be permitted if allowed by the Board-see Rule 22.23.
- 22.20 Elections of the Elected Board Members at an AGM are undertaken by secret ballot. The highest polling candidate will be declared elected. If the votes are tied for the highest polling candidates ,a further vote will occur between the tied candidates and if still tied the tied candidates draw lots to determine the successful candidate.
- 22.21 If there are:
- (a) the same number of nominations for Elected Board Members as positions available those nominees are deemed elected without an election;
  - (b) insufficient nominations for an Elected Board Member position it is left vacant and dealt with as a vacancy.
- 22.22 An Ordinary Resolution at a General Meeting is sufficient to pass a resolution except as specified in this Constitution.
- 22.23 Postal, e-mail or electronic votes are only permitted where the Board has determined that they will be allowed for the specific meeting and subject to any conditions set by the Board.
- 22.24 In the event of a tied vote on an Ordinary Resolution at a General Meeting, but excluding elections, the Chairperson has an additional or casting vote.
- 22.25 If a secret ballot is conducted, two (2) scrutineers are appointed to count the votes.

## 23. FINANCES

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- 23.1 Unless otherwise determined by the Board, the financial year of Surfing New Zealand ends on the 30th day of June.

- 23.2 Statements of financial position and financial performance are audited (if required by the Board) each year and if so the audited accounts are submitted to the AGM. If a review is permitted then the reviewed accounts are submitted to the AGM. The auditors or reviewers are appointed each year by the Board.

## **24. DISPUTES, COMPLAINTS, DISCIPLINARY AND GRIEVANCES**

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- 24.1 Surfing New Zealand may consider, resolve and/or decide the following matters and/or may establish processes for dealing with:
- (a) complaints or disciplinary issues regarding alleged misconduct of a Member;
  - (b) disputes between Members (in their capacity as Members);
  - (c) disputes between a Member and Surfing New Zealand;
  - (d) investigations including those relating to complaints, disciplinary issues or grievances of Members (relating to their rights and interests as Members).
- 24.2 The processes may be set out in this Constitution and regulations but if not and/or in addition to them, the processes are as determined by the Board for the particular matter arising.
- 24.3 **Complaints: Members Right To Be Heard:** If Surfing New Zealand deals with a complaint or institutes disciplinary proceedings regarding alleged misconduct of a Member, the Member has a right to be heard before the complaint or procedure is resolved or any outcome is determined. A Member must be taken to have been given the right if:
- (a) the Member is fairly advised of all allegations concerning the member, with sufficient details and time given to enable a Member to prepare a response; and
  - (b) the Member has a reasonable opportunity to be heard in writing or at an oral hearing (if one is to be held); and
  - (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (d) an oral hearing (if any) is held before the decision maker and the Member's written statement or submissions are considered by the decision maker.
- 24.4 **Grievances : Members Right To Be Heard:** If Surfing New Zealand considers a Member's grievance alleging damage to the Member's rights or interests as a Member or to the Members' rights or interests generally, the Member has a right to be heard before the grievance is resolved or any outcome is determined. A Member must be taken to have been given the right if:
- (a) the Member has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (c) an oral hearing (if any) is held before the decision maker and the Member's written statement or submissions are considered by the decision maker.

- 24.5 Surfing New Zealand must as soon as is reasonably practicable after receiving a complaint or grievance, investigate and determine the complaint or grievance in a fair, efficient and effective manner. Surfing New Zealand and any person who is a decision maker may impose any reasonable penalty or sanction including but not limited to suspension or termination of a Member's rights or membership.
- 24.6 **Circumstances In Which A Process May Not Proceed:** Despite the content of this Rule 24 and any other provision in this Constitution or in regulations, Surfing New Zealand may decide not to proceed with a matter if:
- (a) the matter is trivial; or
  - (b) the matter does not appear to disclose:
    - (i) in the case of a complaint, any material misconduct; or
    - (ii) in the case of a grievance, any material damage to a member's rights or interests; or
  - (c) the complaint or grievance appears to be without foundation or there is no apparent evidence to support it; or
  - (d) the person who makes the complaint or brings the grievance has an insignificant interest in the matter; or
  - (e) the conduct, incident, event, or issue has already been investigated and dealt with by or on behalf of Surfing New Zealand.
- 24.7 Surfing New Zealand may refer a complaint or grievance to:
- (a) a subcommittee or an external person to investigate and report; or
  - (b) a subcommittee, a tribunal or an external person to investigate and make a decision.
- 24.8 An individual may not act as a decision maker in relation to a complaint or grievance if two (2) or more members of the decision making body (whether it is a Board, committee, complaints subcommittee, Tribunal or other) consider that there are reasonable grounds to believe that the individual may not:
- (a) be impartial; or
  - (b) be able to consider the matter without a predetermined view.
- 24.9 **Limited Right of Review of Termination of Membership:** If any process of Surfing New Zealand affords a right of appeal or review for a person who is subject to any matter referred to in Rule 24 the person may access that process but has no other or additional rights of appeal or review except in the following case. If the penalty is that a Member's membership is terminated and the appeal process has not already included a right of appeal to the Sports Tribunal of New Zealand, the Member may appeal to the Sports Tribunal. The appeal must be filed within 10 days of the decision which is being appealed and the appeal will be heard and determined in accordance with the Rules of the Tribunal and may only be made on one (1) or more of the following grounds:
- (a) that natural justice was denied;
  - (b) that the decision maker acted outside of its power and/or jurisdiction;

- (c) that substantially new evidence has become available after the decision which is being appealed was made;
- (d) the penalty was either excessive or inappropriate.

