

As at 23 October, 2024

# **CONSTITUTION**

**- of –**

**Springfield Waterworx Swimming Club  
(SWWSC)**

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# *Associations Incorporation Act 1981*

## **Constitution of**

### **1. INTERPRETATION**

- (1) In this Constitution unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 1981* (Qld).

**Affiliated Club** means the Association (club) recognised by Swimming Queensland as an affiliated club for the purposes of the constitution of Swimming Queensland.

**Affiliated Region** means the association established by Swimming Queensland to administer the sport of swimming in a particular geographic region of Queensland as determined by Swimming Queensland.

**Aggrieved party** see Clause 13A (3)

**Constitution** means this Constitution of this Association.

**Dispute resolution Centre** means a dispute resolution centre established under the *Dispute Resolution Centres Act 1990*.

**Honorary Member** means a person granted that membership in accordance with Clause 7.

**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 registrable) relating to the Association, Swimming Queensland or Swimming Australia or any event, competition, championship, meeting or swimming activity of or conducted, promoted or administered by or under the control of the Association, Swimming Queensland and Swimming Australia.

**Large Incorporated Affiliated Club** means an Affiliated Club which complies with the definition of a large incorporated association under the Act

**Medium Incorporated Affiliated Club** means an Affiliated Club which complies with the definition of a medium incorporated association under the Act

**Small Incorporated Affiliated Club** means an Affiliated Club which complies with the definition of a small incorporated association under the Act

**Life Member** means a person granted that membership in accordance with Clause 7.

**Member** means a person who is a registered member, a Life Member or an Honorary Member except where the context indicates to the contrary, save that where a member is to exercise a vote under this Constitution the member must be above the age of 16 years

**Present**

- (a) at a Management Committee Meeting – see Clause 27; or
- (b) at a General Meeting – see Clause 41

**Registered Member** means a person registered with Swimming Queensland who is a member of the Association.

**Special resolution** means a resolution that complies with Section 3 of the Act passed:

- (a) by a Special General Meeting of the Association of which 21 days notice of intention to move the motion has been given in accordance with this Constitution
- (b) by at least 75% of the persons present and entitled to vote at that meeting.

**Swimming Australia** means Swimming Australia Ltd, its successors and assigns.

**Swimming Queensland** means Queensland Swimming Association Inc, its successors and assigns.

**World Aquatics** means the World Aquatics Congress, its successors and assigns

- (2) A word or expression that is not defined in this Constitution, but is defined in the Act has, if the context permits, the meaning given by the Act.
- (3) In this Constitution:
  - (a) a reference to a function includes a reference to a power, authority and duty
  - (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty
  - (c) words importing the singular include the plural and vice versa
  - (d) words importing any gender include the other gender
  - (e) references to persons, save where indicated to the contrary, include corporations and bodies politic
  - (f) references to a person include the legal personal representatives, successors and permitted assigns of that person

- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction).
- (4) Expressions referring to “writing” shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.
- (5) This Constitution supersedes the Model Rules in the Act.

## **2. NAME AND CLUB COLOURS**

- (1) The name of the incorporated association is Springfield Waterworx Swimming Club (SWWSC).
- (2) The colours of the Springfield Waterworx Swimming Club (SWWSC) are red, blue and white and shall be as determined by the Management Committee and approved by the relevant Affiliated Region from time to time.

## **3. OBJECTS**

The Objects of the Association are to:

- (1) affiliate as an Affiliated Club in accordance with the constitutions of Swimming Australia, Swimming Queensland and the relevant Affiliated Region
- (2) comply with the objects of Swimming Queensland and the relevant Affiliated Region in relation to swimming activities
- (3) do all that is reasonably necessary to enable these Objects to be achieved and to enable the members of the Association to receive the benefits which these Objects are intended to achieve
- (4) undertake and/or do all things or activities which are necessary, incidental or conducive to achieve these Objects
- (5) comply with all requirements or obligations imposed by Swimming Australia and Swimming Queensland as a condition of affiliation
- (6) act in cooperation with Swimming Australia, Swimming Queensland and the relevant Affiliated Region to achieve the objects of those bodies
- (7) conduct, encourage, promote, advance and administer swimming activities including conducting and participating in swimming competitions held under the auspices of the relevant Affiliated Region, Swimming Queensland and Swimming Australia in the interests of members of the Association and swimming

- (8) act in good faith and loyalty to ensure the maintenance and enhancement of the Association and swimming, its standards, quality and reputation for the collective and mutual benefit of the members and swimming
- (9) participate as an active member in the activities of Swimming Queensland and any Affiliated Region that Swimming Queensland may establish from time to time and to which the Association must be affiliated
- (10) promote mutual trust, harmony and cooperation between members of the Association and members and officials of Swimming Australia, Swimming Queensland and any association or body associated therewith
- (11) comply fully with and implement any Code of Conduct, Policy, Standard, applicable By-Law or Condition [howsoever entitled] that has been, or may be, promulgated or approved by World Aquatics, Swimming Australia, Swimming Queensland or the relevant Affiliated Region in relation to any member, swimming or any activity associated therewith
- (12) apply the property of the Association solely in pursuit of these Objects and swimming
- (13) use and protect the Intellectual Property
- (14) facilitate the establishment of a contract between each member of the Association and Swimming Queensland and relevant Affiliated Region whereby each member agrees to be bound by the constitution of Swimming Queensland including any disciplinary procedures established by Swimming Queensland or relevant Affiliated Region.

#### **4. POWERS**

- (1) The Association has the powers of an individual.
- (2) The Association may, for example—
  - (a) enter into contracts; and
  - (b) acquire, hold, deal with and dispose of property; and
  - (c) make charges for services and facilities it supplies; and
  - (d) do other things necessary or convenient to be done in carrying out its affairs.
- (3) The Association may also issue secured and unsecured notes, debentures and debenture stock for the Association.

