

Hale Aquatics

CONSTITUTION

Approved at 07/11/2024

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THE CONSTITUTION OF Hale Aquatics

1 NAME

The name of the Association is Hale Aquatics

2 COLOURS

The colours of the Association shall be dark blue, light blue.

3 INTERPRETATION

3.1 In this Constitution, unless the contrary indication appears:

“**Act**” means the Associations Incorporation Act 2015 (WA).

“**Affiliate Member**” means each person appointed as an affiliate member of the Club in accordance with this Constitution.

“**Annual General Meeting**” means a meeting convened under Clause 22.1(b).

“**Associate Member of SWA**” means a natural person who is registered with SWA.

“**Association**” and “**Club**” means the association described in Clause 1.

“**Adult**” means any person 18 years and over.

“**Committee Member**” means each person referred to in Clause 14.1.

“**Written Communication**” includes both electronic mail and paper formats

“**Financial Year**” means the 12 months ending on each 31 March.

“**General Meeting**” means a meeting convened under Clause 22.1(a).

“**Head Coach**” means the person appointed in accordance with Clause 33.

“**Honorary Member**” means each person appointed as an honorary member of the Club in accordance with this Constitution.

“**Life Member**” means each person appointed as a life member of the Club in accordance with this Constitution.

“**Management Committee**” means the committee referred to in Clause 14.1

“**Member**” means each member of the Club, of whatever category.

“**Member Club of SWA**” means a member club as defined in clause 5.1.1 of the SWA Constitution.

“**Office Bearer**” means the positions on the Management Committee named in clause 14.1(a).

“**Ordinary Resolution**” means any resolution of the Club other than a Special Resolution.

“**President**” means the person appointed to act as President and Chairperson of the Club, from time to time.

“Proxy Form” means the form sent out by the Secretary to the Voting Members prior to any General Meeting, allowing for the nomination of a proxy in accordance with Clause 28.

“Register” means the register of Members to be kept in accordance with Clause 11.

“Registrar” means the person appointed to act as Registrar of the Club, from time to time.

“Related” means the relationship of child and parent or child and guardian, as applicable.

“Secretary” means the person appointed to act as Secretary of the Club from time to time.

“Special General Meeting” means a General Meeting of the Club which is not an Annual General Meeting.

“Special Resolution” has the meaning given to that expression by section 51 of the Act.

“Swimming” includes pool and open water swimming.

“Tier 1 Association” means an incorporated association to which section 64(1) of the Act applies.

“Tier 2 Association” means an incorporated association to which section 64(2) of the Act applies.

“Tier 3 Association” means an incorporated association to which section 64(3) of the Act applies.

“Treasurer” means the person appointed to act as Treasurer of the Club, from time to time.

“Vice President” means the person appointed to act as Vice President and Vice Chairperson of the Club, from time to time.

“Voting Member” means a Member who meets the requirements in Clause 6.1.

“SWA” means Swimming Western Australian (Inc.) or any body replacing that association.

3.2 Interpretation

- (a) The singular shall mean and include the plural and vice versa.
- (b) Any gender shall mean and include all other genders.
- (c) Reference to a person includes an individual, the estate of an individual, a body politic, partnerships, firms, a corporation and a statutory or other authority or association (incorporated or unincorporated) and other entities recognized by law.
- (d) References to clauses or sub-clauses shall refer to rules or sub-rules of this Constitution.
- (e) Where any word or phrase is given a defined meaning, any other part of speech or grammatical form in respect of the word or phrase has a corresponding meaning.

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- (f) References to any agreement or legislation include reference to any amendment variation, addition, substitution or re-enactment, which may have been made or any hereafter be made.

4 OBJECTS

4.1 The objects of the Club are:

- (a) To promote and encourage participation, both competitively and recreationally, in swimming.
- (b) To arrange teaching programs and programs of competition for swimming Members with other clubs and associations with like objects, and other like entities;
- (c) use and protection of the Intellectual Property created by members of the Club;
- (d) formulate or adopt and implement appropriate policies, including in relation to member protection, sexual harassment, non-discrimination, equity, drugs in sport, health, safety, junior and senior programs and such other matters as arise from time to time as issues to be addressed in swimming;
- (e) represent the interests of its Members and of swimming generally in any appropriate forum; and
- (f) To do all such other things as the Club may deem to be incidental or conducive to attainment of the above objects or any of them.

5 POWERS & NOT FOR PROFIT BODY

5.1 Subject to the Act, the Association may do all things necessary or convenient for carrying out its objectives or purposes in a lawful manner.

5.2 The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.

5.3 A payment may be made to a member out of the funds of the Association only if it is authorised under clause 5.4.

5.4 A payment to a member out of the funds of the Association is authorised if it is:

- (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
- (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or

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- (c) the payment of reasonable rent to the member for premises leased by the member to the Association; or
 - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

6 MEMBERSHIP

6.1 The Club shall have Members in the following categories:

- (a) Swimming Member;
- (b) Parent/Guardian Member
- (c) Masters Member
- (d) Life Member;
- (e) Affiliate Members;
- (f) Honorary Member; and
- (g) Associate Member.

