



# NEWTOWN BREAKAWAYS FOOTBALL CLUB CLUB CONSTITUTION

Amended AGM 2018

## Proposed Amendment – AGM 2021

### 14/ COMPOSITION OF THE BOARD

#### 14.1/ Composition of the Board

The Board shall comprise:

- (a) of whoever so wishes to volunteer from the Newtown Breakaways Football Club, being players, retired players or any other person who wishes to be affiliated with the club.

#### **NEW Item**

- (b) ***The Board shall comprise of a Minimum of 50% Women and/or Non-Binary Members***

#### **PURPOSE:**

The Board following consultation with members and the strategic planning meeting in Dec 2020 considered that in recognition of the history of the club being originated by women that it was important to promote gender equity as a key platform for the NBFC as the club into the future management of the Club.

The Board of the NBFC unanimously passed this resolution to amend the Constitution at their meeting Wed 20 Jan 2021 and recommends the Club support the proposed amendment.

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**ASSOCIATIONS INCORPORATION ACT 2009 (NSW)**

**CONSTITUTION**

**NEWTOWN BREAKAWAYS FOOTBALL CLUB**

**1. NAME OF CLUB**

The name of the Club is Newtown Breakaways Football Club.

**2. DEFINITIONS AND INTERPRETATION**

**2.1 Definitions**

In this Constitution unless the contrary intention appears:

“**Act**” means the *Associations Incorporation Act 2009 (NSW)*.

‘**Board**’ means the body managing the Club and consisting of the directors.

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

“**Director**” means a Member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this Constitution.

“**General Meeting**” means the annual or any special general meeting of the Club.

‘**Individual Member**’ means a registered, financial Member of the Club who is at least 16 years of age.

“**Intellectual Property**” means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Association or any activity of or conducted, promoted or administered by the Association in New South Wales.

‘**Junior Member**’ means a registered Member of the Club who is younger than 16 years of age.

‘**Life Member**’ means an Individual appointed as a Life Member of the Club under **clause 5.2**.

‘**Local area**’ means the geographical area for which the Club is responsible as recognised by the regional league and AFL (NSW/ACT) of which the Club is a Member.

‘**Member**’ means a Member of the Club for the time being under **clause 5**.

‘**AFL**’ means Australian Football League

‘**Objects**’ means the Objects of the Club in **clause 3**.

‘**Register**’ means a register of Members kept and maintained in accordance with **clause 7**.

‘**League**’ means a community Australian football league affiliated to AFL (NSW/ACT)

‘**Special Resolution**’ means a Special Resolution defined in the Act.

‘**AFL (NSW/ACT)**’ means the AFL (NSW/ACT) Commission Ltd, the governing body Australian football within NSW and ACT

## **2.2 Interpretation**

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes Regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

## **2.3 Severance**

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

## **2.4 The Act**

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Model rules under the Act are expressly displaced by this Constitution.

## **3. OBJECTS OF THE CLUB**

The Newtown Breakaways Football Club (NBFC) is a social and sporting organisation for women and their supporters dedicated to the ongoing enjoyment and improvement of AFL football. The club aims to provide an inclusive and supportive environment in which to address the needs of its players, umpires, administrators and supporters.

To achieve this, the NBFC actively:

- Promotes an inclusive environment open to anyone satisfying the requirements of the club and / or the league(s) to which the NBFC is affiliated.
- Represents the interest of its members including but not limited to players, umpires, administrators and supporters.
- Provides an environment in which to learn, practice and improve the skills and qualifications needed to play, umpire and administer the game of AFL football.

#### **4. POWERS OF THE CLUB**

Solely for furthering the Objects, the Club has, in addition to the rights, powers and privileges conferred on it under section 25 of the Act, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

#### **5. MEMBERS**

##### **5.1 Members**

The Members of the Club shall consist of:

- (a) Life Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote at General Meetings;
- (b) Individual Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote at General Meetings;

##### **5.2 Life Members**

- (a) The Board may recommend to the annual general meeting that any natural person who has rendered service to the Club be appointed as a Life Member.
- (b) A resolution of the annual general meeting to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Board must be a Special Resolution.
- (c) A person must accept or reject the Club's resolution to confer life membership. Upon acceptance, the person's details shall be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member.