## **5. APPLICATIONS OF INCOME AND PROPERTY**

- (1) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (2) No portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any member.
- (3) No remuneration or other benefit in money or money's worth shall be paid or given by the Association to any member who holds any office of the Association.
- (4) Nothing contained in rules 5(2) or (3) shall prevent payment in good faith to any member:
  - (a) for any services actually rendered to the Association whether as an employee or otherwise
  - (b) for goods or services, professional or otherwise, supplied to the Association in the ordinary and usual course of business
  - (c) of interest, no greater than that payable to a bank for a comparable borrowing, on money borrowed from any member
  - (d) of rent for premises demised or let by any member to the Association
  - (e) for any out-of-pocket, travel or similar expenses incurred by the member on behalf of the Association.

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

## **6. CLASSES OF MEMBERS**

- (1) The membership of the Association consists of:
  - (a) Registered Members who join on an annual basis
  - (b) Life Members, being persons granted such status by an Annual General Meeting pursuant to Clause 7
  - (c) Honorary Members, being persons granted such status by a Management Committee Meeting pursuant to Clause 7.
- (2) The number of members is unlimited.



## **7. GRANT OF LIFE AND HONORARY MEMBERSHIP**

- (1) The Association may grant Life Membership and Honorary Membership.
- (2) Life Membership may be granted to a person who has provided meritorious service to the Association in recognition of their efforts in furthering the interests of the Association.
- (3)
  - (a) Life Membership may only be granted by means of special resolution at an Annual General Meeting.
  - (b) A nomination for Life Membership may only be made by the Management Committee or a member.
  - (c) A nomination by a member must be made to the Management Committee at least 30 days prior to the Annual General Meeting.
  - (d) The Management Committee shall make a recommendation to the Annual General Meeting following its review of any nomination by a member and any subsequent inquiries.
- (4) Honorary Membership may be granted by the Management Committee:
  - (a) to a natural person above the age of 18 years in recognition of service as a non-swimmer to the Association; and
  - (b) to any person acting in an honorary capacity for the Association including Patron, Auditor or Legal Adviser.
- (5) The entitlements of persons granted Life or Honorary Membership of the Association are:
  - (a) Life Members may attend, speak and vote at all General and Special General Meetings of the Association
  - (b) Honorary Members may attend and speak but not vote at all General and Special General Meetings of the Association
  - (c) no membership fee is payable to the Association.

## **8. APPLICATIONS FOR MEMBERSHIP**

Applications for membership must be in writing in the form decided by the Management Committee.

## **9. MEMBERSHIP FEES**

- (1) The membership fees are:
  - (a) such fees as determined by Swimming Queensland from time to time; and

- (b) such fees as determined by the relevant Affiliated Region; and
  - (c) such additional amounts decided at the Annual General Meeting of the Association; and
  - (d) payable when, and in the manner, as provided from time to time.
- (3) A member of the incorporated Association who, before becoming a member, has paid the member's annual subscription for membership of the unincorporated association on or before a day fixed by the Management Committee, is not liable to pay a further amount of annual subscription for the period before the day fixed by the Management Committee as the day on which the next annual subscription is payable.

## **10. ADMISSION AND REJECTION OF MEMBERS**

- (1) The Management Committee must consider an application for membership at the next meeting of the committee held after it receives:
  - (a) the application; and
  - (b) the appropriate membership fee for the application.
- (2) The Management Committee must ensure that, as soon as possible after the person applies to become a member of the Association, and before the Management Committee considers the person's application, the person is advised
  - (a) whether or not the Association has public liability insurance; and
  - (b) if the Association has public liability insurance – the amount of the insurance.
- (3) The Management Committee must decide at the meeting whether to accept or reject the application.
- (4) If a majority of the Management Committee members present at the meeting vote to accept the applicant as a member, the applicant must be accepted as a member.
- (5) The Secretary of the Association must, as soon as practicable after the Management Committee decides to reject an application, give the applicant written notice of the decision.

## **11. WHEN MEMBERSHIP ENDS**

- (1) A member may resign from the Association by giving written notice of resignation to the Secretary.
- (2) The resignation takes effect on:

- (a) the time the notice is received by the Secretary; or
  - (b) if a later time is stated in the notice, the later time.
- (3) The Management Committee may terminate a member's membership if the member:
- (a) is convicted of an indictable offence; or
  - (b) does not comply with any of the provisions of this Constitution; or
  - (c) has membership fees in arrears for at least 2 months; or
  - (d) conducts themselves in a way considered to be injurious or prejudicial to the character or interests of the Association.
- (4) Before the Management 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.
- (5) If, after considering all representations made by the member, the Management Committee decides to terminate the membership, the Secretary of the Committee must give the member written notice of the decision.

## **12. APPEAL AGAINST REJECTION OR TERMINATION OF MEMBERSHIP**

- (1) 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.
- (2) A notice of intention to appeal must be given to the Secretary within one month after the person receives written notice of the decision.
- (3) If the Secretary receives a notice of intention to appeal, the Secretary must, within 30 days after the day of receipt, call a General Meeting to decide the appeal.
- (4) Nothing in this clause shall limit the right of a person to appeal against any rejection or termination of membership in accordance with Clause 16.
- (5) Any appeal decision under Clause 16 shall prevail over any appeal decision under this clause.

## **13. GENERAL MEETING TO DECIDE APPEAL**

- (1) The General Meeting to decide an appeal must be held within 3 months after the Secretary receives the notice of intention to appeal.

- (2) At the meeting, 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.
- (3) Also, the Management Committee and the members of the committee who rejected the application or terminated the membership must be given an opportunity to show why the application should be rejected or the membership should be terminated.
- (4) An appeal must be decided by a majority vote of the members present eligible to vote at the meeting.
- (5) If a person whose application for membership has been rejected does not appeal against the decision within one 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 application fee paid by the person.