6.2 A **Swimming Member** is a Member who wishes to actively participate in the swimming activities of the Club and includes competitive swimmers and recreational swimmers. A Swimming Member must be a registered Associate Member of SWA.

6.3 A **Parent/Guardian Member** is a Member who is the parent or guardian of a Swimming Member who is under 18 years of age.

6.4 A **Masters Member** is a member who has reached the age of at least 20 years and who is desirous of:

- (a) Competing in masters swimming competitions; or
- (b) Swimming regularly in order to promote fitness and improve their general health.

6.5 A **Life Member** means each person who is nominated by the Management Committee as a Life Member and the nomination is approved by the Life Membership Committee in accordance with this clause. The criterion for being nominated as a Life Member is significant and meritorious service to the Club.

- (a) The Life Membership Committee shall be elected by the Management Committee and consist of a minimum of two (2) and a maximum of four (4) life members, where practicable, plus one (1) Management Committee member.
- (b) The Life Membership Committee shall have the authority to elect to Life Member of the Club any member, or former member, of the Club who has been nominated by the Management Committee and who in the opinion of the Life Membership Committee warrants this honour due to outstanding service to the Club.
- (c) A minimum of eight (8) years' membership of the Club is required before a Member may be nominated by the Management Committee.

The Management Committee shall at the time of nominating the member to the Life Membership Committee provide a full written history of the Member's service.

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- (d) The Life Membership Committee shall within four (4) weeks of receipt of a nomination and, within a further fourteen (14) days, inform the Management Committee in writing of its decision.
- 6.6 An **Affiliate Member** is a member who wishes to swim in the club meets, from time to time, and does not participate in coaching, and is not eligible to participate for points in the Club Championship.
- 6.7 An **Honorary Member** means each person who is appointed to this membership category by the Management Committee provided the term of such membership does not extend beyond the date of the Annual General Meeting, and may include the following:
- (a) Patron;
 - (b) Honorary solicitor;
 - (c) Honorary auditor;
 - (d) Honorary medical officer;
 - (e) Honorary Member Protection Information Officer; and
 - (f) Any other person or persons the management committee considers appropriate.
- 6.8 An **Associate Member** is a Member who is not in any other category of membership.
- 6.9 **Voting Members** are all Adult Members (other than Honorary Members and Affiliate Members), and shall be entitled to vote at General Meetings of the Club.
- 6.10 Each Parent/Guardian Member and Masters Member shall have all the privileges of being a member of the Club except being able to participate as a competitive or recreational swimmer in the swimming activities of the Club.
- 6.11 A person may apply to have more than one category of membership and provided such application is accepted by the Management Committee that person shall have all the privileges of each relevant category of membership. However, each Member shall have only one vote.

7 MEMBERSHIP REQUIREMENTS

- 7.1 Any person who supports the objects of the Club may apply to become a Member.
- 7.2 A person who is under 18 years of age cannot become a Member unless at least one parent or guardian becomes a Parent/Guardian Member.
- 7.3 An application to become a Member must be made to the Registrar and be:
- (a) In writing, state the category of membership required and otherwise on the form prescribed by the Management Committee from time to time; or
 - (b) online / electronically as prescribed from time to time by the Management Committee, from the applicant and lodged with the Association; and
 - (c) Accompanied with the membership fee prescribed by the Management Committee from time to time; and
 - (d) Accompanied with another application of an Adult to become a Parent/Guardian Member, if the applicant is under the age of 18.
- 7.4 Discretion to accept or reject application

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- (a) the Management Committee may accept or reject an application whether the applicant has complied with the requirements of clause 7.2 or not, and shall not be required or compelled to provide any reason for such acceptance or rejection. In considering an application for membership the Management Committee must act reasonably and in good faith.
 - (b) where the Association receives an application under clause 7.2, the application shall be deemed pending until such time as the Management Committee has approved the application. Such an application must be considered within 30 days of lodgment.
 - (c) membership of the Association shall be deemed to commence upon acceptance of the application by the Association. The Register shall be updated accordingly as soon as practicable.
 - (d) if a membership application is rejected, the Association shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Association. No reasons for rejection need be given.

8 MEMBERSHIP FEES

- 8.1 Life Members and Honorary Members shall not be obliged to pay any fees to the Club in relation to their membership.
- 8.2 The Management Committee shall fix membership fees for each Financial Year or for such other period as the Management Committee considers appropriate and may vary those fees from time to time.
- 8.3 The Management Committee may establish sub-categories of membership and set different membership fees for each subcategory. Fees may vary with respect to the different categories of membership and / or the period of membership and may be waived or varied in accordance with Clause 8.5.
- 8.4 Each Member shall pay to the Club on such date as the Management Committee from time to time determines, the amount of the membership fee applicable to that Member determined under Clause 8.2 or 8.3.
- 8.5 If a member has not paid the seasonal membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.
- 8.6 The Management Committee may from time to time waive or vary any membership fee in special cases and shall not disclose or be required to disclose the grounds upon which in any instance such waiver or variation was made. Any such waiver or variation shall not require approval of the Members in general meeting.