#### **6. MEMBERSHIP APPLICATION**

##### **6.1 Application for Membership**

An application for membership must be:

- (a) in the form prescribed from time to time by the Board (if any), from the applicant or its nominated representative and lodged with the Club; and
- (b) accompanied by the appropriate fee (if any).

##### **6.2 Discretion to Accept or Reject Application**

- (a) The Club may accept or reject an application whether the applicant has complied with the requirements in **clause 6.1** or not. The Club shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Club accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Club. The Register shall be amended accordingly as soon as practicable.
- (c) Where the Club rejects an application, it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Club.

### **6.3 Renewal**

Members (other than Life Members) must renew their membership annually in accordance with the procedures set down by the Club from time to time.

### **6.4 Deemed Membership**

- (a) All persons who are, prior to the approval of this Constitution under the Act, Members of the Club shall be deemed Members from the time of approval of this Constitution under the Act.
- (b) Any Members of the Club, prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.4(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

## **7. REGISTER OF MEMBERS**

### **7.1 Club to Keep Register**

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

- (a) the full name, address and date of entry of each Member; and
- (b) where applicable, the date of termination of membership of any Member.

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

### **7.2 Inspection of Register**

Having regard to the Act, confidentiality considerations and privacy laws, an extract of the Register, excluding the address or other direct contact details of any Member, shall be available for inspection (but not copying) by Members, upon reasonable request.

### **7.3 Use of Register**

Subject to the Act, confidentiality considerations and privacy laws, the Register may be used to further the Objects, in such manner as the Board considers appropriate.

## **8. EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) this Constitution forms a contract between each of them and the Club and that they are bound by this Constitution and the Regulations.
- (b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Board or other entity with delegated authority;
- (c) by submitting to this Constitution and Regulations they are subject to the jurisdiction of the Club, the League, AFL (NSW/ACT) and the AFL.
- (d) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Australian Football; and

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

## **9. DISCONTINUANCE OF MEMBERSHIP**

### **9.1 Notice of ceasing membership**

- (a) A Member who has paid all arrears of fees payable to the Club may resign or withdraw from membership of the Club by giving one month's notice in writing to the Club.
- (b) Once the Club receives a notice of resignation of membership given under **clause 9.1(a)**, it must make an entry in the Register that records the date on which the Member ceased to be a Member.

### **9.2 Discontinuance for Breach**

- (a) Membership of the Club may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations, including, but not limited to, the failure to pay any monies owed to the Club, failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **clause 9.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.2(a)** by the Club giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.

### **9.3 Member to Re-Apply**

A Member whose membership has been discontinued under **clauses 9.1 or 9.2**:

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

### **9.4 Forfeiture of Rights**

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Club and its property and shall not use any property of the Club including Intellectual Property. Any Club documents, records or other property in the possession, custody or control of that Member shall be returned to the Club immediately.

### **9.5 Membership may be Reinstated**

Membership which has been discontinued under this **clause 9** may be reinstated at the discretion of the Board, with such conditions as it deems appropriate.

### **9.6 Refund of Membership Fees**

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance.

## 10. DISCIPLINE

- (a) The Board may commence or cause to be commenced disciplinary proceedings against a Member who has allegedly:
- (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations or any resolution or determination of the Board or any duly authorised committee
  - (ii) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Club and/or Australian Football; or
  - (iii) brought the Club, any other Member or Australian Football into disrepute.
- That Member will be subject to and will submit unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Club set out in the Regulations.
- (b) The Board may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations but is subject always to the Act.

## 11. SUBSCRIPTIONS AND FEES

The annual membership fees or other levies payable by Members to the Club and the time for and manner of payment shall be as determined by the Board.

## 12. EXISTING DIRECTORS

The Members of the administrative or governing body (by whatever name called) of the Club in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next annual general meeting following such adoption of this Constitution. After this General Meeting the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

## 13. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Club shall be managed and the powers of the Club shall be exercised by the Board. In particular, the Board shall act in accordance with the Objects and shall operate for the benefit of the Members and the community throughout the local area.

## 14. COMPOSITION OF THE BOARD

### 14.1 Composition of the Board

The Board shall comprise:

- (a) of whoever so wishes to volunteer from the Newtown Breakaways Football Club, being players, retired players or any other person who wishes to be affiliated with the club.

