

April 2009

**CONSTITUTION**

**OF**

**TUGGERANONG VIKINGS  
SWIM CLUB INCORPORATED**

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## 1 RULES

### 1.1 Name

The name of the association shall be the Tuggeranong Vikings Swim Club Incorporated, referred to in this document as the Club.

### 1.2. Definitions

(a) In this Constitution, unless the contrary intention appears:

**“accounting records”** includes invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry, books and records which record documents of prime entry, and any working papers and documents that are necessary to explain the methods and calculations by which the accounts are made up;

**“ACT”** means the Australian Capital Territory;

**“Area”** means a part of New South Wales and/or the ACT having boundaries as approved by the Board of Swimming NSW Limited from time to time, as defined in the By Laws of SNSW. It also means those organisations admitted to this category of membership in accordance with the constitution of Swimming NSW Limited;

**“Association”** means the Area to which SNSW has assigned the Club;

**“Badge”** has the same meaning as **“Logo”**. Both terms are interchangeable;

**“By-Laws”** means the By-Laws of the Club;

**“Club”** means and includes the Tuggeranong Vikings Swim Club as an organization admitted to this category of membership by SNSW in accordance with its Constitution;

**“Committee”** means the Management Committee of the Club elected or appointed as constituted under this Constitution;

**“Committee Member”** means those persons listed in **Rule 11**;

**“Conflict of interest”** is defined as: *“A situation where a person has a personal interest in a matter the subject of a decision or duty of that person.”*<sup>1</sup>

**“Constitution”** means the Constitution for the time being, of the Club;

**“Declaration”** means a Child-Related Employment Declaration as specified in **Rule 2.8**;

**“Delegate”** means the person elected or appointed from time to time by the Club to represent and act for and on behalf of the Club at General Meetings of the Area;

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<sup>1</sup> *Butterworths Concise Australian Legal Dictionary* 2006, 3<sup>rd</sup> edn, Chatswood NSW, 85.

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**“Ex-officio Members”** means those members who have been appointed with the Committee’s approval to the Committee without election;

**“Family membership”** means membership of the Club and SNSW by swimmers aged less than eighteen (18) years of age and at least one responsible adult;

**“FINA”** means *Federation Internationale de Natation* or its successors or assigns. Both terms are interchangeable;

**“Financial Members”** means those persons who have paid the membership and other fees, as may be determined by the Committee from time to time, and whose membership is not suspended;

**“financial year”** means the year ending 31 March each year;

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

**“Indictable Offence”** means, *“An offence that can be prosecuted on indictment”* and which is *“typically tried before a judge and jury”* or where the accused elects to be tried by judge alone;<sup>2</sup>

**“Individual member”** means a registered financial member of the Tuggeranong Vikings Swim Club and Swimming NSW. The term **“Individual Member”** has the same meaning as the term **“Member”**. Both terms are interchangeable;

**“Intellectual Property”** means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or register able) relating to the Club, Area, Swimming New South Wales Limited or Swimming Australia Limited or any event, competition, championship, meeting or swimming activity of or conducted, promoted or administered by or under the control of the Club, Area, Swimming New South Wales Limited and Swimming Australia Limited;

**“Junior member”** means an Individual Member of the Club who is aged less than eighteen (18) years of age;

**“Life Member”** means an Individual Member upon whom life membership of the Club has been conferred under **Rule 2.3**;

The term **“may”** refers to something that is discretionary;

**“Member”** means a person who is identified in **Rule 2** as a member of the Club and has the same meaning as the term **“Individual member”**. Both terms are interchangeable;

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<sup>2</sup> Above, n1 at 281. Additionally, according to the Dictionary notes, *“An offence does not cease to be indictable because it is dealt with summarily: Ross v R (1979) 141 CLR 432: 24ALR 137.”*

**IMPORTANT NOTE:** This High Court decision enables the Club to deal with members who have been convicted of an offence which has been dealt with by a court of summary jurisdiction – namely a Magistrates Court. This is particularly important where a person has been convicted and dealt with in a Magistrates Court of any child sex offence. The Criminal Convictions provisions in the By-laws address dealing with a member convicted of an indictable offence.

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**“Misconduct”** is defined as any circumstance where an Individual Member, Life Member or Junior Member without reasonable excuse, fails to fulfil his or her duty or obligation as a member of the Club under these Rules, By-laws or Policies in force at the time the misconduct was committed;

**“Objects”** means the objects of the Club as set out in **Rule 1B**;

**“Office Bearer”** means those persons listed in **Rule 11**;

**“Policy”** means the policies made by the Club under **Rule 18**;

**“President”** means the person holding office under this Constitution as President of the Club;

**“Quarter”** means any period of three (3) calendar months commencing on and from 1 January in any calendar year;

**“Registrar”** means the person holding this office under this constitution as Registrar of the Club;

**“Responsible Adult”** means a person who exercises parental responsibility for a child under 18 years of age;

**“Single swimmer”** means an Individual Member aged over eighteen (18) years of age who participates in training and/or competition;

**“SAL”** means Swimming Australia Limited, or its successors or assigns. Both terms are interchangeable;

**“SNSW”** means Swimming New South Wales Limited or its successors or assigns being the governing body for swimming in New South Wales and the Australian Capital Territory. Both terms are interchangeable;

**“Secretary”** means the person holding office under this Constitution as Secretary of the Club;

**“Special Resolution”** means a resolution passed:

- (i) by a General Meeting of the Club of which twenty one (21) days notice of intention to move the motion has been given in accordance with this Constitution, and
- (ii) by at least 75% of the persons present and voting at that meeting;

**“the Act”** means the *Associations Incorporation Act 1991 (ACT)*;

**“the Regulations”** means the *Associations Incorporation Regulation 1991 (ACT)*;

The term **“shall”** refers to something that is mandatory and has the same meaning as **“must”**. Both terms are interchangeable;

The term **“should”** refers to something that is strongly recommended and is considered best practice;

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**“Treasurer”** means the person holding office under this Constitution as Treasurer of the Club; and

**“Vice President”** means the person holding office under this Constitution as Vice President of the Club;

(b) In this Constitution:

- (i) a reference to a function includes a reference to a power, authority and duty; and
- (ii) 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 authority or the performance of the duty.