### **13A. GRIEVANCE PROCEDURE**

- (1) This clause sets out a grievance procedure for dealing with a dispute under the rules between parties as mentioned in section 47A (1) of the Act
- (2) To remove any doubt, it is declared that the grievance procedure cannot be used by a person whose membership has been terminated if the constitution provides for an appeal process against the termination.
- (3) A member (the aggrieved party) initiates the grievance procedure in relation to the dispute by giving a notice in writing of the dispute to—
  - (a) the other party; and
  - (b) if the other party is not the Management Committee—the Management Committee.
- (4) If 2 or more members initiate a grievance procedure in relation to the same subject matter, the Management Committee may deal with the disputes in a single process and the members must choose 1 of the members (also the aggrieved party) to represent the members in the grievance procedure.
- (5) Subject to Clause 13B, the parties to the dispute must, in good faith, attempt to resolve the dispute.
- (6) If the parties to the dispute cannot resolve the dispute within 14 days after the aggrieved party initiates the grievance procedure, the aggrieved party may, within a further 21 days, ask the Association's Secretary to refer the dispute to mediation.
- (7) Subject to Clause 13B, if the aggrieved party asks the Association's Secretary to refer the dispute to mediation under subrule (6), the Management Committee must refer the dispute within 14 days after the request.

- (8) If the aggrieved party does not ask the Association's Secretary to refer the dispute to mediation under Sub-Clause (6), the grievance procedure in relation to the dispute ends.

### **13B. GRIEVANCE PROCEDURE NOT CONTINUED IN PARTICULAR CIRCUMSTANCES**

- (1) This clause applies if—
- (a) a member initiates a grievance procedure in relation to a dispute and the association or association's Management Committee is the other party to the dispute; or
  - (b) the aggrieved party asks the Association's Secretary to refer the dispute to mediation under Clause 13A (6).
- (2) The Management Committee does not have to act under Clause 13A (5) or (7) if—
- (a) the aggrieved party has, within 21 days before initiating the grievance procedure, behaved in a way that would give the Management Committee grounds for taking disciplinary action under the constitution against the aggrieved party in relation to the matter the subject of the grievance procedure; or
  - (b) before the grievance procedure was initiated, a process had started to take action under the constitution against the aggrieved party or terminate the aggrieved party's membership, as provided for under the constitution, and the dispute relates to that process or to a matter relevant to that process; or
  - (c) the dispute relates to an obligation under the Liquor Act 1992 or any other State law to prevent the entry of the aggrieved party to, or to remove the aggrieved party from, premises used by the association, or to refuse to serve liquor to the aggrieved party at the premises; or
  - (d) the dispute could reasonably be considered frivolous, vexatious, misconceived or lacking in substance, or relates to a matter that has already been the subject of the grievance procedure.

### **13C. APPOINTMENT OF MEDIATOR**

- (1) If a dispute under Clause 13A is referred to mediation—
- (a) the parties to the dispute must choose a mediator to conduct the mediation; or
  - (b) if the parties are unable to agree on the appointment of a mediator within 14 days after the dispute is referred to mediation, the mediator must be—

- (i) for a dispute between a member and another member—a person appointed by the Management Committee; or
  - (ii) for a dispute between a member and the Management Committee or the Association—an accredited mediator or a mediator appointed by the director of a dispute resolution centre.
- (2) An accredited mediator may refuse to be the mediator, or the director of a dispute resolution centre may refuse to appoint a mediator to mediate the dispute.
- (3) If Sub-Clause (2) applies, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **13D. CONDUCT OF MEDIATION**

- (1) If a mediator is appointed under Clause 13C, the mediator must start the mediation as soon as possible after the appointment and try to finish the mediation within 28 days after the appointment.
- (2) Sub-Clause (1) does not apply if the mediator is a mediator appointed by the director of a dispute resolution centre.
- (3) The mediator—
  - (a) must give each party to the dispute an opportunity to be heard on the matter the subject of the dispute; and
  - (b) must comply with natural justice; and
  - (c) must not act as an adjudicator or arbitrator; and
  - (d) during the mediation—may see the parties with or without their representatives, together or separately.
- (4) The parties to the dispute must act reasonably and genuinely in the mediation and help the mediator to start and finish the mediation within the period mentioned in Sub-Clause (1).
- (5) The costs of the mediation, if any, are to be shared equally between the parties unless otherwise agreed.
- (6) If the mediator cannot resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **13E. REPRESENTATION FOR GRIEVANCE PROCEDURE**

- (1) A party to a dispute may appoint any qualified person to act on behalf of the party in the grievance procedure.

- (2) For Sub-Clause (1), a person is qualified to act on behalf of a party if the person—
  - (a) has sufficient knowledge of the matter the subject of the dispute to be able to represent the party effectively; and
  - (b) is authorised to negotiate an agreement for the party.
- (3) If a party appoints a person under Sub-Clause (1) to act on the party's behalf, the party must give written notice of the appointment to each of the following entities—
  - (a) the other party to the dispute
  - (b) the management committee
  - (c) if a mediator has been appointed before the party appoints the person—the mediator.

### **13F. ELECTRONIC COMMUNICATION FOR GRIEVANCE PROCEDURE**

Any meeting or mediation session required under the grievance procedure may be conducted by electronic means if the parties to the dispute and, for a mediation, the mediator agree.

## **14. DISCIPLINE OF MEMBERS**

- (1) The Management Committee may refer the following matters for investigation or determination in its sole discretion to such person or persons as may be constituted as a disciplinary tribunal which may make such finding of fact and impose such punishment, including reprimand, fine, disqualification, suspension or expulsion, as appears appropriate
  - (a) breach of Constitution: an allegation or grievance (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, a member) that a member has breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any other resolution or determination of the Management Committee or duly authorized committee or
  - (b) breach of discipline: an allegation (not being vexatious trifling or frivolous) by a complainant that a member
    - (i) acted in a manner unbecoming of a member or prejudicial to the objects and interests of the Association, Swimming Queensland, Swimming Australia and/or swimming; or
    - (ii) brought the Association, Swimming Queensland, Swimming Australia and/or swimming into disrepute; or

- (iii) acted contrary to any standard or code of conduct [howsoever called] approved by Swimming Queensland or Swimming Australia.
- (2) This clause is applicable to a member notwithstanding any action taken under the constitutions of Swimming Australia, Swimming Queensland or relevant Affiliated Region in relation to that member.
- (3) For the purposes of this clause the term “member” includes any person participating in any capacity in any swimming meet or other activity held under the auspices of the Association.
- (4) For the purpose of this clause, the member will be subject to and agrees to submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Association as set out in its By-Laws or as provided in the By-Laws of Swimming Queensland or relevant Affiliated Region.

