

# CLUB CONSTITUTION

## VICTORIA PARK CARLISLE SOUTHERN AQUATIC SWIMMING CLUB INCORPORATED

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**1. PRELIMINARY**

**1.1 Name of Club**

The name of the Club is VICTORIA PARK CARLISLE SOUTHERN AQUATIC SWIMMING CLUB INCORPORATED

**1.2 Objects of Club**

The objects and purposes of the Club are:

- (a) To promote and encourage participation, both competitively and recreationally in swimming and related activities;
- (b) To arrange programs of competition for swimming Members with other clubs and Clubs with like objects, and with swim schools, universities and other like entities;
- (c) To be affiliated with SWA; and
- (d) To do all such other things as the Club may deem to be incidental or conducive to the attainment of the above objects or any of them.

**1.3 Quorum for Board Meetings**

Any five (5) of the total membership of Board Members constitute a quorum for the conduct of the business at a Board Meeting.

**1.4 Quorum for General Meetings**

Twelve (12) of the total membership of any Members (being Members entitled to vote under these Rules at a General Meeting), personally present will constitute a quorum for the conduct of business at a General Meeting.

**1.5 Financial Year**

The Club's Financial Year, will be the period of 12 months commencing on 1 July and ending on 30 June of each year.

**2. INTERPRETATION**

**2.1 Definitions**

In these Rules, unless the contrary intention appears:

**Act** means the *Clubs Incorporation Act 2015*

**Associate Member** means any Member who is not an Ordinary Member, that is, any Member who is not entitled to vote

**Club** means the incorporated Club to which these Rules apply

**Books of the Club** includes the following:

- (a) a register;
  - (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
  - (c) a document;
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(d) any other record of information

**Body Corporate Member** means a Member which is a body corporate

**By-laws** means by-laws made by the Club under Rule 25

**President** means the Board Member holding office as the president of the Club

**Class of Membership** means the different categories of membership of Members including: Life Members, Honorary Members and any other category of membership which may be established by the Club and set out in the by-laws

**Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act

**Board** means the management Board of the Club

**Board Meeting** means a meeting of the Board

**Board Member** means a Member of the Board

**Financial Records** includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
  - (i) the methods by which financial statements are prepared;
  - (ii) adjustments to be made in preparing financial statements

**Financial Report** of a Tier 2 Club or a Tier 3 Club, has the meaning given in section 63 of the Act

**Financial Statements** means the financial statements in relation to the Club required under Part 5 Division 3 of the Act

**Financial Year** of the Club, has the meaning given in Rule 1.5

**General Meeting** means a meeting of the Club that all Members are entitled to receive notice of and to attend

**Junior Competitor** means a boy or girl who wishes to take part in the Clubs activities, they have full rights as an Associate member except shall not be eligible to vote, serve on the Clubs Board or Committee or attend any General meeting of the Club.

**Member** means a person (including a body corporate) who is an Ordinary Member or an Associate Member of the Club and **Members** has a corresponding meaning

**Ordinary Board Member** means a Board Member who is not an office holder of the Club under Rule 10.2(c)

**Ordinary Member** means a Member with the rights referred to in Rule 6.1(e), that is, any Member who is entitled to vote.

**Ordinary Resolution** means a resolution to decide a question, matter or resolution at a General Meeting that is not a Special Resolution

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**Register of Members** means the register of Members referred to in section 53 of the Act

**Rules** means these Rules of the Club, as in force for the time being, and **Rule** has a corresponding meaning

**Secretary** means the Board Member holding office as the secretary of the Club

**Special General Meeting** means a General Meeting of the Club other than the annual general meeting

**Special Resolution** means a resolution passed by the Members at a general meeting in accordance with section 51 of the Act

**Committee** means a Committee appointed by the Board under Rule 16.1(a)

**Surplus Property** has the meaning given to it in the Act and means the property remaining when the Club is wound up or cancelled after satisfying:

- (a) the debts and liabilities of the Club; and
- (b) the costs, charges and expenses of winding up the Club, but does

not include books pertaining to the management of the Club

**SWA** means Western Australian Swimming Assn (Inc.) or anybody replacing that Association

**Tier 1 Club** means an incorporated Club to which section 64(1) of the Act applies

**Tier 2 Club** means an incorporated Club to which section 64(2) of the Act applies

**Tier 3 Club** means an incorporated Club to which section 64(3) of the Act applies

**Treasurer** means the Board Member holding office as the treasurer of the Club.

## 2.2 Notices

- (a) A notice or other communication connected with these Rules has no legal effect unless it is in writing and given as follows:
  - (i) delivered by hand to the nominated address of the addressee;
  - (ii) sent by post to the nominated postal address of the addressee; or
  - (iii) sent by e-mail or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
- (b) Any notice given to a Member under these Rules, must be sent to Member's address as set out in the Register referred to in Rule 8.1.