### **NEW Item to be added**

- (b) ***The Board shall comprise of a Minimum of 50% Women &/or Non Binary Members***

### 14.2 Election and Appointment of Directors

- (a) The elected Directors shall be elected under **clause 15**.

- (b) The appointed Directors may be appointed under **clause 16**.

### **14.3 Portfolios**

The Club requires no specific portfolios to be allocated to its Directors. The Board may however at its discretion opt to assign portfolios to specific Directors as it deems necessary. In the absence of specific portfolios being assigned any associated portfolio functions may be shared amongst the Directors of the board.

## **15. ELECTED DIRECTORS**

### **15.1 Nomination for Board**

- (a) Nominations for elected Director positions shall be on a voluntary basis for whoever wishes to volunteer their time.

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

- (a) Directors elected under **clause 15** shall be elected for a term of one year. Subject to provisions in this Constitution relating to removal of Directors, elected Directors shall remain in office from the conclusion of the annual general meeting at which the election occurred until the conclusion of the second annual general meeting following.

## **16. VACANCIES ON THE BOARD**

### **16.1 Grounds for Termination of Director**

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) dies
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health
- (d) resigns his office in writing to the Club
- (e) is absent without the consent of the Board from meetings of the Board held during a period of six months
- (f) in the opinion of the Board (but subject always to this Constitution):
  - (i) has acted in a manner unbecoming or prejudicial to the Objects and interests of the Club
  - (i) has brought the Club into disrepute
- (g) is removed by Special Resolution; or
- (h) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth.)*.

## **17. MEETINGS OF THE BOARD**

### **17.1 Board to Meet**

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it may adjourn and otherwise regulate its meetings as it sees fit. A director may at any time convene a meeting of the Board within reasonable time.

### **17.2 Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of directors shall for all purposes be deemed a determination of the Board. All directors shall have one vote on any question. Where voting is equal, the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote, the motion will be lost.

### **17.3 Resolutions Not in Meeting**

- (a) A resolution may be made by members of the board through the use of electronic mail or telephone.
- (b) Without limiting the power of the Board to regulate its meetings as it sees fit, a meeting of the Board may be held where one or more of the directors is not physically present at the meeting.

## **18. ANNUAL GENERAL MEETING**

- (a) The Club's annual general meeting shall be held in accordance with the Act and this Constitution. It should be held on a date and at a venue determined by the Board.
- (b) All General Meetings other than the annual general meeting shall be special General Meetings and shall be held in accordance with this Constitution.

## **19. NOTICE OF ANNUAL GENERAL MEETING**

- (a) Notice of every annual general meeting shall be given to every Life Member and Individual Member entitled to receive notice. Notices shall be sent to the e-mail addresses appearing in the Club's Register.
- (b) A notice of a General Meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.
- (c) At least fourteen (14) days notice of a General Meeting shall be given to those entitled to receive notice.

## **20. BUSINESS**

- (a) The business to be transacted at the annual general meeting includes the consideration of accounts and the reports of the Board and auditors as well as the election of directors under this Constitution.
- (b) All business that is transacted at a general meeting and at an annual general meeting, with the exception of those matters set down in **clause 20(a)**, shall be special business.

## **21. GRIEVANCE PROCEDURE**

- (a) The grievance procedure set out in this rule applies to disputes under these rules between a Member and:
  - (i) another Member; or
  - (ii) the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all parties.
- (c) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten (10) days, refer the dispute for resolution to an independent tribunal established by the Club in accordance with the procedures determined by the Board from time to time.
- (d) The Board may prescribe additional grievance procedures in the Regulations consistent with this **clause 21**.

## **22. RECORDS AND ACCOUNTS**

### **22.1 Records**

The Club shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the Club and the Board). It shall produce these as appropriate at each meeting.

### **22.2 Records Kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act.

### **22.3 Board to Submit Accounts**

The Board shall submit the Club's statements of account to the Members at the annual general meeting in accordance with this Constitution and the Act.

### **22.4 Accounts Conclusive**

The statements of account, when approved or adopted by an annual general meeting, shall be conclusive except when errors have been discovered within three months after such approval or adoption.

### **22.5 Negotiable Instruments**

All cheques, promissory notes, bankers, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Club, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two duly authorised directors or in such other manner as the Board determines.