### **1.3 Objects**

The Objects of the Club are to:

- (a) be a competitive swim club characterised by regular, structured training and competition for competitive swimmers and their families;
- (b) promote, teach and encourage the arts of swimming and life saving and to allow each individual to develop their full swimming potential in an atmosphere that promotes fun, family and fitness;
- (c) stimulate public opinion in favour of providing proper accommodation and facilities for swimming;
- (d) affiliate as a Club in accordance with the Constitutions of Swimming Australia Limited, SNSW Limited, an Area of SNSW or their successors or assigns;
- (e) conduct, encourage, promote, advance and administer relevant swimming activities within the Club;
- (f) apply the property and capacity of the Club towards the fulfillment and achievement of these Objectives;
- (g) collect, distribute and publish information in connection with swimming to its members;
- (h) promote Area meetings, competitions and championships and to the extent relevant, promote and assist in conducting other competitions and championships;
- (i) promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of swimming and related activities in the Club; and
- (j) comply with the Objectives of SNSW Limited and the relevant Area in relation to swimming activities.

### **1.4 Interpretation**

In these Rules, unless the contrary intention appears:

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- (a) expressions referring to “**writing**” shall be construed as including references to printing, photography, web site and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.
- (b) words importing the singular include the plural and vice versa;
- (c) words importing any gender include the other gender;
- (d) references to persons include corporations and bodies politic;
- (e) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (f) 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);
- (g) an expression used in the Act that is given a special meaning for the purposes of the Act, has in any Rule of this Constitution that deals with the same matter, the same meaning as in the Act;
- (h) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution.

### **1.5 Act and Rules prevail**

- (a) Where an inconsistency between the Act and these Rules exists, the Act shall apply only to the extent that the inconsistency exists.
- (b) Where an inconsistency between the By-laws and these Rules exists, the Rules shall apply only to the extent that the inconsistency exists.
- (c) Where these Rules or the By-laws are silent on any matter, the Act shall apply.

### **1.6 Application of *Legislation Act 2001***

The provisions of the *Legislation Act 2001* (ACT) apply to and in respect of this Constitution in the same manner as those provisions would so apply if this Constitution were an instrument made under this Act.

## **2 MEMBERSHIP & VOTING**

### **2.1 Members**

- (a) The Members of the Club shall consist of the following three (3) classes of members:
  - i. Individual Members aged 18 years or over who have the right to attend, debate and vote at General Meetings;
  - ii. Life members who have the right to attend, debate and vote at General Meetings; and

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- iii. Individual Members aged less than 18 years (Junior Members) who may attend, but cannot debate and vote at General Meetings;
- (b) The number of Individual Members is unlimited.
- (c) All members regardless of class must be financial members.

## **2.2 Life Membership**

- (a) The Club may, in recognition of special services rendered over a period of not less than ten (10) years to the sport of swimming, appoint Life Members in recognition of their efforts in furthering the interests of the Club.
- (b) A Life Member may only be elected by Special Resolution at an Annual General Meeting. To succeed, a nomination shall have the support of a three quarters majority of those present and eligible to vote.
- (c) A nomination for Life Member may only be made by the Committee or an Individual Member. Nominations for life membership must be received by the Secretary not less than thirty (30) days before the relevant Annual General Meeting.
- (d) Nominations for Life Membership shall be examined by the Committee. After reviewing the nomination and completing any relevant enquires, the Committee shall make a recommendation to the Annual General Meeting in relation to the nomination.
- (e) Upon life membership being conferred, the person's details shall be entered upon the register. A person shall become a Life Member from the time their life membership is formally announced.

## **2.3 Application for membership**

An application for membership:

- (a) must be made in the manner prescribed from time to time by SNSW and the Committee;
- (b) must when made on behalf of a swimmer aged less than 18 years of age, include an application for membership by at least one parent or responsible adult;
- (c) must include SNSW Membership Registration and payment of fees (if not already registered) for each applicant as swimmer, non-swimmer or life member, or such other categories of membership that are set by SNSW from time to time; and
- (d) must be lodged with SNSW and/or the Registrar of the Club, as determined by SNSW and the Committee from time to time.

## **2.4 Admission and refusal of new members**

- (a) The Committee, by way of the Registrar's report, must consider an application for membership at the next Committee meeting held after it receives:
  - (i) the application for membership; and
  - (ii) the appropriate membership fees and where applicable, squad fees.

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- (b) When the membership fees and where applicable, squad fees, are received, membership of the Club shall be deemed to have commenced upon the date of the application, subject to Rules 2.4 (c) to (j).
- (c) Applications for membership included in the Registrar's report will be accepted with its adoption unless subject to an individual recommendation by the Registrar, as provided for in Rules 2.4 (d) to (j).
- (d) The Registrar may make a recommendation to the Committee to accept or refuse an application.
- (e) The Committee has the discretion absolutely to accept or refuse an application for membership or a recommendation from the Registrar.
- (f) If a majority of the members of the Committee present at the meeting vote to accept the applicant as a member, the applicant must be accepted as an Individual member.
- (g) The Committee must decide at the meeting whether to accept or refuse the application.
- (h) If the Committee refuses an application, the Secretary must, as soon as practicable, give the applicant a written notice of the decision.
- (i) The Registrar shall amend the Register accordingly as soon as practicable after the fees are received and membership approved by the Committee.
- (j) Where the Committee refuses an application for membership, the Club shall refund any fees forwarded with the application and the application for membership shall be deemed to be refused by the Club.

## **2.5 Club Membership Fees**

- (a) All Club membership fees are due:
  - (i) by the due date shown on an invoice for new memberships, membership renewal or other notice provided by the Club and/or SNSW to new applicants for membership or existing members by any means as determined by the Committee from time to time; or
  - (ii) on the first day of October in each year.
- (b) The Club's membership fees consist of:
  - (i) a club membership component, as determined by the Committee from time to time; and
  - (ii) a SAL and SNSW component, which includes registration and insurance cover.