## 3. POWERS OF THE CLUB

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

## 4. NOT FOR PROFIT

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- (a) The property and income of the Club must be applied solely towards promoting the objects or purposes of the Club and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in promoting those objects or purposes.
  - (b) A payment may be made to a Member out of the funds of the Club only if it is authorised under Rule 4(c).
  - (c) A payment to a Member out of the funds of the Club is authorised if it is:
    - (i) the payment in good faith to the Member as reasonable remuneration for any services provided to the Club, or for goods supplied to the Club, in the ordinary course of business; or
    - (ii) the payment of interest, on money borrowed by the Club from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
    - (iii) the payment of reasonable rent to the Member for premises leased by the Member to the Club; or
    - (iv) the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Club.

## **5. BECOMING A MEMBER**

### **5.1 Qualifications for Membership**

(a) Ordinary Member

Any person who:

- (i) is over the age of 18 years;
- (ii) is a natural person; and
- (iii) supports the purposes of the Club;

is eligible to apply for membership as an Ordinary Member.

(b) Associate Member

Any person or body who supports the purposes of the Club and who is:

- (i) over the age of 18 years; or
- (ii) not a natural person,

is eligible to apply for membership as an Associate Member.

### **5.2 Applying for Membership**

- (a) A person who wants to become a Member or the Parent or Guardian in the case of a Junior Competitor must apply in writing (which may include applying through any online application maintained by the Club or third party) to the Club.
  - (b) The application form must be signed by the applicant, or in the case of a Junior Competitor, the parent or guardian must sign and accept the rules
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and by-laws of the Club and be responsible at all times for the conduct of the Junior Competitor at all times.

- (c) If the Club has more than one Class of Membership, the application form must specify the applicable Class of Membership.
- (d) Subject to this Constitution and the By-Laws, any boy or girl who will be as at the 1<sup>st</sup> October in the intended year of participation between the ages of five years (inclusive) and 18 years (inclusive) may, by his or her parent or guardian, apply to the Club to be registered as a Junior Competitor.
- (e) A parent or guardian, in the case of Junior Competitor shall complete an application in writing and deliver it as required to the Secretary of the Club or such additional or other persons as the Board shall determine from time to time.

### **5.3 Deciding Membership Applications**

- (a) The Board must consider each application for membership of the Club and decide whether to approve or reject the membership application.
- (b) Subject to Rule 5.3(c) applications will be considered and decided in the order they are received by the Club.
- (c) When considering a membership application, the Board may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided and proceed to consider and decide other applications.
- (d) The Board must not approve a membership application unless the Applicant:
  - (i) meets all the qualifications requirements under Rule 5.1; and
  - (ii) applies under Rule 5.2.
- (e) The Board may refuse to accept a membership application even if the Applicant is eligible under Rule 5.1 and has applied under Rule 5.2.
- (f) As soon as is practicable after the Board has made a decision under Rule 5.3(a), the Board must notify the Applicant in writing of the outcome of their membership application but is not obliged to provide reasons for the decision.

### **5.4 Becoming a Member**

An applicant for membership of the Club becomes a Member when:

- (i) the applicant is eligible for membership under Rule 5.1;
- (ii) the applicant applies in accordance with Rule 5.2;
- (iii) the Board approves the applicant's application for membership; and
- (iv) the applicant pays any fees due under Rule 9, or in the case of a Junior Competitor the parent or guardian must pay the fees due.

### **5.5 Nominated Membership Positions**

- (a) The Board may nominate any one (1) person to become a Life Member
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and one (1) Honorary Member of the Club in any financial year, provided that the nominee is eligible for membership under Rule 5.5(d) or (e).

- (b) Any Member who is a Life Member shall be an Associate Member.
- (c) Any Member who is an Honorary Member shall be an Associate Member.
- (d) Life Member

Any person who:

- (i) is over the age of 18 years;
- (ii) supports the purposes of the Club;
- (iii) has made a significant and meritorious service to the Club;

is eligible to be nominated by the Board for membership as a Life Member.

- (e) Honorary Member

Any person who:

- (i) is over the age of 18 years;
- (ii) supports the purposes of the Club; and
- (iii) has provide a significant service to the Club;

is eligible to be nominated by the Board for membership as an Honorary Member.