9 DISCIPLINARY ACTION

9.1 A Member ceases to be a member if:

- (a) Being an individual, that Member dies;
- (b) that Member's membership is not renewed (and any subscriptions paid) within 1 month after the relevant date fixed by or under Clause 8.3 or by such later date as the Management Committee may from time to time determine;
- (c) That Member resigns by notice in writing to the Registrar;
- (d) That Member applies for transfer to another SWA swimming club; or
- (e) That Member is expelled from the Club.

9.2 Suspension or Expulsion

- (a) A Member may be suspended or expelled by the Management Committee upon breach of any clause of this Constitution, including but not limited to the failure to pay any monies owed to the Association, failure to comply with the By-Laws or any resolution or determination made or passed by the Management Committee or any duly authorised committee, or by bringing the Club into disrepute.
- (b) The Secretary must give the Member written notice of the proposed suspension or expulsion at least 28 days before the committee meeting at which the proposal is to be considered by the committee.
- (c) The notice given to the Member must state:
 - (i) when and where the committee meeting is to be held; and
 - (ii) the grounds on which the proposed suspension or expulsion is based; and
 - (iii) that the member, or the Member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion;
- (d) At the committee meeting, the committee must:
 - (i) give the Member, or the Member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and
 - (ii) give due consideration to any submissions so made; and
 - (iii) decide:
 - whether or not to suspend the Member's membership and, if the decision is to suspend the membership, the period of suspension; or
 - whether or not to expel the Member from the Club.
- (e) A decision of the committee to suspend the Member's membership or to expel the member from the Association takes immediate effect.
- (f) The committee must give the member written notice of the committee's decision, and the reasons for the decision, within 7 days after the committee meeting at which the decision is made.

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- (g) A Member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Committee's decision under Clause 9.2(d), give written notice to the secretary requesting the appointment of a mediator under clause 10.3.
 - (h) If notice is given under Clause 9.2(f) the member who gives the notice and the committee are the parties to the mediation.

9.3 Consequences of ceasing to be a Member

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

9.4 Consequences of suspension

- a) During the period a Member's membership is suspended, the member:
 - (i) loses any rights (including voting rights) arising as a result of membership; and
 - (ii) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- b) When a Member's membership is suspended, the Registrar must record in the register of members —
 - (i) that the Member's membership is suspended; and
 - (ii) the date on which the suspension takes effect; and
 - (iii) the period of the suspension.
- c) When the period of the suspension ends, the Registrar must record in the register of members that the Member's membership is no longer suspended.

10 RESOLVING CONCERNS AND DISPUTES

10.1 Member Protection Information Officer

- a) The Association must ensure that at least one of its Members, at any one time, is a Member Protection Information Officer.
- b) A Member Protection Information Officer any person who:
 - (i) is a Member;
 - (ii) has been selected by the Management Committee;
 - (iii) agrees to be a Member Protection Information Officer; and
 - (iv) has completed any training course which the Association requires Member Protection Information Officers to have completed, from time to time.
- c) A Member Protection Information Officer shall be available to the Members for Members to discuss and voice their complaints and concerns in relation to the Association and the activities of the Association.
- d) Provided that the Member Protection Information Officer does not have any legal obligation to report any matter disclosed to them in their capacity as Member

Protection Information Officer, the Member Protection Information Officer shall keep all matters disclosed to them confidential.

10.2 Disputes Arising under the Rules

- a) This clause applies to:
 - (i) disputes between Members; and
 - (ii) disputes between the Association and one or more Members that arise under the Rules or relate to the Rules of the Association.
- b) In this Rule “Member” includes any former Member whose membership ceased not more than six months before the dispute occurred.
- c) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this Rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- e) The Secretary must convene a Committee Meeting within 28 days after the Secretary receives notice of the dispute under clause 28.2(d) for the Committee to determine the dispute.
- f) At the Committee Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- g) The Secretary must inform the parties to the dispute of the Committee’s decision and the reasons for the decision within 7 days after the Committee Meeting.
- h) If any party to the dispute is dissatisfied with the decision of the Committee they may elect to initiate further dispute resolution procedures as set out in the Rules.
- i) If the dispute being considered by the Committee relates to a matter concerning the welfare of a child, the Committee must have regard to the process set out to such disputes in the Swimming Australia Limited Member Welfare Policy and Swimming Australia Limited Child Welfare Policy (as updated from time to time).
- j) If the dispute relates to a Committee Member, it shall be considered that with respect to such dispute, the Committee Member has a material personal interest and therefore the Committee Member must not:
 - (i) be present (in his or her capacity as a Committee Member) while the matter is being considered at any Committee Meeting; or
 - (ii) vote on the matter.

10.3 Mediation

- a) This clause applies where a person is dissatisfied with a decision made by the Committee under Clause 10.2.
- b) Where the dispute relates to a proposal for the suspension or expulsion of a Member this Rule does not apply until the procedure under clause 9.2 in respect of the proposed suspension or expulsion has been completed.