## **2.6 Membership Renewal**

Members must reapply or renew membership with the Club and SNSW in accordance with the procedures set down by SNSW and the Committee from time to time.

## **2.7 Members to sign Declaration**

- (a) An Individual Member who is not a Junior Member must when renewing membership, complete and sign a **Child-related Employment Declaration** as specified in the *Crimes (Child Sex Offenders) Act 2005* (ACT) or such other forms as determined by the Committee from time to time; and
- (b) An Individual Member referred to in **Rule 2.7(a)** who without reasonable excuse, refuses or fails to complete at the time of renewing their membership, the forms as set out in Rule 2.8(a), shall be deemed to have failed to comply with the provisions of these Rules and shall have their membership terminated.

## **2.8 Applicants for Club Membership to sign Declaration**

- (a) A person who applies to become an Individual Member of the Club and is aged over eighteen (18) years, must sign a **Child-related Employment Declaration** or such other forms as determined by the Committee from time to time; and
- (b) A person referred to in **Rule 2.8 (a)** who, without reasonable excuse, refuses or fails to complete at the time of application, the form or forms required in 2.8 (a), will not have their application for membership approved.

## **2.9 Voting and liability**

- (a) All Individual Members who are not Junior Members are voting members of the Club.
- (b) The liability of the Members of the Club is limited to the sum of the annual membership fee.
- (c) All Life Members and financial Individual Members shall have equal status in the Club.
- (d) Life Members and financial Individual Members shall be deemed to have agreed to be bound by the provisions of this Constitution the By-laws and any Policies.

## **2.10 Membership entitlements not transferable**

- (a) A right, privilege or obligation which a person has by reason of being a member of the Club, irrespective of the class of membership to which they have been admitted:
  - (i) is not capable of being transferred or transmitted to another person; or
  - (i) terminates upon cessation of that person's membership.

## **2.11 Cessation of membership**

A person ceases to be a member of the Club if the person:

- (a) dies, or for a corporation, is wound up; or
- (b) resigns from membership of the Club; or

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- (c) has their membership terminated by the Club; or
- (d) fails to renew membership of the Club.

### **2.12 When membership ends**

- (a) A member may resign from the Club by giving a written notice of resignation to the Secretary.
- (b) The resignation takes effect at:
  - (i) the time the notice is received by the Secretary; or
  - (i) if a later time is stated in the notice—the later time.

### **2.13 Termination of membership**

- (a) The Committee may terminate a member's membership if the member:
  - (i) is convicted of an indictable offence; or
  - (ii) fails or refuses to comply with any of the provisions of these Rules or Policies; or
  - (iii) has membership or other fees in arrears for at least 1 month, including those payable on behalf of another member; or
  - (iv) conducts himself or herself in a manner that brings the reputation of the Club into disrepute.
- (b) Before the Committee terminates a member's membership, the Committee must give the member a full and fair opportunity to show why the membership should not be terminated.
- (c) If, after considering all representations made by the member, the Committee decides to terminate the membership, the Secretary must give the member a written notice of the decision.

### **2.14 Right of appeal against rejection or termination of membership**

- (a) A person whose application for membership has been rejected, or whose membership has been terminated, may give the Secretary written notice of the person's intention to appeal against the decision.
- (b) A notice of intention to appeal must be given to the Secretary within one (1) month after the person receives written notice of the decision.
- (c) If the Secretary receives a notice of intention to appeal, within one (1) month after receiving the notice the Secretary must convene a Tribunal hearing to decide the appeal.

### **2.15 Tribunal to decide appeal**

- (a) A Tribunal hearing to decide an appeal must be held within three (3) months after the Secretary receives the notice of intention to appeal.

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- (b) At the hearing, the applicant must be given a full and fair opportunity to show why the application should not be rejected or the membership should not be terminated.
- (c) At the hearing, the Tribunal and the members of the Committee who rejected the application or terminated the membership must be given a full and fair opportunity to show why the application should be rejected or the membership should be terminated.
- (d) An appeal must be decided by a majority vote of the Tribunal members present and eligible to vote at the meeting.
- (e) If a person whose application for membership has been rejected does not appeal against the decision within one (1) month after receiving written notice of the decision, or the person appeals but the appeal is unsuccessful, the Secretary must, as soon as practicable, refund the membership fee paid by the person.

### **2.16 Business to be only addressed at appeal**

- (a) At a general meeting of the Association convened under Rule 2.14 (c):
  - (i) no business other than the question of the appeal may be conducted; and
  - (ii) the Committee may place before the Tribunal details of the grounds for the resolution and the reasons for the passing of the resolution; and
  - (iii) the member, or his or her representative, must be given an opportunity to be heard; and
  - (iv) the members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- (b) A resolution is confirmed if, at a general meeting, not less than two-thirds of the members present and voting, vote in favour of the resolution. In any other case, the resolution is revoked.

### **2.17 Compliance of Club**

The Club shall:

- (a) subject to SNSW Constitution, be incorporated;
- (b) provide the Association secretary and SNSW not later than thirty (30) days after its annual general meeting a list of the names of the office bearers elected at the meeting;
- (c) apply its property and capacity solely in pursuit of the Objectives and swimming; and
- (d) at all times act for the joint advantage of the Club, the Members and swimming.

### **2.18 Operation of Constitution**

The Club and the Members agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objectives and the sport of swimming are to be conducted, encouraged, promoted and administered in the Club;

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- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of swimming, its standards, quality and reputation for the collective and mutual benefit of the Members;
- (c) not to do or permit to be done any act or thing, which might adversely affect or derogate from the standards, quality and reputation of swimming and its maintenance and enhancement;
- (d) to make full and proper disclosure to each other of all matters of importance to the Club and swimming;
- (e) to ensure that no Member acquires a material or financial advantage at the expense of the Club or swimming;
- (f) to operate with mutual trust and confidence in pursuit of the Objects;
- (g) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the Objects; and
- (h) to act for and on behalf of the interests of swimming, the Club and the Members.