- (f) A person who has been nominated to be a Life Member or an Honorary Member becomes a Member when:
  - (i) the Board nominates the person as a Life Member or an Honorary Member;
  - (ii) the person accepts the appointment as a Life Member or an Honorary Member; and
  - (iii) the person pays any fees due under Rule 9 (if any).

## **5.6 Effect of Becoming a Member**

- (a) As soon as a person becomes a Member (either by application or nomination), that person is entitled to exercise all the rights and privileges of their membership, including the right to vote (if applicable), and must comply with all of the obligations of membership under these Rules.

## **5.7 Recording Membership in the Register**

The Registrar must enter a person's name in the Register within 28 days after the person becomes a Member. The Registrar shall keep a separate Register of Junior Competitors for any other purpose as they see fit.

## **6. LIABILITY AND ENTITLEMENTS OF MEMBERS**

### **6.1 Members**

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- (a) The Club consists of Ordinary Members and Associate Members.
- (b) A person can only be an Ordinary Member or an Associate Member.
- (c) A body corporate can only be an Associate Member.
- (d) The Club may make such Classes of Membership in its by-laws as it sees fit, in accordance with Rule 25.2.
- (e) An Ordinary Member has full voting rights and any other rights conferred on Members by these Rules or approved by resolution at a General Meeting or determined by the Board.
- (f) An Associate Member has the rights referred to in Rule 6.1(e) other than full voting rights unless the Associate Member serves on the Board then full voting rights are granted.
- (g) The number of Members of any class is not limited unless otherwise approved by resolution at a General Meeting.

## **6.2 Membership Voting Rights of Members**

- (a) Each Ordinary Member of the Club has one vote at a General Meeting of the Club.

## **6.3 Body Corporate Members**

- (a) A Member which is a body corporate may appoint in writing a natural person, whether or not he or she is a Member, to represent it at a particular General Meeting or at all General Meetings.
- (b) A copy of the written appointment must be lodged with the Secretary.
- (c) A person appointed under Rule 6.3(a) has authority to represent the body corporate Member:
  - (i) in the case of an appointment in respect of a particular General Meeting, until the conclusion of that General Meeting; or
  - (ii) otherwise, until the appointment is revoked by the body corporate and notice of the revocation is given to the Secretary.
- (d) A body corporate Member is an Associate Member and is not entitled to vote.

## **6.4 Liability of Members**

- (a) A Member is only liable for their outstanding membership fees payable under Rules 9.1 and 9.2, if any.
  - (b) In the case of a Junior Competitor the parent or guardian is liable for outstanding membership fees payable under Rules 9.1 and 9.2, if any.
  - (c) Subject to Rule 6.4(a), a Member is not liable, by reason of the person's membership, for the liabilities of the Club or the cost of winding up the Club.
  - (d) Rule 6.4(b) does not apply to liabilities incurred by or on behalf of the Club by the Member before incorporation.
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**6.5 Payment to Members**

- (a) Subject to Rule 6.5(b), no portion of the income or property of the Club may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
- (b) Rule 6.5(a) does not prevent:
  - (i) the payment in good faith of remuneration to any officer, employee or Member in return for any services actually rendered to the Club or for goods supplied in the ordinary and usual course of business;
  - (ii) the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the “Cash Rate Target” from time to time on money borrowed from any Member;
  - (iii) the payment of reasonable and proper rent by the Club to a Member for premises leased by the Member to the Club; or
  - (iv) the reimbursement of expenses incurred by any Member or any Board Member on behalf of the Club.

**6.6 Membership Entitlements Not Transferable**

A right, privilege or obligation that a person has because he or she is a Member of the Club:

- (a) is not capable of being transferred to any other person; and
- (b) ends when the person’s membership ceases.

**7. CEASING TO BE A MEMBER****7.1 Ending Membership**

- (a) A person ceases to be a Member when any of the following takes place:
    - (i) for a Member who is an individual, the individual dies;
    - (ii) for a Body Corporate Member, the body corporate is wound up;
    - (iii) the person resigns from the Club under Rule 7.2;
    - (iv) the person is expelled from the Club under Rule 7.3;
    - (v) the person ceases to be a Member under Rule 9.2(d);
    - (vi) their child or children (in the case of a parent member) transfers to another SWA Affiliated Club – unless the parent serves a role within the Club.
    - (vii) The current date is after that of the date of expiry as defined in the SWA Member Register.
  - (b) The Registrar must keep a record, for at least one year after a person ceases to be a Member, of —
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- (i) the date on which the person ceased to be a Member; and
- (ii) the reason why the person ceased to be a Member.