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- c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by clause 10.2(c), or a party to the dispute is dissatisfied with a decision made by the Committee under clause 10.2(g) a party to a dispute may:
- (i) Provide written notice to the Secretary of the parties to, and the details of, the dispute.
 - (ii) Agree to, or request the appointment of, a mediator.
- d) The party, or parties requesting the mediation must pay the costs of the mediation.
- e) The mediator must be:
- (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - if the dispute is between a Member and another Member – a person appointed by the Committee; or
 - if the dispute is between a Member or more than one Member and the Association, the Committee or a Committee Member then an independent person who is a mediator appointed to, or employed with, a not-for-profit organisation.
- f) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session
- i) The mediator, in conducting the mediation, must:
- (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow all parties to consider any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process
- j) The mediator must not determine the dispute and the mediation must be confidential.
- k) Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute

10.4 Inability to Resolve Disputes

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

10A MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE

A right, privilege or obligation, which a Member has by reason of being a Member:

- (a) Is not capable of being transferred or transmitted; and
- (b) Terminates upon cessation of the membership.

11 REGISTER OF MEMBERS

11.1 The Registrar shall establish and maintain a Register in accordance with section 53 of the Act; such Register shall specify following for each Member (and record and changes):

- (a) name;
- (b) residential, postal or email address;
- (c) class of membership;
- (d) date became a member

11.2 Electronic details of the Register shall be protected using the appropriate and up-to-date techniques. Any downloaded files with Members registration information shall be stored in a password-protected location, and destroyed after use. Loss or compromise of the electronic membership database should be reported in accordance The Federal Privacy Act (1998) and subsequent amendments.

11.3 Printed details of Register should be shredded when no longer required.

11.4 A Member who wishes to inspect the Register must contact the Registrar to make the necessary arrangements.

11.5 If:

- (a) a Member inspecting the Register wishes to make a copy of, or take an extract from, the Register under section 54(2) of the Act; or
- (b) a Member makes a written request under section 56(1) of the Act to be provided with a copy of the Register,

the Management Committee may require the Member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

12 MEMBERS LIABILITY

The liability of a Member to contribute towards the payment of the debts and liabilities of the Club or the costs, charges, and expenses of the winding up of the Club is limited to the amount, if any, unpaid by the Member in respect of themembership of the Club.

13 EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws, and any determination, resolution or policy which may be made or passed by the Management Committee or any other entity with delegated authority;
- (c) by submitting to this Constitution and the By-Laws they are subject to the

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- jurisdiction of, and become a member of the Association;
- (d) the Constitution and By-Laws are necessary and reasonable for promoting the Objects and particularly the development of swimming; and
 - (e) they are entitled to all benefits, advantages, privileges and services of Association membership.

14 MANAGEMENT COMMITTEE

- 14.1 The Management Committee shall consist of:
 - (a) Office Bearers; and
 - (b) Ordinary Committee Members
- 14.2 The following are the Office Bearers:
 - (a) President
 - (b) Vice-President
 - (c) Secretary
 - (d) Treasurer
 - (e) Registrar
- 14.3 The Management Committee shall determine the number of Ordinary Committee Members but there shall be a minimum of two, and a maximum of seven, Ordinary Committee Members.
- 14.4 The Management Committee may allocate specific roles and duties to some or all of the Ordinary Committee Members.
- 14.5 All Committee Members must be Adult Members (18 years of age or over).
- 14.6 The term of office of each Committee Member shall:
 - (a) Begin when the Committee Member is elected at an Annual General Meeting, or is appointed to fill a casual vacancy under Clause 19; and
 - (b) End when positions are declared vacant at the next Annual General Meeting, subject to clause 19.
- 14.7 A person must not hold 2 or more of the offices mentioned in clause 14.2.
- 14.8 A Committee Member shall be eligible to be re-elected to the same position on Management Committee at the completion of his / her term of office.
- 14.9 A Committee Member must be a Member of the Club and hold a current and valid "Working with Children Check" card unless exempted by having children who are Members of the Club.
- 14.10 No person shall be entitled to hold a position on the Management Committee if the person has been convicted of, or imprisoned in the previous five years for:
 - (a) an indictable offence in relation to the promotion, formation or management of a body corporate;
 - (b) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or

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- (c) an offence under Part 4 Division 3 or section 127 of the Act unless the person has obtained the consent of the Commissioner.

14.11 No person shall be entitled to hold a position on the Management Committee if the person is, according to the Interpretation Act section 13D, a bankrupt or a person whose affairs are under insolvency laws, unless the person has obtained the consent of the Commissioner.

14A SUBCOMMITTEES AND SUBSIDIARY OFFICERS

14.12 To help the Management Committee in the conduct of the Association's business, the Management Committee may, in writing, do either or both of the following

- (a) appoint one or more subcommittees.
- (b) create one or more subsidiary offices and appoint people to those offices.

14.13 A subcommittee may consist of the number of people, whether or not Members, that the committee considers appropriate.

14.14 A person may be appointed to a subsidiary office whether or not the person is a member.

14.15 Subject to any directions given by the Management Committee:

- (a) a subcommittee may meet and conduct business as it considers appropriate; and
- (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

14B DELEGATES

14.16 Where the Club by virtue of affiliation with another organisation, or part of another organisation, is entitled to send a delegate to represent the Club, the Management Committee may appoint a delegate, and such delegate shall act or vote in accordance with the directions of the Management Committee.

14.17 Any delegate appointed under Clause 14.16 shall hold office until the first Management Committee Meeting following the Annual General Meeting.