### **3 SUBSCRIPTIONS AND FEES**

#### **3.1 General**

- (a) The funds of the Club are to be derived from annual membership fees and such additional fees as decided at a Committee meeting of the Club.
- (b) The basis of, the time for and the manner of payment of fees, including annual membership fees and any other fees payable by Members (or any category of Member) to the Club, shall be as decided at a Committee Meeting of the Club.
- (c) Any Member who has not paid all monies due and payable by that Member to the Club and/or SNSW, shall (subject to the Committee's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise, at the Committee's discretion. The Member shall be dealt with at the Committee's discretion, including termination of membership under Rule 2.13 (a) (iii).
- (d) Where the Committee exercises its discretion under **Rule3(c)** and imposes a penalty on a Member who has not paid all monies due and payable by that Member to the Club, the rules of natural justice are hereby expressly excluded and do not apply to the imposition of that penalty.

#### **3.2 Club to Keep Register**

The Club shall keep and maintain a Register of Members by itself, and/or in conjunction with SNSW, in which shall be entered such information as is required by SNSW and under the Act from time to time.

#### **3.3 Inspection of Register**

Having regard to privacy and confidentiality considerations an extract of the register, excluding the address of any Member, shall be available for inspection by a Member (but not copying), upon reasonable request.

### **3.4 Effect of membership**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Club, and they are bound by this Constitution, the By-laws, the Policies and the rules;
- (b) they shall comply with and observe this Constitution, the By-laws, the Policies and the Rules and any determination, resolution or policy that may be made or passed by the Committee;
- (c) by submitting to this Constitution, the By-laws, the Policies and the rules they are subject to the jurisdiction of the Club;
- (d) this Constitution, the By-laws, the Policies and the rules are made in pursuit of a common objective, namely the mutual and collective benefit of the Club, the Members and swimming;
- (e) this Constitution, the By-laws, the Policies and the rules are necessary and reasonable for promoting the Objectives and particularly the advancement and protection of swimming; and
- (f) they are entitled to all benefits, advantages, privileges and services of the Club membership.

## **4 DISCONTINUANCE OF MEMBERSHIP**

### **4.1 Notice of Resignation**

Where a Member ceases to be a member of the Club, an entry recording the date on which the Member ceased to be a member shall be recorded in the Register.

### **4.2 Forfeiture of Property 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 including Intellectual Property. Any of the Clubs documents, records or other property in the possession, custody or control of that Member shall be returned to the Club immediately.

### **4.3 Forfeiture of Representation Rights**

Where a Member ceases to be a member they shall also forfeit all representation rights at General Meetings.

### **4.4 Membership May be Reinstated**

Membership, which has been withdrawn or terminated under this Constitution, may be reinstated on application in accordance with this Constitution.

## **5 DISCIPLINE OF MEMBERS**

### **5.1 General**

Subject to these Rules, if the Committee is of the opinion that a member has:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-laws, the Policies and the rules or any resolution or determination of the Committee; or
- (b) acted in a manner unbecoming of a member or prejudicial to the Objectives and interests of the Club and/or swimming; or
- (c) brought the Club or swimming into disrepute;

the Committee may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of the Club as set out in these Rules and By-laws.

### **5.2 Penalty for misconduct**

(a) Where a member has been found to have acted without reasonable excuse in a manner inconsistent with **Rule 5.1**, the member is deemed to have committed misconduct and the Committee may by resolution:

- (i) suspend that member from membership of the Club for a specified period; or
  - (ii) terminate membership from the Club with immediate effect; or
  - (iii) impose any other such penalty as the Club considers appropriate.
- (b) The member will be advised by notification from the Secretary.

### **5.3 Establishment of a Disciplinary Tribunal**

The Committee shall establish a Disciplinary Tribunal to deal with all disciplinary actions and matters under **Rule 5.1**. A disciplinary action and matter must be solely and exclusively resolved by the Disciplinary Tribunal.

## **6 GENERAL MEETINGS**

### **6.1 Powers of the General Meeting**

The Members in General Meeting shall act in accordance with the Objects and for the mutual and collective benefit of the Club Members and will in addition to its other powers and functions under the Act:

- (a) requisition a General Meeting;
- (b) convene a General Meeting;
- (c) elect or dismiss Committee members;
- (d) alter the Constitution;
- (e) consider the Annual Report;

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- (f) consider Special Resolutions; and
- (g) be the final arbiter on matters referred to it by the Committee.

## **6.2 Annual General Meeting to be held**

- (a) An Annual General Meeting of the Club shall be held at least once in each calendar year and within the period of three (3) months after 31 March in any year in accordance with this Constitution on a date and at a venue to be determined by the Committee.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

## **6.3 Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to every Individual Member, Life Member and Committee Member by means of notices approved by the Committee and prepared and issued by the Club. No other person shall be entitled as of right to receive notices of General Meetings, except the Club's auditor(s).
- (b) At least fourteen (14) days notice of the place, day and hour of the General Meeting shall be given.
- (c) At least seven (7) days notice of the business to be transacted at a General Meeting shall be given, together with:
  - (i) any notice of motion received from any Member or the Committee in accordance with this Constitution; and
  - (ii) the agenda for the meeting.

## **7 BUSINESS OF GENERAL MEETINGS**

### **7.1 Business to be Transacted**

- (a) The following will be the business of the meeting:
  - (i) the confirmation of the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
  - (ii) to receive from the Committee reports on the activities of the Club during the preceding financial year including the President's report and Head Coach's report;
  - (iii) to receive and consider the Treasurer's report including the audited financial statement which is required by the Act to be submitted to Members;
  - (iv) to elect members of the Committee;
  - (v) to receive recommendations from the Committee to confer life membership (if any);
  - (vi) to appoint an auditor;

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- (vii) special notices of motion (if any) with the exception of Constitutional changes; and
- (vii) the appointment of a Patron or Patrons, if agreed to by the meeting.