## **15. NOTIFICATION OF DISCIPLINE**

- (1) When a person has been suspended, disqualified or expelled as a result of disciplinary proceedings, notice shall be given by the Association to Swimming Australia, Swimming Queensland and all affiliated bodies.
- (2) A swimmer, on being suspended, disqualified or expelled as a result of disciplinary proceedings, shall forfeit any fee paid or trophies won in any contest in relation to which the disciplinary proceedings have taken place.
- (3) The Affiliated Club or other body conducting the contest in relation to which the suspension, disqualification or expulsion occurs shall confiscate all trophies or other awards, as are appropriate, and may distribute them in such manner as it thinks fit.

## **16. APPEALS AGAINST DISCIPLINE**

- (1) Any person, the subject of an adverse finding in proceedings in accordance with Clause 14 may appeal in relation to that adverse finding
  - (a) initially to the relevant Affiliated Region in accordance with its Constitution
  - (b) if dissatisfied with the appeal decision of the relevant Affiliated Region, to Swimming Queensland.
- (2) Such appeal shall be dealt with in accordance with such policies and procedures as the relevant Affiliated Region and Swimming Queensland may from time to time determine.

## **17. REGISTER OF MEMBERS**

- (1) The Management Committee must keep a register of members of the Association.



- (2) The register of members must include the following particulars for each member
  - (a) the full name of the member
  - (b) the postal or residential address of the member
  - (c) the date of admission as a member
  - (d) the date of death or resignation of the member
  - (e) details about the termination or reinstatement of membership
  - (f) any other particulars the Management Committee or the members at a General Meeting decide.
- (3) The register must be open for inspection by members of the Association at all reasonable times.
- (4) A member must contact the Secretary to arrange an inspection of the register.
- (5) The Management Committee shall provide to the relevant Affiliated Region and Swimming Queensland, at such time and in such form as Swimming Queensland may specify in writing, a copy of the register of members.
- (6) However, the Management Committee may, on the application of a member of the Association, withhold information about the member (other than the member's full name) from the register available for inspection if the Management Committee has reasonable grounds for believing the disclosure of the information would put the member at risk of harm.

## **18. PROHIBITION ON USE OF INFORMATION ON REGISTER OF MEMBERS**

- (1) A member of the Association must not:
  - (a) use information obtained from the register of members of the Association to contact, or send material to, another member of the Association for the purpose of advertising for political, religious, charitable or commercial purposes; or
  - (b) disclose information obtained from the register to someone else, knowing that the information is likely to be used to contact, or send material to, another member of the Association for the purpose of advertising for political, religious, charitable or commercial purposes.
- (2) Sub-Clause (1) does not apply if the use or disclosure of the information is approved by the Association.

## **19. MEMBERSHIP OF MANAGEMENT COMMITTEE**

- (1) The Management Committee of the Association consists of a President, Vice-President, Treasurer, and any other office bearer whom members of the Association elect or appoint at a General Meeting.
- (2) A member of the Management Committee, other than a Secretary appointed by the Management Committee under Sub-Clause 21, must be a member of the Association.
- (3) At each Annual General Meeting of the Association, the members of the Management Committee must retire from office, but are eligible, on nomination, for re-election.
- (4) A member of the Association may be appointed to a casual vacancy on the Management Committee under Clause 25.

## **20. ELECTING THE MANAGEMENT COMMITTEE**

- (1) A member of the Management Committee may only be elected as follows:
  - (a) any two members of the Association may nominate another member (the “candidate”) to serve as a member of the Management Committee
  - (b) the nomination must be
    - (i) in writing; and
    - (ii) signed by the candidate and the members who nominated him or her; and
    - (iii) given to the Secretary at least 14 days before the Annual General Meeting at which the election is to be held
  - (c) each member of the Association present at the Annual General Meeting may vote for any number of candidates not more than the number of vacancies
  - (d) if, at the start of the meeting, there are not enough candidates nominated, nominations may be taken from the floor of the meeting.
- (2) A person may be a candidate only if the person:
  - (a) is an adult; and
  - (b) is not ineligible to be elected as a member under Section 61A of the Act.
- (3) A list of the candidates’ names in alphabetical order, with the names of the members who nominated each candidate, must be posted in a conspicuous place in the office or usual place of meeting of the Association for at least seven days immediately preceding the Annual General Meeting.

- (4) If required by the Management Committee, balloting lists shall be prepared containing the names of the candidates in alphabetical order.
- (5) The Management Committee must ensure that, before a candidate is elected as a member of the Management Committee, the candidate is advised:
  - (a) whether or not the Association has public liability insurance; and
  - (b) if the Association has public liability insurance – the amount of the insurance.

## **21. APPOINTMENT OR ELECTION OF SECRETARY**

- (1) The Secretary must be an individual residing in Queensland, or in another State, but not more than 65km from the Queensland border, who is:
  - (a) a member of the Association elected by the Association as Secretary; or
  - (b) any of the following persons appointed by the Management Committee as Secretary:
    - (i) a member of the Association's Management Committee
    - (ii) another member of the Association
    - (iii) another person.
- (2) If the Association has not elected an interim officer as Secretary for the Association before its incorporation, the members of the Management Committee must ensure a Secretary is appointed or elected for the Association within 1 month after incorporation.
- (3) If a vacancy happens in the office of Secretary, the members of the Management Committee must ensure a Secretary is appointed or elected for the Association within 1 month after the vacancy happens.
- (4) If the Management Committee appoints a person mentioned in Sub-Clause (1)(b)(ii) as Secretary, other than to fill a casual vacancy on the Management Committee, the person does not become a member of the Management Committee.
- (5) However, if the Management Committee appoints a person mentioned in Sub-Clause (1)(b)(ii) as Secretary to fill a casual vacancy on the Management Committee, the person becomes a member of the Management Committee.
- (6) If the Management Committee appoints a person mentioned in Sub-Clause (1)(b)(iii) as Secretary, the person does not become a member of the Management Committee.