14.18 A delegate shall be eligible to be re-elected as delegate at the completion of his / her term of office.

15 PRESIDENT

15.1 Subject to this Clause, the President or, in the President's absence, the Vice-President shall preside at all General Meetings and Management Committee Meetings.

15.2 In the event of the absence, or unwillingness to act, of both the President and the Vice President at:

- (a) A General Meeting - then a Member elected by the other Members present at the General Meeting shall preside at the General Meeting; or
- (b) A Management Committee meeting - then a Member elected by the other Committee Members present shall preside at the Management Committee Meeting.

16 SECRETARY

16.1 The Secretary shall:

- (a) Deal with the correspondence of the Club;
- (b) Consult with the President in order to set the agenda at meetings and convene General Meetings and Management Committee Meetings;
- (c) Keep full and correct minutes of the proceedings of the Management Committee Meetings and General Meetings;
- (d) Comply on behalf of the Club with:
 - (i) Section 35(1) of the Act in respect of the rules of the Club by keeping and maintaining in an up to date condition the rules of the Club and, upon the request of a member of the Club, must make available those rules for the inspection of the member and the member may make a copy of or take an extract from the rules but will have no right to remove the rules for that purpose; and
 - (ii) Section 58(2) of the Act by maintaining
 - (A) The names and residential or postal addresses of the persons who hold the offices of the Club provided for by these rules, including all offices held by the persons who constitute the Committee and persons who are authorised to use the common seal of the Association under Clause 30; and
 - (B) The names and residential or postal addresses of any persons who are appointed or act as trustees on behalf of the Association;
- (e) Have custody of all the books, documents, records and registers, written and electronic formats, of the Club, other than those required to be kept and maintained by or in the custody of the Treasurer or Registrar; and
- (f) Perform such other duties as are imposed by this Constitution on the Secretary.

17 TREASURER

17.1 The Treasurer shall:

- (a) ensure all moneys payable to the Club are collected, and that receipts are issued for those moneys in the name of the Club;
- (b) ensure that any amount paid to the Club are credited to the appropriate account of the Club, as directed by the Management Committee;
- (c) ensure timely payments from the funds of the Club as authorised by a General Meeting or by the Management Committee;
- (d) ensure that the Club complies with the account keeping requirements in Part 5 of the Act;
- (e) ensure that all cheques are signed, or electronic payments, are approved by two Office Bearers, and any other person specially nominated to act in this capacity by the Management Committee;

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- (f) if the Association is a Tier 1 Association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
 - (g) if the Association is a Tier 2 Association or Tier 3 Association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;
 - (h) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act; and
 - (i) carrying out any other duty given to the treasurer under these rules or by the Management Committee.

18 REGISTRAR

- 18.1 The Registrar shall comply on behalf of the Club with Section 53 of the Act by keeping and maintaining an up-to-date condition a register of the Members of the Club in accordance with clause 11.

19 COMMITTEE VACANCIES

- 19.1 A casual vacancy in the office of a Committee Member occurs if a Committee Member:
- (a) Dies;
 - (b) Resigns office by notice in writing given to the Secretary (or to the President if the resigning member is the Secretary);
 - (c) Becomes ineligible to accept an appointment or act as a Management Committee member under section 39 of the Act; or
 - (d) Expelled as a Member.
- 19.2 In the event of a casual vacancy occurring in the membership of the Management Committee, or that position was not filled by election at the most recent annual general meeting, the Management Committee may appoint any Member to fill the vacancy and the Member so appointed shall hold the office, subject to this Constitution, until the next Annual General Meeting following the date of appointment
- 19.3 At a general meeting, the Club may by resolution:
- (a) remove a Committee Member from office; and
 - (b) elect a Member who is eligible under Clause 14 to fill the vacant position.
- 19.4 A Committee Member who is the subject of a proposed resolution under Clause 19.3 may make written representations (of a reasonable length) to the Secretary or Chairperson and may ask that the representations be provided to the Members.

20 POWERS OF THE MANAGEMENT COMMITTEE

- 20.1 The Management Committee, subject to the Act, and this Constitution, and to any resolution passed by the Club at the Annual General Meeting, or at a Special General Meeting:

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- (a) Shall control and manage the affairs of the Club
 - (b) May exercise all such functions as may be exercised by the Club other than those functions that are required by this Constitution to be exercised at a General Meeting;
 - (c) May delegate to such a person or persons (as individuals or sub-committees) any function (being less than the total functions of the Management Committee) that it shall determine upon such terms and subject to such directions as it shall from time to time decide, provided that in so doing:
 - (i) The Management Committee shall at all times retain management of the Club; and provided
 - (ii) And such delegation shall be non-transferable by the delegate.
 - (d) Has power to perform all such acts and do all such things as to appear to the Management Committee to be necessary or desirable for the proper management of the affairs of the Club.
 - (e) Has the power from time to time to make, alter, amend or rescind any Policies of the Club for the regulation of the Club (including without limitation, Policies dealing with the discipline of members and the types and amounts of fees to be paid by members), providing that:
 - (i) Any such Policies are not inconsistent with the Objects of the Club,
 - (ii) Any Policy so made, and the alteration, amendment or rescission shall be submitted for ratification at the next following Annual General Meeting and if not so ratified shall be taken to be ineffective as and from the date following the date of such Annual General Meeting without affecting the validity of the Policy in the period between when it was passed by the Management Committee and the date of the Annual General Meeting at which it was not ratified.