(b) All business that is transacted at a General Meeting, with the exception of those matters set out in **Rule 7.1(a)** shall be Special Business. “**Special Business**” is defined as business of which a Notice of Motion has been submitted in accordance with **Rule 7.4**.

## **7.2 Patron**

A person may be appointed Patron of the Club at the Annual General Meeting of the Club upon the recommendation of the Committee.

## **7.3 No Other Business**

No business other than that stated on the notice for a meeting shall be transacted at the General Meeting.

## **7.4 Notices of Motion**

All notices of motion from Members and/or the Committee for inclusion as Special Business at a General Meeting must be submitted in writing (in the required form) to the Secretary not less than fourteen (14) days (excluding receiving date and meeting date) prior to the General Meeting.

# **8 SPECIAL GENERAL MEETINGS**

## **8.1 Special General Meetings may be held**

The Committee may, whenever it thinks fit, convene a Special General Meeting of the Club and, where but for this Rule more than fifteen (15) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

## **8.2 Requisition of Special General Meetings**

- (a) The Committee shall on the requisition in writing made by not less than ten (10) Members entitled to vote under **Rule 9.8**, convene a Special General Meeting.
- (b) The Requisition for a Special General Meeting shall state the purpose of the meeting and shall be signed by the Members making the requisition and be sent to the Secretary. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Members making the requisition.
- (c) If the Committee does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the Committee, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Committee.

## **9 PROCEEDINGS AT GENERAL MEETINGS**

### **9.1 Quorum Present**

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings shall be ten (10) of the Members entitled to vote under **Rule 9.8**.

### **9.2 President to Preside**

The President or, in the President's absence, the vice-president, is to preside as chairperson at each General Meeting of the Club. If the President and the vice-president are absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

### **9.3 Adjournment of Meeting**

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting:
  - (i) If convened on the requisition of the Members, is to be dissolved; and
  - (ii) In any other case shall be adjourned to such other day and at such other time and place as the chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members and members of the Committee present form a quorum.
- (b) The chair may, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 9.3(c)**, it shall not be necessary to give any advice of an adjournment or the business to be transacted at any adjourned meeting.

### **9.4 Poll**

- (a) At any General Meeting of the Club a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands):
  - (i) directed by the chair; or
  - (ii) demanded by over half the Members present.
- (b) No proxy votes are allowed on any matter at General Meetings.

### **9.5 Recording of Determinations**

Except when a poll is conducted in terms of **Rule 9.4**, a declaration by the chair 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 of the Club shall be conclusive evidence of the fact without proof of the number

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of the votes recorded in favour of or against the resolution.

#### **9.6 Where Poll Demanded**

If a poll is conducted under **Rule 9.4**, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll shall be the resolution of the motion in respect of which the poll was conducted.

#### **9.7 Minutes**

The minutes of each General Meeting must be signed by the person presiding at the meeting, or the person presiding at the next General meeting, verifying their accuracy.

#### **9.8 Entitlements at General Meetings**

(a) Each Member aged eighteen (18) years of age or older present is entitled to one (1) vote only. The chair shall not have a casting vote. Where voting is equal, the vote shall be lost. No other person shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in **Rule 2.2**.

(b) Notwithstanding any other Rule of this Constitution, no Member shall take part in a General Meeting, unless all monies then due and payable by that Member to the Club are paid.

### **10 THE CLUB**

#### **10.1 Powers**

The Club has the powers of an individual including:

- (a) entering into contracts; and
- (b) acquiring, holding, dealing with and disposing of property; and
- (c) making charges for services and facilities it supplies; and
- (d) doing all other things reasonably necessary or convenient to be done in carrying out its affairs.

#### **10.2 Powers and duties of the Committee**

- (a) The business of the Club shall be managed by and vested in the Committee.
- (b) The Committee shall have the power to delegate from time to time any of its powers to such sub-committees as it thinks fit. Any such sub-committee shall consist of at least one Office Bearer of the CRA and such other persons as it may determine.
- (c) The President may be *ex-officio* a member of any such Committee.
- (d) The powers and duties delegated to such a sub-committee shall be those terms and conditions as the office bearers and Ordinary Committee members may determine.
- (e) Any act or thing done by a sub-committee acting in the exercise of a delegation under this Rule has the same force and effect as it would have if it had been done or suffered by the Committee.

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- (f) A sub-committee may meet and adjourn as it thinks proper.

## **11 CONSTITUTION AND MEMBERSHIP OF THE COMMITTEE**

### **11.1 The Committee**

The Committee, to be elected at the Annual General Meeting of the Club under **Rule 12**, is to consist of:

- (a) the office-bearers of the Club;
- (b) the Head Coach;
- (c) the Race Secretary;
- (d) the Minutes Secretary;
- (e) two (2) Delegates to the Association to which SNSW has assigned the Club; and
- (f) five (5) General Members who occupy the following positions:
  - (i) Social Secretary,
  - (ii) Club Night Organiser,
  - (iii) Web Master,
  - (iv) Clothing Officer; and
  - (v) Marketing Officer.

### **11.2 Office Bearers**

The office-bearers of the Club are to be:

- (a) President,
- (b) Vice-President,
- (c) Secretary,
- (d) Treasurer; and
- (e) Registrar.

### **11.3 *Ex-officio* Committee Members**

- (a) The Committee may, from time to time and as the case may be, appoint any Ordinary Member of the Association who is not a Junior Member, as *ex officio* members of the Committee to assist the Committee to do all such things as appear to the Committee to be necessary or reasonable for the proper management of the affairs of the Club.
- (b) Nothing in this Rule shall prevent the appointment of any Club member to act in any *ex-officio* capacity other than those positions specified in **Rule 11.1** and **Rule 11.2** above
- (c) Any act or thing done by an *ex-officio* member acting in the exercise of a delegation under this Rule has the same force and effect as it would have if it had been done or suffered by the Committee.