- (7) In this rule:

*casual vacancy*, on a Management Committee, means a vacancy that happens when an elected member of the Management Committee resigns, dies or otherwise stops holding office.

## **22. REMOVAL OF SECRETARY**

- (1) The Management Committee of the Association may at any time remove a person appointed by the Committee as the Secretary.
- (2) If the Management Committee removes a Secretary who is a person mentioned in Clause 21(1)(b)(i) the person remains a member of the Management Committee.
- (3) If the Management Committee removes a Secretary who is a person mentioned in Clause 21(1)(b)(ii) and who has been appointed to a casual vacancy on the Management Committee under Clause 25 the person remains a member of the Management Committee.

## **23. FUNCTIONS OF SECRETARY**

The Secretary's functions include, but are not limited to:

- (a) calling meetings of the Association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the President of the Association; and
- (b) keeping Minutes of each meeting; and
- (c) keeping copies of all correspondence and other documents relating to the Association; and
- (d) maintaining the Register of members of the Association.

## **24. RESIGNATION OR REMOVAL FROM OFFICE OF MANAGEMENT COMMITTEE MEMBER**

- (1) A member of the Management Committee may resign from the committee by giving written notice of resignation to the Secretary.
- (2) The resignation takes effect on:
  - (a) the time the notice is received by the Secretary; or
  - (b) if a later time is stated in the notice the later time.
- (3) A person may be removed from office at a Special General Meeting of the Association if 75% of the members present and entitled to vote at the meeting vote in favor of removing the person.

- (4) Before a vote of members is taken about removing the person from office, the person must be given a full and fair opportunity to show cause why he or she should not be removed from office.
- (5) A person has no right of appeal against the removal from office under this section.
- (6) A member immediately vacates the office of member of the Management Committee in the circumstances mentioned in Section 64(2) of the Act.

## **25. VACANCIES ON MANAGEMENT COMMITTEE**

- (1) If a casual vacancy happens on the Management Committee, the continuing members of the committee may appoint another member of the Association to fill the vacancy until the next Annual General Meeting.
- (2) The continuing members of the Management Committee may act despite a casual vacancy on the Management Committee.
- (3) However, if the number of committee members is less than the number fixed under these rules as a quorum of the Management Committee, the continuing members may act to:
  - (a) increase the number of Management Committee members to the number required for a quorum; or
  - (b) call a General Meeting of the Association.

## **26. FUNCTIONS OF MANAGEMENT COMMITTEE**

- (1) Subject to this Constitution or a resolution of the members of the Association carried at a General Meeting, the Management Committee has the general control and management of the administration of the affairs, property and funds of the Association.
- (2) The Management Committee has authority to interpret the meaning of this Constitution and any matter relating to the Association on which the rules are silent, but any interpretation must have regard to the Act, including any regulation made under the Act.
 

*Note* - The Act prevails if the Association's rules are inconsistent with the Act—see section 1D of the Act.
- (3) The Management Committee may exercise the powers of the Association:
  - (a) to borrow, raise or secure the payment of amounts in a way the members decide
  - (b) to secure the amounts mentioned in paragraph (a) or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way, including by

the issue of debentures (perpetual or otherwise) charged upon the whole or part of the Association's property, both present and future

- (c) to purchase, redeem or pay off any securities issued
  - (d) to borrow amounts from members and pay interest on the amounts borrowed
  - (e) to mortgage or charge the whole or part of its property
  - (f) to issue debentures and other securities, whether outright or as security for any debt, liability or obligation of the Association
  - (g) to provide and pay off any securities issued
  - (h) to invest in a way the members of the Association may from time to time decide.
- (4) For subsection (3)(d), the rate of interest must not be more than the current rate being charged for overdrawn accounts on money lent (regardless of the term of the loan) by:
- (a) the financial institution for the Association; or
  - (b) if there is more than one financial institution for the Association the financial institution nominated by the Management Committee.

## **27. MEETINGS OF MANAGEMENT COMMITTEE**

- (1) Subject to subsections (2) to (16), the Management Committee may meet and conduct its proceedings as it considers appropriate.
- Note* - See also sections 70B and 70C of the Act about requirements relating to the proceedings of the Management Committee if a member of the committee has a material personal interest in a matter being considered at a meeting of the committee.
- (2) The Management Committee must meet at least five times in each calendar year to exercise its functions.
- (3) The Management Committee must decide how a meeting is to be called.
- (4) Notice of a meeting is to be given in the way decided by the Management Committee.
- (5) The Management Committee may hold meetings or permit a committee member to take part in its meetings, by using any technology that reasonably allows the member to hear and take part in discussions as they happen.
- (6) A committee member who participates in the meeting as mentioned in Sub-Clause (5) is taken to be present at the meeting.
- (7) A question arising at a Management Committee meeting is to be decided by a majority vote of Committee members present at the meeting and, if the votes are

equal, the question is decided in the negative.

- (8) A Management Committee member must not vote on a question about a contract or proposed contract with the Association if the member has an interest in the contract or proposed contract, and if the member does vote, the member's vote must not be counted.
- (9) The President or, if there is no President or if the President is not present within 10 minutes after the time fixed for a Management Committee meeting, the Vice-President is to preside at the meeting.
- (10) If the President and the Vice-President are absent from a Management Committee meeting, the members may choose one of their number to preside at the meeting.
- (11) If a quorum is not present within 30 minutes after the time fixed for a Management Committee meeting called on the request of committee members, the meeting lapses.
- (12) If a quorum is not present within 30 minutes after the time fixed for a Management Committee meeting called other than on the request of committee members, the meeting is to 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.
- (13) If, at an adjourned meeting mentioned in subsection (12), a quorum is not present within 30 minutes after the time fixed for the meeting, the meeting lapses.