21 PROCEEDINGS OF THE MANAGEMENT COMMITTEE

21.1 The Management Committee shall meet:

- (a) At least 3 times per year on the date, time, and place determined by the Management Committee;
- (b) Special Management Committee meetings may be convened by the President or any two Committee Members;
- (c) Notice of each Management Committee meeting must be given to each Committee Member at least 48 hours before the time of the meeting;
- (d) The notice must state the date, time, and place of the meeting and must describe the general nature of the business to be conducted at the meeting.

21.2 Each Committee Member has one deliberative vote.

21.3 A question arising at a Committee meeting shall be decided by a majority of votes, but if there is an equality of votes, the person presiding at the Committee Meeting shall have a casting vote in addition to his or her deliberative vote.

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- 21.4 At a Management Committee meeting, four Committee Members, of which at least 3 are Office Bearers or the nominated proxy of an Office Bearer, constitutes a quorum.
- (a) Each Committee Member is entitled to participate in the Management Committee meeting and will have the right to speak and vote in such a meeting, either in person or by proxy, by means of an electronic means of communication, provided the Committee Member can be identified and can participate directly in the meeting proceedings and the discussion via that electronic means of communication.
 - (b) If the necessary quorum is not achieved at a duly called meeting, business may be discussed but any vote called for must be conducted by mail or electronic ballot. Ballots shall be sent to all Committee Members. Balloting shall close at a date set by the President, but in no event shall that date be less than 7 days after the announcement of ballots. A count of the ballots shall then be conducted by the Secretary and witnessed by another Committee Member. The results of a mail ballot shall be binding only if the total number of ballots received constitutes a quorum for the business being transacted. Ballots results shall be noted in the Minutes for the following meeting and retained for inspection for a twelve-month period.
- 21.5 Subject to this Constitution, the procedure and order of business to be followed at a Management Committee meeting shall be determined by the Committee Members present at the relevant meeting.
- 21.6 As required under sections 42 and 43 of the Act, a Committee Member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Management Committee (except if that pecuniary interest exists only by virtue of the fact that the Committee Member is a member of a class of persons for whose benefit the Association is established), must:
- (a) As soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Management Committee; and
 - (b) Not take part in any deliberations or decision of the Management Committee with respect to that contract.

22 GENERAL MEETINGS

- 22.1 The Management Committee:
- (a) May at any time convene a Special General Meeting;
 - (b) Shall convene an Annual General Meeting within six months of the end of each Financial Year; and

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- 22.2 The notice of meeting must:
- (a) specify the date, time and place of the meeting;
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if a Special Resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution.
- 22.3 In the case of an Annual General Meeting, the order in which business is to be transacted is:
- (a) First, to receive and consider:
 - (i) the Management Committee’s annual report on the Association’s activities during the preceding financial year; and
 - (ii) if the Association is a Tier 1 Association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
 - (iii) if the Association is a Tier 2 Association or a Tier 3 Association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
 - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor’s report on the financial statements or financial report;

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- (b) Second, the election of Committee Members, including the election of the Office Bearers detailed in Clause 14.2, for the ensuing year;
 - (c) Third, confirm or vary the membership fees as fixed by the Management Committee for the ensuing year; and
 - (d) Fourth, any other business requiring consideration by the Club in a General Meeting.
- 22.4 The Annual General Meeting shall be held no later than 6 months after the end of the Club's Financial Year.

23 QUORUM AND PROCEEDINGS AT GENERAL MEETINGS

- 23.1 At a General Meeting, 4 Voting Members must be present in person to constitute a quorum.
- 23.2 If within 30 minutes after the time specified for holding of a General Meeting in the notice given.
- (a) As a result of a request or notice referred to as a result of action taken under Clause 22.2 a quorum is not present, the General Meeting lapses; or
 - (b) Otherwise, then as a result of a request, notice or action referred to in paragraph (a) above, the General Meeting stands adjourned to a time to be determined by the President.
- 23.3 If within 30 minutes of the time appointed 23.2(b) for the resumption of an adjourned General Meeting a quorum is not present, the Voting Members who are present in person may nonetheless proceed with the business of that meeting as if a quorum were present.
- 23.4 The President may, with the consent of a General Meeting at which a quorum is present, and shall, if so directed by such a General Meeting, adjourn that general meeting from time to time and from place to place.
- 23.5 There shall not be transacted at an adjourned General Meeting any business other than business left unfinished or on the agenda at the time the General Meeting was adjourned.
- 23.6 When a General Meeting is adjourned for a period of 30 days or more, the Secretary shall give notice under Clause 22 of the adjourned meeting as if that general meeting were a fresh meeting.
- 23.7 At a General Meeting:
- (a) An ordinary resolution put to the vote shall be decided by the majority of votes cast on a show of hands, unless, during the meeting at which the resolution is submitted, a poll is demanded by the President, or by at least 3 Voting Members in person.