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## **12 ELECTION OF COMMITTEE MEMBERS**

### **12.1 Nominations for Committee Members**

Nominations for election as a Committee Member must be received by the Secretary seven (7) days before the relevant General Meeting to be considered.

### **12.2 Form of Nomination**

Nominations for election to the Committee pursuant to **Rule 12.1** must be:

- (a) in writing and signed by 2 members of the club and accompanied by the written consent of the candidate, who must also be a member of the club (which may be endorsed on a nomination form approved by the Committee); and
- (b) must be given or delivered to the secretary of the association not less than 7 days before the date fixed for the annual general meeting at which the election is to take place.

### **12.3 Election Process**

- (a) A list of the candidates' names in alphabetical order, correctly nominated in accordance with **Rule 12.2** for each position, must be advised to Members at the AGM, following the declaration of all positions becoming vacant.
- (b) If the number of nominations equals the vacancies to be filled then those individuals nominated shall be deemed to be elected.
- (c) If the number of nominations exceeds the vacancies to be filled then a secret ballot shall be held.
- (d) Each Member entitled to vote under **Rule 9.8** being present at the General Meeting may vote for any number of candidates not more than the number of vacancies.
- (e) Where no nomination for a particular position is received in accordance with (b) or (c) above, the Chairman may accept nominations at the Annual General Meeting.
- (f) Nominations will only be accepted if they are supported by two members and agreed to by the nominee.
- (g) In the case of an equality of votes for an election of office, it shall be resolved by lot to eliminate the unsuccessful candidate.
- (h) If insufficient further nominations are received, any vacant positions remaining on the Committee are taken to be casual vacancies and dealt with as detailed in **Rule 13.2**.
- (i) A member is not eligible to be simultaneously hold more than one position as an office bearer.
- (j) The position of ACT Delegate may be held by a member who holds another position on the Committee, if not filled at a General Meeting of the Club.

### **12.4 Term of Committee Members**

Subject to the provisions in this Constitution relating to the earlier retirement or removal of Committee members, each Committee member shall hold office until the conclusion of the next Annual General Meeting but is eligible for re-election.

## **13 VACANCIES OF COMMITTEE MEMBERS**

### **13.1 Grounds for Termination of Committee Members**

In addition to the circumstances (if any) in which the office of a Committee member becomes vacant by virtue of the Act, the office of a Committee member becomes vacant if the Committee member:

- (a) is no longer a Member;
- (b) dies;
- (c) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (d) 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;
- (e) resigns his office by providing notice in writing to the Club;
- (f) is absent without the consent of the Committee from three (3) consecutive Committee meetings held during a period of six (6) months;
- (g) without the prior consent or later ratification of the Members in General Meeting, holds any office of profit under the Club;
- (h) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of his interest;
- (i) is removed from office by Special Resolution.

### **13.2 Casual Vacancies**

Any casual vacancy occurring on the Committee, the continuing members of the Committee may appoint a Member of the Club to fill the vacancy until the conclusion of the Annual General Meeting next following the date of the appointment.

### **13.3 Remaining Committee Members May Act**

In the event of a casual vacancy or vacancies on the Committee, the remaining Committee members may act but, if the number of remaining Committee members is not sufficient to constitute a quorum at a Committee meeting, they may act to:

- (a) increase the number of Committee members to the number required for a quorum, or
- (b) call a General Meeting of the Club.

## **14 MEETINGS OF THE COMMITTEE**

### **14.1 Committee to Meet**

The Committee shall meet at least quarterly or more often as is deemed necessary for the dispatch of business and may adjourn and, subject to this Constitution, otherwise regulate, its meetings as it thinks fit.

### **14.2 Notice of meeting**

Oral or written notice of a meeting of the Committee must be given by the secretary to each

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member of the Committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the Committee) before the time appointed for the holding of the meeting. Notice of a meeting given under this **Rule 14.2** must specify the general nature of the business to be transacted at the meeting and no business other than that business may be transacted at the meeting, except business that the Committee members present at the meeting unanimously agree to treat as urgent business.

### **14.3 Quorum**

The quorum for meetings of the Committee shall be five (5) Committee members elected at the previous Annual General Meeting or appointed under the provisions relating to casual vacancies. The Committee may function validly provided its number is not reduced below the quorum. No business shall be transacted unless a quorum is present. If, within half an hour of the time appointed for the meeting, a quorum is not present the meeting shall be adjourned to:

- (a) the same day, time and place in the next week or
- (b) a day, time and place decided by the Committee.

### **14.4 Voting at Committee Meetings**

Questions arising at any meeting of the Committee shall be decided by the majority of votes of those present and eligible to vote. In the case of an equality of votes, the person appointed to chair the meeting shall have the second or casting vote.

### **14.5 Attendance by Non-Committee Members**

- (a) Members of the Club or other persons as the Committee shall invite, may attend Committee meetings as visitors but shall not be entitled to vote.
- (b) Members of the Club who hold *ex-officio* positions or perform other sub-committee roles may attend Committee meetings in their designated roles but shall not be entitled to vote.

### **14.6 Chair**

The President shall chair any Committee meeting at which he or she is present. If the President is not present, or is unwilling or unable to preside, the Vice-president is to preside as chairperson. If the President and the Vice-president are absent or unwilling to act, the remaining Committee members shall appoint one of their number to preside as chair for that meeting only.

### **14.7 Decisions of the Committee**

Subject to this Constitution, questions arising at any meeting of the Committee shall be decided by a majority of votes and a determination of a majority of Committee members present and entitled to vote shall for all purposes be deemed a determination of the Committee. All Committee members shall have one (1) vote on any question. The Chair shall also have a casting vote where voting is equal.

#### **14.8 Resolutions not in Meeting**

(a) A resolution in writing, signed or assented to by facsimile or other form of visible or other electronic communication by all the Committee members shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and held.

Any such resolution may consist of several documents in like form each signed by one (1) or more of the Committee members.