## **25. COMMON SEAL**

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- 25.1 If Surfing New Zealand is required to have a common seal it is kept in the control of the Board and may be affixed to any document only by resolution of the Board and in the presence of and with the accompanying signatures of the Chairperson and another Board Member.

## **26. ALTERATIONS OF RULES**

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- 26.1 The Constitution may only be altered, added to or rescinded by Special Resolution passed at a General Meeting.
- 26.2 No alteration, addition to or revision of this Constitution is approved if it affects the not-for-profit objects, personal benefit prohibition or the winding-up rules of Surfing New Zealand. This Rule 26.2 must not be removed from the Constitution and must be included in any alteration of, addition to or revision of the Constitution.

## **27. APPLICATION OF INCOME AND PROHIBITION ON PERSONAL BENEFIT**

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- 27.1 The income and property of Surfing New Zealand must be applied solely towards the promotion of the Objects.
- 27.2 No Member of Surfing New Zealand, or anyone associated with a Member, is allowed to take part in, or influence any decision made by Surfing New Zealand in respect of payments to, or on behalf of, the Member or associated person of any income, benefit, or advantage.
- 27.3 Except as provided in this Constitution:
- (a) No portion of the income or property of Surfing New Zealand is paid or transferred, directly or indirectly, by way of dividend, bonus, or otherwise to any Member or Board Member; and
  - (b) No remuneration or other benefit in money or money's worth is paid, or given, by the organisation to any Member or Board Member except under Rule 27.4.
- 27.4 Any payments made to a Member or to a person associated with a Member, must be for goods or services that advance the not for profit purpose of Surfing New Zealand and must be reasonable and relative to payments that would be made between unrelated parties. This provision and its effect must not be removed from this Constitution and must be included in any alteration of, addition to, or revision of, this Constitution.

## **28. LIQUIDATION**

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- 28.1 Surfing New Zealand must be liquidated if:

- (a) at a General Meeting of its Members, a Special Resolution is passed appointing a liquidator and requiring Surfing New Zealand to be liquidated;
- (b) the resolution is confirmed by further Special Resolution at a subsequent General Meeting called for that purpose and held not earlier than thirty (30) days later.

28.2 If upon the winding-up or dissolution of Surfing New Zealand there remains after the satisfaction of all its debts and liabilities any property whatsoever, the property is not to be paid to or distributed among the Members but is to be given or transferred to some other not for profit association, organisation or body having objects similar to the Objects, or to some other charitable organisation or purpose within New Zealand.

## 29. INDEMNITY

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29.1 Surfing New Zealand indemnifies every current and former member of the Board, the BAP, the Chief Executive and other officers and employees of Surfing New Zealand in respect of all liability arising from the proper performance of their functions connected with Surfing New Zealand.

## 30. TRANSITION

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30.1 The following Rules apply to facilitate transition of Surfing New Zealand to the full implementation of this new Constitution. If there is inconsistency between this Rule 30 and any other Rule in this Constitution this Rule 30 applies to the extent of the inconsistency and the other Rule does not:

- (a) Persons who immediately before the date of adoption of this new Constitution are:
  - (i) Individual Members, are deemed to have satisfied the requirements to be Individual Members under Rule 9 and are Individual Competitive Members unless Surfing New Zealand decides they are Individual Recreational Members;
  - (ii) Clubs, are deemed to have satisfied the requirements to be either an Incorporated Club or Unincorporated Club under Rule 7 according to whether they are incorporated or unincorporated;
  - (iii) Probationary Members are deemed to be a Club on the same basis as in Rule 30.1 (a)(ii) above and any remaining probationary period and conditions continue to apply as provided under Rule 7 in the new Constitution;
  - (iv) Members of the Board being the President, Vice-President, North Island Representative, South Island Representative and one (1) other Board member all retire at the First AGM after adoption of this new Constitution;
- (b) During the period from the date of adoption of this new Constitution until completion of the first AGM after date of adoption of this new Constitution, (the transition period), the Board:
  - (i) comprises the current members of the Board being the President, Vice-President, North Island Representative, South Island Representative and one (1) other Board member;



- (ii) the quorum for Board meetings is three (3) Board Members;
- (iii) in order to have all the necessary flexibility which may be needed to ensure a smooth and effective transition of Surfing New Zealand from the previous Constitution to this new Constitution the Board may;
  - (1) amend any date by which this new Constitution requires anything to be done;
  - (2) decide any issue arising including where such issue would normally be or is required to be guided or determined by a regulation and that regulation is not yet in place.