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- (b) A Special Resolution put to the vote shall be decided in accordance with section 51 of the Act whereby a resolution is a special resolution if it is passed by a majority of not less than 75% of the Voting Members. A declaration by President that the resolution has been passed as a special resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded by the President, or by at least 3 Voting Members in person.
 - (c) Unless a Poll is demanded under Clause 23.7(a) and Clause 23.7(b), a declaration by the President that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.
 - (d) If a Poll is demanded and taken under Clause 23.7(c), a declaration by the President of the result of the Poll is evidence of the matter so declared.

23.8 A Poll may be demanded by the President or 3 or more Voting Members in person on the election of a person to preside over a General Meeting, or on the question of an adjournment. A Poll shall be taken on that demand being made.

24 NOMINATIONS AND ELECTIONS OF COMMITTEE MEMBERS

- 24.1 Nominations for each position comprising the Management Committee shall be submitted in writing to the Secretary not less than 7 days prior to the Annual General Meeting or by such other date as may be determined by the Management Committee. Such nomination shall be in the form prescribed by the Management Committee from time to time. The Secretary shall keep the nominations confidential until the period for the nominations closes and shall include all such nominations in the agenda of the relevant annual general meeting.
- 24.2 Notwithstanding Clause 24.1 above, the Chairperson of the Annual General Meeting may call for additional nominations at the Annual General Meeting.
- 24.3 Where a ballot is required, it shall be a secret ballot conducted by first past the post ballot and the Chairperson of the Annual General Meeting shall appoint a returning officer or officers
- 24.4 On any ballot between two or more candidates the person obtaining the simple majority of votes shall be elected to the Management Committee.
- 24.5 If on any ballot two or more candidates receive equal numbers of votes, then the Chairperson of the Annual General Meeting shall decide by lot between the candidates.
- 24.6 At the conclusion of voting, the returning officer(s) shall declare the result of each ballot.

25 MINUTES OF MEETING

- 25.1 The Secretary shall cause proper minutes of all proceedings of all general meetings of the Club and Management Committee meetings to be taken and then to be entered within 30 days after holding the meeting or Management Committee meeting, as the case requires, in a minute book kept for that purpose.

25.2 The President or the person who presided over the relevant meeting shall ensure that the minutes taken of a General Meeting or Management Committee meeting are checked and signed as a correct record of the meeting to which those minutes relate.

25.3 When minutes been entered and signed as correct under this clause, they shall, until the contrary is proved, be evidence that:

- (a) The general meeting or committee meeting to which they relate (in this Clause called “**the meeting**” was duly convened and held;
- (b) All proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
- (c) All appointments or elections purporting to have been made at the meeting have been validly made.

26 VOTING RIGHTS OF MEMBERS

26.1 Subject to this Constitution, each Voting Member present in person is entitled to one deliberative vote.

26.2 Subject to this Constitution, a member, which is a body corporate, is entitled to one deliberative vote and may appoint in writing a natural person, whether or not he or she is a member, to represent it at a particular general meeting or at all general meetings. Any such appointment shall be made so by resolution of the board of the other governing body or the body corporate concerned:

- (a) Which resolution is authenticated under the common seal of that body corporate; and
- (b) A copy of which resolution, is lodged with the Secretary.

26.3 A person appointed under Clause 26.2 above to represent a Member which is a body corporate shall be deemed for all purposes to be a Member until that appointment is revoked by the body corporate or in the case of an appointment in respect of a particular general meeting which appointment is not so revoked the conclusion of that meeting.

27 MAIL BALLOT

27.1 Should an issue arise between General Meetings which require a decision or ratification by Members, the Management Committee may at its discretion submit a proposed motion to a Mail vote in such manner as it considers necessary.

27.2 Any such Mail vote shall be in accordance with the following procedure:

- (a) The Secretary shall, upon receipt of the instruction as per Clause 27.1 and as soon as practicable, dispatch a copy of the proposed resolution to each Voting Member.
- (b) Such dispatch shall be, at the discretion of the Management Committee, either by post or by Electronic Mail and shall be accompanied by a notice stating the date on which the voting shall close and indicating whether voting is by post or Electronic Mail.

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- (c) The dispatch of the proposed resolution and notice shall be deemed to have been received by each Voting Member:
 - (i) In the case of dispatch by Post - five (5) working days after posting;
 - (ii) In the case of dispatch by Electronic Mail – on successful delivery to the entities nominated electronic mail address.
 - (d) All votes shall be received by the Secretary in the case of:
 - (i) Mail Votes - within fourteen (14) days of dispatch of the proposed motion and notice, unless otherwise advised;
 - (ii) Electronic Mail - (including facsimile and e-mail) no later than midday on the normal working day preceding the meeting.
 - (e) Upon the close and counting of voting, the President shall examine the votes as tallied and advise Voting Members of the result of the voting so received.
 - (f) A vote captured by authenticated electronic voting system/s via an independent registered organisation, convening an authorised election on behalf of the Club, shall be valid and binding in all respects.

28 PROXIES OF MEMBERS OF ASSOCIATION

- 28.1 A Voting Member may appoint in writing another Voting Member who is a natural person to be the proxy of the appointing member to attend, and vote on behalf of the appointing Voting Member at a nominated General Meeting.
- 28.2 A notice appointing a proxy for a General Meeting is not valid unless:
 - (a) a Proxy Form is completed in full.
 - (b) It is sent by email to the Secretary not less than 24 hours before the commencement of the General Meeting at which a proxy is being appointed.