(b) Without limiting the power of the Committee to regulate its meetings as it thinks fit, a meeting of the Committee may be held where one (1) or more of the Committee members is not physically present at the meeting, provided that:

- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form different;
- (ii) notice of the meeting is given to all the Committee members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Committee;
- (iii) in the event of a failure in communications prevents **sub-rule 14.8 (b)(i)** from being satisfied by a quorum of Committee members then the meeting shall be suspended until **sub-rule 14.8 (b)(i)** is satisfied again. If such is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated; and
- (iv) no meeting shall be invalidated merely because no Committee member is physically present at the place for the meeting specified in the notice of meeting.

#### **14.9 Notice of Committee Meetings**

Unless all Committee members agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence), not less than seven (7) days' written notice of the meeting of the Committee shall be given to each Committee member. The agenda shall be forwarded to each Committee member before such meeting.

#### **14.10 Validity of Committee Decisions**

A procedural defect in decisions taken by the Committee shall not result in such decision being invalidated.

#### **14.11 Minutes**

The minutes of the Committee meeting must be signed by the person presiding at the meeting, or the person presiding at the next Committee meeting, verifying their accuracy.

### **15. CONFLICT OF INTEREST**

A Committee member shall declare to the Committee, his interest in any:

- (a) contractual matter;
- (b) selection matter;

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- (c) disciplinary matter;
- (d) financial matter; or
- (e) other matter;

in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Committee, absent himself or herself from discussion of such matter and shall not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Committee member to absent himself or herself from discussions and refrain from voting, the issue should be immediately determined by vote of the Committee, or if this is not possible, the matter shall be adjourned or deferred. The Secretary shall maintain a Register of Declared Interests.

## **16. PUBLIC OFFICER**

- (a) The Committee shall ensure that a person is appointed as Public Officer in accordance with the Act.
- (b) The Public Officer will be familiar with the provisions of the Act and will use their best endeavors to ensure all documents, financial statements, reports and statutory declarations are lodged by the prescribed date and advise the President if any item to be lodged is not available.
- (c) The Committee may at any time remove the Public Officer and appoint a new Public Officer provided the person appointed is eighteen (18) years of age or older and a resident of the geographical boundaries as required by the Act.
- (d) The Public Officer shall be deemed to have vacated his or her position in the following circumstances;
  - (i) death;
  - (ii) resignation;
  - (iii) removal by the Committee or at a General Meeting;
  - (iv) bankruptcy or financial insolvency;
  - (v) mental illness; or
  - (vi) residency outside the geographical boundaries as required by the Act.
- (e) The Public Officer of the Club:
  - (i) shall be a resident of the Australian Capital Territory
  - (ii) shall be the contact officer for the Club for the ACT Registrar-General;
  - (iii) may hold any office of the Club in addition to the office of Public Officer;  
and
  - (iv) shall be an Individual Member of the Club.

## **17 DELEGATIONS**

### **17.1 Committee may Delegate Functions**

Subject to the provisions of Rule 10, the Committee may agree to appoint from among the Committee members or otherwise, sub-committees, individual officers or consultants to carry

out such duties and functions and with such powers, as the Committee determines.

### **17.2 Delegation by Instrument**

The Committee may agree to the Executive, President or other Office Bearers acting on its behalf between meetings on condition that a report is made to the next Committee meeting and the Committee ratifies any decisions.

### **17.3 Delegation may be Conditional**

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

### **17.4 Revocation of Delegation**

The Committee may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such body or person under this Rule.

### **17.5 Standing Committees**

(a) A Standing Committee appointed under this Rule will function as a standing Committee of the Committee in accordance with this **Rule 17**. For the avoidance of doubt, the Standing Committees and their members are responsible to the Committee and are subject to the direction of, and delegation prepared by the Committee in accordance with this **Rule 17**.

(b) The Committee will call for applications as detailed in the By-laws from Individual members for consideration for appointment to the standing Committees. Such appointments will be advised as soon as possible after the Annual General Meeting.

## **18. BY-LAWS AND POLICIES**

### **18.1 Committee to Make By-laws and Policies**

(a) The Committee of the Club shall have the power from time to time, to make and amend, such By-laws as it sees fit and which are in its opinion necessary and desirable for the proper control, administration and management of the Club's affairs, operations, finances, interests, effects and property and to amend or repeal from time to time, such By-laws. Such By-laws and Policies must be consistent with this Constitution and the policies of Swimming Australia, SNSW and the Area to which it is affiliated.

(b) Where an inconsistency exists between this Constitution and the By-laws, the provisions of this Constitution shall take precedence to the extent the inconsistency exists.

(c) Notwithstanding the provisions of **Rule 18.1 (a)**, a General Meeting may amend or repeal any By-law made by the Committee.

(d) A By-law or Policy shall:

- (i) be subject to this Constitution;
- (ii) not be inconsistent with any provisions contained therein; and

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- (iii) when in force shall be binding on all members, irrespective of the class of membership to which they have been admitted, and shall have the same effect as these Rules.

### **18.2 Other By-laws and Policies Binding**

All SAL, SNSW and Area Rules, By-laws, Powers and Policies, as determined from time to time, including but not limited to the Member Welfare Policy, Child Welfare Policy and the Anti-Doping Policy, shall be deemed to be to be By-laws and Policies under this Rule.

### **18.3 By-Laws and Policies Binding on all Members**

Irrespective of the class of member, all By-laws and Policies made under this Rule shall be binding on all Members.

### **18.4 By-laws and Policies Deemed Applicable**

All powers, rules, regulations, policies and By-laws of the Club in force at the date of the approval of this Constitution under the Act insofar as such powers, rules, regulations, policies or By-laws are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-laws and Policies under this Rule.

## **19 RECORDS AND ACCOUNTS**

### **19.1 Operation of the Club's Accounts**

The following Office Bearers may operate the Club's accounts as determined by the Committee from time to time:

- (a) President;
- (b) Treasurer;
- (c) Race Secretary;
- (d) Secretary; and
- (e) Registrar.