## **28. SPECIAL MEETINGS OF MANAGEMENT COMMITTEE**

- (1) If the Secretary receives a written request signed by at least 33% of the member of the Management Committee, the Secretary must call a special meeting of the committee by giving each member of the committee notice of the meeting within 14 days after the Secretary receives the request.
- (2) If the Secretary is unable or unwilling to call the special meeting, the President must call the meeting.
- (3) A request for a special meeting must state—
  - (a) why the special meeting is called; and
  - (b) the business to be conducted at the meeting.
- (4) A notice of a special meeting must state—
  - (a) the day, time and place of the meeting; and
  - (b) the business to be conducted at the meeting.

- (5) A special meeting of the Management Committee must be held within 14 days after notice of the meeting is given to the members of the Management Committee.

## **29. QUORUM FOR, AND ADJOURNMENT OF, MANAGEMENT COMMITTEE MEETING**

- (1) At a Management Committee meeting, more than 50% of the members elected to the committee as at the close of the last general meeting of the members form a quorum.
- (2) If there is no quorum within 30 minutes after the time fixed for a Management Committee meeting called on the request of members of the committee, the meeting lapses.
- (3) If there is no quorum within 30 minutes after the time fixed for a Management Committee meeting called other than on the request of the members of the committee –
  - (a) the meeting is to be adjourned for at least 1 day; and
  - (b) the members of the Management Committee who are present are to decide the day, time and place of the adjourned meeting.
- (4) If, at an adjourned meeting mentioned in subrule (3), there is no quorum within 30 minutes after the time fixed for the meeting, the meeting lapses

## **30. MINUTES OF MANAGEMENT COMMITTEE MEETINGS**

- (1) The Secretary must ensure full and accurate minutes of all questions, matters, resolutions and other proceedings of each Management Committee meeting are entered in a minute book.
- (2) To ensure the accuracy of the minutes, the minutes of each Management Committee meeting must be signed by the chairperson of the meeting, or the chairperson of the next Management Committee meeting, verifying their accuracy.

## **31. APPOINTMENT OF SUBCOMMITTEES**

- (1) The Management Committee may appoint a subcommittee consisting of members of the Association considered appropriate by the committee to help with the conduct of the Association's operations.
- (2) A member of the subcommittee who is not a member of the Management Committee is not entitled to vote at a Management Committee meeting.
- (3) A subcommittee may elect a chairperson of its meetings.



- (4) If a chairperson is not elected, or if the chairperson is not present within 10 minutes after the time fixed for a meeting, the members present may choose 1 of their number to be chairperson of the meeting.
- (5) A subcommittee may meet and adjourn as it considers appropriate.
- (6) A question arising at a subcommittee meeting is to be decided by a majority vote of the members present at the meeting and, if the votes are equal, the question is decided in the negative.

### **32. ACTS NOT AFFECTED BY DEFECTS OR DISQUALIFICATIONS**

- (1) An act performed by the Management Committee, a subcommittee or a person acting as a member of the Management Committee is taken to have been validly performed.
- (2) Subsection (1) applies even if the act was performed when:
  - (a) there was a defect in the appointment of a member of the Management Committee, subcommittee or person acting as a member of the Management Committee; or
  - (b) a Management Committee member, subcommittee member or person acting as a member of the Management Committee was disqualified from being a member.

### **33. RESOLUTIONS OF MANAGEMENT COMMITTEE WITHOUT MEETING**

- (1) A written resolution signed by each member of the Management Committee is as valid and effectual as if it had been passed at a committee meeting that was properly called and held.
- (2) A resolution mentioned in subsection (1) may consist of several documents in like form, each signed by one or more members of the Committee.

### **34. FIRST GENERAL MEETING**

- (1) The first General Meeting must be held not less than one month, and not more than three months, after the day the Association is incorporated.
- (2) The Management Committee must decide where the meeting is to be held.
- (3) The business to be conducted at the first General Meeting must include the appointment of an auditor.

### 35. FIRST ANNUAL GENERAL MEETING

The first Annual General Meeting must be held within 15 months after the day the Association is incorporated.

### 36. SUBSEQUENT ANNUAL GENERAL MEETINGS

Each subsequent Annual General Meeting must be held:

- (a) at least once each year; and
- (b) within six months after the close of the financial year in any year.

### 37. MANAGEMENT COMMITTEE MEMBERS TO BE ELECTED AT ANNUAL GENERAL MEETING

The association must elect the members of the Management Committee at each Annual General Meeting of the Association.

### 37A. DISCLOSURE OF REMUNERATION AND OTHER BENEFITS

The Management Committee, at each Annual General Meeting, shall disclose all details of remuneration paid and other benefits given pursuant to the provisions of Section 70D of the Act.

*Note* - section 70D provides as follows:

#### SECTION 70D DISCLOSURE OF REMUNERATION AND OTHER BENEFITS

- (1) The members of the Management Committee of an incorporated association must ensure the prescribed details of the remuneration paid or other benefits given for the financial year to the following persons, if any, is presented to the Association's annual general meeting in the way prescribed by regulation—
  - (a) each member of the Management Committee of the Association;
  - (b) each senior staff member of the Association;
  - (c) each relative of a person mentioned in *paragraph (a) or (b)*.

*Penalty*—

Maximum penalty for each member of the Management Committee—10 penalty units.

- (2) In this section—

**"relative"**, of a person, means a spouse, parent, sibling, child, grandparent or grandchild of the person.

**"remuneration"** —

- (a) includes salary, allowances and other entitlements; and
- (b) does not include reimbursement of out-of-pocket expenses.