29 ALTERATION OF CONSTITUTION

- 29.1 The Club may alter the rules of this Constitution, or make rules additional to rules of this Constitution, in accordance with the procedure set out in sections 30, 31 and 33 of the Act, which is as follows:
 - (a) The Club may alter its rules by Special Resolution but not otherwise;
 - (b) Within one month of the passing of a special resolution altering the rules of this Constitution, or such further time as the Commissioner may in a particular case allow, the Club must lodge with the Commissioner notice of the special resolution setting out particulars of the alteration together with a certificate given by a member of the Committee certifying that the resolution was duly passed as a special resolution and that the rules of the Association as so altered conform to the requirements of this Act;
 - (c) An alteration of the rules of the Association does not take effect until Clause 29.1(b) is complied with;

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- (d) An alteration of the rules of the Club having effect to change the name of the Association does not take effect until Clause 29.1(a) to Clause 29.1(c) are complied with and the approval of the Commissioner is given to the change of name;
 - (e) An alteration of the rules of the Association having effect to alter the objects or purposes of the Association does not take effect until sub-rules Clause 29.1(a) to Clause 29.1(c) are complied with and the approval of the Commissioner is given to the alteration of the objects or purposes.

29.2 This Constitution binds every Member and the Club to the same extent as if every Member and the Club had signed and sealed this Constitution and agreed to be bound by all its provisions.

30 Use of the Common Seal

- (a) **If the Association has a common seal on which its corporate name appears in legible characters:**
 - (i) **the Secretary or any other person as the Committee from time to time decides must provide for its safe custody; and**
 - (ii) **it must only be used under resolution of the Committee.**
- (b) **The Association executes a document with its common seal, if the fixing of the seal is witnessed by:**
 - (i) **any two Committee Members; or**
 - (ii) **one Committee Member and a person authorised by the Committee.**
- (c) **Every use of the common seal must be recorded in the Committee's minute book.**

31 SERVICE OF NOTICES

31.1 For the purposes of these rules, a notice may be served by or on behalf of the Club upon any Member either:

- (a) personally, or
- (b) by sending it by post to the Member at the Members postal address as shown on the Register or
- (c) by electronic mail to the electronic mailing address as provided by the Member to the Club at the time of annual membership application, or as otherwise updated during the year.

31.2 Where a document is sent to a person by properly addressing, preparing and posting to the person a letter containing the document, the documents shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post.

32 CLUB COACH

- 32.1 The Management Committee may appoint a Club Coach for such a period, on such terms, and with such duties as the Management Committee considers appropriate. Each appointment shall be length of time nominated by the Management Committee.

33 RELATIONSHIP WITH SWA

- 33.1 The Club shall endeavor to maintain its status as a Member Club of SWA.
- 33.2 The President (or his/her delegate) shall be the Club's delegate to attend general meetings of SWA, and such delegate shall act or vote in accordance with the directions of the Management Committee.

34 MEMBER'S REGISTRATION WITH SWA

- 34.1 All Swimming and Affiliate Members shall be Members of SWA.

35 RULES FOR COMPETITIONS AND MEETS

- 35.1 The Management Committee may from time to time make rules as to the conduct of competitions and meets held by the Club, the appointment of officials and the award of prizes except where those competitions or meets are swum under SWA rules. Any rules so made shall be of effect until rescinded by the Management Committee.

36 DISSOLUTION

- 36.1 The Club may cease its activities and have its incorporation cancelled in accordance with the Act if the Voting Members resolve by Special Resolution that the Club will:
- (a) Apply to the Commissioner for cancellation of its incorporation; or
 - (b) Appoint a liquidator to wind up its affairs.
- 36.2 The Association must be wound up under Rule 37 and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- 36.3 If upon the winding up of the Club, any property of the Club remains after the satisfaction of the debts and liabilities of the Club and the costs, charges and expenses of that winding up, the Special Resolution to apply to the Commissioner for cancellation of its incorporation, or to appoint a liquidator, shall include a **distribution plan** to distribute the surplus property of the Club.
- 36.4 The distribution plan must provide for the distribution of the surplus property of the Club to an entity, or entities, which are mentioned in section 24(1) of the Act; and
- (a) have objects similar to those of the Club; or
 - (b) are established for charitable purposes.

37 BY-LAWS

37.1 The Members of the Association may make, amend and repeal by-laws for the management of the Association by Ordinary Resolution at a General Meeting provided that the by-laws are not inconsistent with the Rules or the Act.

37.2 The by-laws made under Rule 37.1:

(a) Do not form part of the Rules;

(b) May make provision for:

(i) Classes of Membership and the rights and obligations that apply to each Class of Membership;

(ii) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;

(iii) restrictions on the powers of the Committee including the power to dispose of assets;

(iv) a requirement for Members to hold a specified educational, trade or professional qualification; and

(v) any other matter that the Association considers necessary or appropriate; and

Must be available for inspection by Members.

A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or this Constitution.

37.3 A by-law made for the purposes may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.