### **19.2 Treasurer**

The Treasurer of the Club shall in accordance with procedures determined by the Committee from time to time:

- (a) be responsible for the collection and receipt all moneys due to the Club and for all payments authorised by the Club; and
- (b) keep correct accounts and books showing the financial affairs of the Club with full details of all receipts and expenditure connected with the activities of the Club.

### **19.3 Custody and Inspection of Books**

- (a) Except as otherwise provided by this Constitution, the Committee must keep in its custody or under its control all accounting records, books and other documents relating to the Club.

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(b) The records, books and other documents of the Club must be open to inspect, free of charge, by a Member at any reasonable hour.

#### **19.4 Records to be kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct.

#### **19.5 Club to Retain Records**

The Club shall retain such records for not less than seven (7) years after the completion of the transactions or operations to which they relate.

#### **19.6 Committee to Submit Accounts**

The Committee shall submit to the Annual General Meeting the accounts of the Club in accordance with this Constitution and the Act.

#### **19.7 Accounts to be Conclusive**

The accounts when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within three (3) months after such approval or adoption.

#### **19.8 Accounts to be provided to Members**

The Club shall cause to be provided to all members at the Annual General Meeting, a copy of the accounts, the auditor's report and every other document required under the Act.

#### **19.9 Negotiable Instruments**

All cheques and other negotiable instruments shall be signed or otherwise executed, by any two (2) office bearers or in such other manner and by such persons the Committee determines.

#### **19.10 Funds and Accounts**

(a) The funds of the Club must be kept in an account in the name of the Club in a financial institution decided by the Committee.

(b) Records and accounts must be kept in the English language showing full and accurate particulars of the financial affairs of the Club.

(c) All amounts must be deposited in the financial institution account as soon as practicable after receipt.

(d) All payments of \$100 or more are to be paid by cheque, electronic funds transfer or internet banking.

(e) If a payment of \$100 dollars or more is made by cheque, the cheque must be crossed not negotiable and must be signed by any two (2) nominated bank signatories, as determined by the Committee from time to time.

(f) The Treasurer is approved to make electronic funds transfers on behalf of the club for individual items.

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- (g) All expenditure must be approved or ratified at a Committee meeting.

### **19.11 Financial Year**

The financial year of the Club closes on 31 March in each year.

## **20 APPLICATION OF INCOME AND PROPERTY**

- (a) The income and property of the Club shall be applied solely towards the promotion of the Objects.
- (b) 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.
- (c) 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.
- (d) Nothing contained in **sub rules 20(b) or 20(c)** shall prevent payment in good faith to any Member:
- (i) for any services actually rendered to the Club whether as an employee or otherwise;
  - (ii) for goods supplied to the Club in the ordinary and usual course of business;
  - (iii) of interest on money borrowed from any Member;
  - (iv) of rent for premises demised or let by any Member to the Club; or
  - (v) for any out-of-pocket expenses incurred by the Member on behalf of the club;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arms length in a similar transaction.

## **21 COMMON SEAL**

- (a) The common seal of the Club must be kept in the custody of the Committee.
- (b) The common seal must not be fixed to any instrument except by the authority of the Committee and the affixing of the common seal must be attested by the signatures of two (2) office bearers.

## **22 AUDITOR**

- (a) A properly qualified auditor or auditors shall be appointed by a General Meeting and the remuneration of such auditor or auditors fixed by the Committee. The auditor's duties shall be regulated in accordance with the Act.
- (b) The accounts of the Club including the profit and loss accounts and balance sheet shall be examined by the auditor or auditors at least once in every year.

## **23 RESOLUTION OF INTERNAL DISPUTES**

Disputes between Members (in their capacity as Members) of the Club, and disputes between Members and the Club, shall be handled or conducted under the SAL Member Welfare

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Policy, General Information and Procedures (or successive documents) or in line with written advice by Swimming NSW.

## **24 NOTICES**

### **24.1 Manner of Notice**

- (a) Notices may be given to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address or subject to approval of the Committee by means of a notice placed on the Clubs notice board or website which is accessible to all Members.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected unless a report confirming the facsimile could not be sent to the facsimile number to which it was sent is received.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected so long as no report is received indicating the electronic mail message was not received at the electronic mail address to which it was sent.

## **25 ADDITION, ALTERATION OR AMENDMENT TO CONSTITUTION**

- (a) Subject to the Act, this Constitution may be amended, repealed or added to following the specific approval of SNSW by a Special Resolution carried at a General Meeting of the Club.
- (b) An amendment, repeal or addition is valid only if it is registered as required by the Act.

## **26 WINDING UP OF CLUB AND LIABILITY OF MEMBERS**

### **26.1 Member Contributions**

Each Member undertakes to contribute to the assets of the Club in the event of it being wound up while a Member, or within one (1) 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 the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

### **26.2 Distributions 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, the same shall not be paid to or distributed amongst the Members but shall be paid to or distributed to an organisation or organisations having Objectives similar to the Objectives and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Club by **Rule 20**. Such organisation to be determined by the Members at or before the time of dissolution and in default thereof by the Area with which the Club is affiliated.

### **26.3 Liability of Members**

- (a) The liability of the Members of the Club is limited.
- (b) The liability of a member to contribute towards the payment of the debts and liabilities of the association 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 relation to membership of the Club as set out in **Rule 2.8(ii)**.

## **27 INDEMNITY**

### **27.1 Committee Members to be Indemnified**

Every Committee member, auditor, employee or agent of the Club shall be indemnified out of the property or assets of the Club against any liability incurred by him in his capacity as a Committee member, auditor, employee or agent in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him by the Court.

### **27.2 Club to Indemnify Committee Members**

The Club shall indemnify its Committee members and employees against all damages and costs (including legal costs) for which any such Committee member or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Committee member, performed or made whilst acting on behalf of and with the authority, express or implied of the Club; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his employment by the Club.

## **28 PRIVACY**

The Club is subject to the *Privacy Act 1988* (Cth).