### **22.6 Financial Year**

That the Financial Year will be a Calendar Year: 1 Jan to 31 Dec.

## **23. INCOME**

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

**23.2** The income and property of the Club shall be applied solely towards the promotion of the Objects.

**23.3** Except as prescribed in this Constitution or the Act:

- (a) no portion of the income or property of the Club shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office of the Club.

**23.4** Payment in good faith of or to any Member can be made for:

- (a) any services actually rendered to the Club whether as an employee, director or otherwise
- (b) goods supplied to the Club in the ordinary and usual course of operation
- (c) interest on money borrowed from any Member
- (d) any out-of-pocket expenses incurred by a Member on behalf of the Club.

Nothing in **clauses 23.2 or 23.3** preclude such payments provided they do not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **24. WINDING UP**

- (a) Subject to this Constitution the Club may be wound up in accordance with the Act.
- (b) The liability of the Members of the Club is limited.
- (c) Every Member undertakes to contribute to the assets of the Club in the event of it being wound up while a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of the Club contracted before the time at which they ceased to be a Member and towards the costs, charges and expenses of winding up the Club, such an amount not exceeding one dollar (\$1.00).

## **25. DISTRIBUTION OF PROPERTY ON WINDING UP**

If upon winding up or dissolution of the Club there remains, after satisfaction of all its debts and liabilities, any assets or property, they shall not be paid to or distributed among the Members. Instead, the assets or property shall be given or transferred to another organisation(s) that has Objects similar to those of the Club. The organisation(s) must prohibit the distribution of its income and property among its Members to an extent at least as great as that imposed on the Club by this Constitution. The organisation(s) is to be determined by the Members in a general meeting at or before the time of dissolution. If this does not occur, the decision is to be made by a judge of the Supreme Court of New South Wales or other court as may have or acquire jurisdiction in the matter.

## **26. ALTERATION OF CONSTITUTION**

This Constitution can be altered as required by members of the board.

## **27. REGULATIONS**

The Board may at its discretion create, edit or nullify club regulations and by-laws as it deems necessary to pursue the aim and objectives of the club (see section 3).

### **27.1 Board to Formulate Regulations**

The Board may formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Club, the advancement of the purposes of the Club and Australian Football in the local area. Such Regulations must be consistent with the Constitution and any policy directives of the Board.

### **27.2 Regulations Binding**

All Regulations are binding on the Club and all Members.

### **27.3 Regulations Deemed Applicable**

All clauses, rules, by-laws and regulations of the Club in force at the date of the approval of this Constitution (as long as such clauses, rules, by-laws and regulations are not inconsistent with or have been replaced by, this Constitution) shall be deemed to be Regulations and shall continue to apply.

### **27.4 Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins approved by the Board and prepared and issued by the Club. The Club shall take reasonable steps to distribute information in the bulletins to Members. The matters in the bulletins are binding on all Members.

## **28. STATUS AND COMPLIANCE OF CLUB**

### **28.1 Recognition of Club**

The Club is a Member of the Sydney Women's Football League, which is in turn affiliated to AFL (NSW/ACT) and is recognised by those bodies as the entity responsible for the delivery of Australian football in the local area and is subject to compliance with this Constitution.

### **28.2 Constitution of the Club**

This Constitution will clearly reflect the Objects of the region and state bodies for Australian football and will conform to the Constitutions of those bodies, subject always to the Act.

### **28.3 Club and League**

The Club may not resign, disaffiliate or otherwise seek to withdraw from its affiliated league body without approval by Special Resolution.

## **29. NOTICE**

- (a) Notices may be given by the Club to any person entitled under this Constitution to receive any notice. The notice can be sent by electronic mail to the Member's address.
- (b) A notice is sent by electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.

**30. INDEMNITY**

- (a) Every director and employee of the Club will be indemnified out of the property and assets of the Club against any liability incurred by them in their capacity as director or employee in defending any proceedings, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Club shall indemnify its directors and employees against all damages and losses (including legal costs) for which any such director or employee may be or become liable to any third party in consequence of any act or omission, except wilful misconduct:
  - (ii) in the case of a director, performed or made while acting on behalf of and with the authority, express or implied, of the Club; or
  - (iii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Club.

.....  
End/