**"senior staff member"**, of an incorporated association, means a person who—

- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the activities of the Association; or
- (b) has the capacity to affect significantly the Association's financial standing.

**38. OTHER BUSINESS FOR ANNUAL GENERAL MEETING OF LARGE INCORPORATED ASSOCIATIONS AND PARTICULAR MEDIUM AND SMALL INCORPORATED ASSOCIATIONS**

- (1) This section applies if the Association is:
  - (a) a large, incorporated association to which sections 59A and 59AA of the Act apply; or
  - (b) a medium incorporated association to which sections 59A and 59AA of the Act apply; or
  - (c) a small incorporated association to which sections 59A and 59AA of the Act apply.
- (2) The following business must be conducted at each annual general meeting of the association:
  - (a) receiving the Association's financial statement, and audit report, for the last reportable financial year;
  - (b) presenting the financial statement and audit report to the meeting for adoption;
  - (c) for a large incorporated association - appointing an auditor or an accountant for the present financial year;
  - (d) for a medium or small incorporated association - appointing an auditor, an accountant or an approved person for the present financial year.

**39. OTHER BUSINESS FOR ANNUAL GENERAL MEETING OF OTHER MEDIUM INCORPORATED ASSOCIATIONS**

- (1) This section applies if the association is a medium incorporated Association to which sections 59A and 59AB of the Act apply.
- (2) The following business must be conducted at each annual general meeting of the Association:
  - (a) receiving the Association's financial statement, and verification statement, for the last reportable financial year;
  - (b) presenting the financial statement and verification statement to the meeting for adoption;

- (c) appointing an auditor, an accountant or an approved person for the present financial year.

#### **40. OTHER BUSINESS FOR ANNUAL GENERAL MEETING OF OTHER SMALL INCORPORATED ASSOCIATIONS**

- (1) This section applies if the Association is a small incorporated association to which sections 59A and 59AB of the Act apply.
- (2) The following business must be conducted at each annual general meeting of the Association:
  - (a) receiving the Association's financial statement, and verification statement, for the last reportable financial year;
  - (b) presenting the financial statement and verification statement to the meeting for adoption.

#### **41. GENERAL MEETINGS**

- (1) At each General Meeting the Management Committee shall:
  - (a) provide a financial statement of income and expenditure of the Association current to the date of the last meeting of the Management Committee; and
  - (b) advise the meeting of all significant issues currently being considered by the Management Committee; and
  - (c) provide such other information that the meeting, by motion, determines should be provided.
- (2) Members shall be entitled to attend and speak and vote at all General Meetings.
- (3) The Management Committee may hold meetings or permit a member to take part in General Meetings, by using any technology that reasonably allows the member to hear and take part in discussions as they happen.

#### **42. SPECIAL GENERAL MEETING**

- (1) The Secretary may only call a Special General Meeting by giving each member notice of the meeting within 21 days after:
  - (a) being directed to call the meeting by the Management Committee; or
  - (b) being given a written request by:
    - (i) at least 33% of the members of the Management Committee; or

- (ii) at least the number of members of the Association equal to double the number of members of the Management Committee plus one; or
- (c) being given a written notice of an intention to appeal against the decision of the Management Committee:
  - (i) to reject an application for membership; or
  - (ii) to terminate a person's membership.
- (2) A request mentioned in subsection (1) (b) must state:
  - (a) why the Special General Meeting is being called; and
  - (b) the business to be conducted at the meeting.

#### **43. NOTICE OF GENERAL MEETING**

- (1) The Secretary may call a General Meeting of the Association.
- (2) The Secretary must give at least 14 days notice of the meeting to each member of the Association.
- (3) If the Secretary is unable or unwilling to call the meeting, the president must call the meeting.
- (4) The Management Committee may decide the way in which the notice must be given.
- (5) However, notice of the following meetings must be given in writing—
  - (a) a meeting called to hear and decide the appeal of a person against the Management Committee's decision—
    - (i) to reject the person's application for membership of the Association; or
    - (ii) to terminate the person's membership of the Association.
  - (b) a meeting called to hear and decide a proposed special resolution of the Association.
- (6) A notice of a General Meeting must state the business to be conducted at the meeting.

#### **44. QUORUM FOR, AND ADJOURNMENT OF, GENERAL MEETING**

- (1) The quorum for a General Meeting is at least the number of members elected or appointed to the Management Committee at the close of the Association's last General Meeting plus 1.

- (2) However, if all members of the Association are members of the Management Committee, the quorum is the total number of members less 1.
- (3) No business may be conducted at a General Meeting unless a quorum of members is present when the meeting proceeds to business.
- (4) If a quorum is not present within 30 minutes of the time fixed for a General Meeting called on the request of members of the Management Committee of the Association, the meeting lapses.
- (5) If a quorum is not present within 30 minutes after the time fixed for a General Meeting called other than on the request of members of the Management Committee or the Association, the meeting is to be adjourned to:
  - (a) the same day, time and place in the next week; or
  - (b) a day, time and place decided by the Management Committee.
- (6) If, at an adjourned meeting, a quorum under subsection (1) is not present within 30 minutes after the time fixed for the meeting, the members present form a quorum.
- (7) The person presiding may, with the consent of any meeting at which a quorum is present, and must, if directed by the meeting, adjourn the meeting from time to time and from place to place.
- (8) If a meeting is adjourned under subsection (6), only the business left unfinished at the meeting from which the adjournment took place may be conducted at the adjourned meeting.
- (9) The Secretary is not required to give the members notice of an adjournment or of the business to be conducted at an adjourned meeting unless a meeting is adjourned for at least 30 days.
- (10) If a meeting is adjourned for at least 30 days, notice of the adjourned meeting must be given in the same way notice is given for an original meeting.

#### **45. PROCEDURE AT GENERAL MEETING**

- (1) Subject to these provisions, at each General Meeting or Special General Meeting:
  - (a) The President or, if there is no President or if the President is not present within 15 minutes after the time fixed for the meeting or is unwilling to act, the Vice-President is to preside.
  - (b) If the Vice President is absent or unwilling to preside, the members present must elect one of their number to preside at the meeting.
  - (c) The person presiding must conduct the meeting in a proper and orderly way.

- (d) Each question, matter or resolution must be decided by a majority of votes of the members present or who use any technology that reasonably allows the member to hear and take part in discussions as they happen, such persons being deemed to be present at the meeting.
  - (e) Each member present and entitled to vote is entitled to one vote only and, if the votes are equal, the Chair or person presiding has a casting vote as well as a primary vote.
  - (f) A member is not entitled to vote at a General Meeting if the member's annual subscription is in arrears at the date of the meeting.
  - (g) Voting may be by a show of hands or a division of members, unless at least 20% of the members present demand a secret ballot.
  - (h) If a secret ballot is held, the person presiding must appoint two members to conduct the secret ballot in the manner the person presiding determines.
  - (i) The result of a secret ballot as declared by the Chair is taken to be a resolution of the meeting at which the ballot was held.
  - (j) A member may vote in person or by attorney and:
    - (i) on a show of hands, each person present who is a member or a representative of a member has one vote; and
    - (ii) in a secret ballot, each member present in person or by attorney or other properly authorized representative has one vote.
  - (k) The Secretary must ensure full and accurate Minutes of all questions, matters, resolutions and other proceedings of each Management Committee meeting and General Meeting are entered in a Minute book.
  - (l) The Secretary must ensure the minute book for each General Meeting is open for inspection at all reasonable times by any financial member who previously applies to the Secretary for the inspection.
- (2) To ensure the accuracy of the Minutes recorded under Sub-Section (1)(k):
- (a) the minutes of each Management Committee meeting must be signed by the person presiding at the meeting, or the person presiding at the next Management Committee meeting, verifying their accuracy
  - (b) 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
  - (c) the minutes of each Annual General Meeting must be signed by the person presiding at the meeting, or the person presiding at the next meeting of the Association that is a General Meeting or Annual General Meeting, verifying their accuracy.

#### **46. BY-LAWS**

- (1) The Management Committee may make, amend or repeal By-Laws, not inconsistent with these rules, for the internal management of the Association.
- (2) A By-Law may be set aside by a vote of members at a General Meeting of the Association.

#### **47. ALTERATION OF THIS CONSTITUTION**

- (1) Subject to the Act, this Constitution may be amended, repealed or added to by a special resolution carried at a Special General Meeting.
- (2) Notice of the intention to move such special resolution shall be given in writing to Swimming Queensland at least 30 days prior to the Special General Meeting.
- (3) However an amendment, repeal or addition is valid only if it is registered by the chief executive of the Department administering the Act.

#### **48. FUNDS AND ACCOUNTS**

- (1) The funds of the Association must be kept in an account in the name of the Association in a financial institution decided by the Management Committee.
- (2) Records and accounts must be kept in the English language showing full and accurate particulars of the financial affairs of the Association.
- (3) All amounts must be deposited in the financial institution account as soon as practicable after receipt.
- (4) A payment by the association of \$100 or more must be made by cheque or electronic funds transfer.
- (5) If an amount of \$100 or more is paid by cheque, the cheque must be signed by any two of the following:
  - (a) the President
  - (b) the Secretary
  - (c) the Treasurer
  - (d) Any 1 of 3 other members authorized by the Management Committee sign cheques issued by the Association.
- (6) However, 1 of the persons who signs the cheque must be the President, the Secretary or the Treasurer.



- (7) Cheques, other than cheques for wages, allowances or petty cash recoupment, must be crossed 'not negotiable'.
- (8) A petty cash account must be kept on the imprest system, and the Management Committee must decide the amount of petty cash to be kept in the account.
- (9) All expenditure must be approved or ratified at a Management Committee meeting.
- (10) The Treasurer must, as soon as practicable after the end of each financial year, ensure a statement containing the following particulars is prepared:
  - (a) the income and expenditure for the financial year just ended
  - (b) the Association's assets and liabilities at the close of the year
  - (c) the mortgages, charges and securities affecting the property of the Association at the close of the year.
- (11) If the Association is incorporated within three months before the end of the Association's financial year, subsection (8) does not apply for the financial year in which the Association is incorporated.
- (12) The auditor must examine the statement prepared under subsection (8) and present a report about it to the Secretary before the next Annual General Meeting following the financial year for which the audit was made.
- (13) The income and property of the Association must be used solely in promoting the Association's objects and exercising the Association's powers.

#### **49. GENERAL FINANCIAL MATTERS**

- (1) On behalf of the Management Committee, the Treasurer must, as soon as practicable after the end date of each financial year, ensure a financial statement for its last reportable financial year is prepared.
- (2) The income and property of the Association must be used solely in promoting the Association's objects and exercising the Association's powers.

#### **50. DOCUMENTS**

The Management Committee must ensure the safe custody of books, documents, instruments of title and securities of the Association.

## **51. FINANCIAL YEAR**

The financial year of the Association closes on *[specify date]* in each year.

## **52. DISTRIBUTION OF SURPLUS ASSETS TO ANOTHER ENTITY**

- (1) This section applies if the Association:
  - (a) is wound up under part 10 of the Act and
  - (b) it has surplus assets.
- (2) The surplus assets must not be distributed among the members of the Association.
- (3) The surplus assets must be given to Swimming Queensland, or any successor or assignee thereof, to be used in accordance with the objects of that Association.
- (4) In this section “surplus assets” has the meaning given by section 92(3) of the Act

## **53. TRANSITIONAL PROVISIONS**

- (1) Where an Association recognized by Swimming Queensland as an Affiliated Club is already registered under the Act, the provisions of this Constitution take effect following the adoption by the Association of this Constitution in accordance with the Act.
- (2) An Association already recognized by Swimming Queensland as a swimming club shall be recognized as an Affiliated Club by Swimming Queensland upon adoption of this Constitution.