## 7.2 Resigning as a Member

- (a) A Member may resign from membership of the Club by giving written notice of the resignation to the Board or in the case of a Parent or Guardian of all Junior Competitor/s under their care has elected to join as an Ordinary member, their Ordinary membership ceases when a notice is received for the Junior Competitor to transfer their child's SWA Membership to another SWA Affiliated Club.
- (b) The resignation takes effect —
  - (i) when the Board receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time.
- (c) A person who has resigned from membership of the Club remains liable for any fees that are owed to the Club (the **owed amount**) at the time of resignation.
- (d) The owed amount may be recovered by the Club in a court of competent jurisdiction as a debt due to the Club.

## 7.3 Suspending or Expelling Members

- (a) The Board may, by resolution, suspend or expel a Member immediately from membership if:
    - (i) the Member refuses or neglects to comply with these Rules; or
    - (ii) the Member's conduct or behaviour is detrimental to the interests of the Club and its members.
  - (b) A Board meeting must be held not less than 14 days after the Board Meeting referred to in Rule 7.3(a), giving written notice to the Member:
    - (i) of the suspension or expulsion and the grounds on which it is based;
    - (ii) of the date, place and time of the Board Meeting;
    - (iii) that the Member, or the Member's representative, may attend the Board Meeting; and
    - (iv) that the Member, or the Member's representative, may address the Board at the meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
  - (c) At the Board Meeting referred to in Rule 7.3(b) the Board must:
    - (i) give the Member, or the Member's representative, a full and fair opportunity to state the Member's case orally;
    - (ii) give due consideration to any written statement submitted by the Member; and
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- (iii) determine whether or not the Member should continue to be:
    - (A) expelled from the Club; or
    - (B) suspended from membership, and if so, the period that the Member should be suspended from membership.
  - (d) Once the Board has decided to confirm that the member is suspended, expelled or otherwise under Rule 7.3(b), the Member is provided a confirmation of their membership status.
  - (e) The Secretary must inform the Member in writing of the decision of the Board and the reasons for the decision, within 14 days of the Board Meeting referred to in Rule 7.3(b).

#### **7.4 Right of Appeal of against Suspension or Expulsion**

If a Member is suspended or expelled under Rule 7.3, the person may appeal the Board's decision by giving written notice to the Secretary within 14 days of receiving notice of the Board's decision under Rule 7.3(e) requesting the appointment of a mediator under Rule 28.3(c).

#### **7.5 Reinstatement of a Member**

If the Board's decision to suspend or expel a Member is revoked under these Rules, any act performed by the Board or Members in a General Meeting during the period that the Member was suspended or expelled from membership under Rule 7.3(e), is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of membership, including voting rights, during that period.

#### **7.6 When a Member is Suspended**

- (a) If a Member's membership is suspended under Rule 7.3(e), the Registrar must record in the Register:
  - (i) the name of the Member that has been suspended from membership;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Board under 7.3(c)(iii).
- (b) A Member that has been suspended under Rule 7.3(e) cannot exercise any rights or privileges of membership, including voting rights, during the period they are suspended from membership.
- (c) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the Member is no longer suspended.

### **8. MEMBERSHIP REGISTER**

#### **8.1 Register of Members**

- (a) The Registrar or a person authorised by the Board from time to time must maintain a register of Members and make sure that the Register is up to date.
  - (b) The Register must contain:
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- (i) the full name of each Member;
- (ii) a contact postal, residential or email address of each Member;
- (iii) the Class of Membership held by the Member; and
- (iv) the date on which the person became a Member,

together with any other information required to be maintained in the Register by section 53 of the Act.

- (c) Any change in membership of the Club must be recorded in the Register within 28 days after the change occurs.
- (d) The Register must be kept and maintained at the Club Room in a locked cupboard or cabinet, or at such other place as the Board decides.
- (e) The Register of Junior Competitors must be kept separate from the members Register and must be kept and maintained at the Club Room in a locked cupboard or cabinet, or at such other place as the Board decides.
- (f) The Register of Junior Competitors must contain the information as per rule 8.1 (b) (i)-(iv). Any change to a Junior Competitor must be recorded in that Register within 28 days after the change occurs

## **8.2 Inspecting the Register**

- (a) Any Member may make a request to inspect the Register in writing, at such time and place as is mutually convenient to the Club and the Member.
- (b) A Member must contact the Secretary to request to inspect the Register, the member may inspect the register free of charge. The Board may require a Member who requests to inspect the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Club.
- (c) The Member may make a copy of details from the Register but has no right to remove the Register for that purpose.
- (d) No member shall have the right to inspect the Junior Competitors Register.

## **8.3 Copy of the Register**

- (a) A Member may make a request in writing for a copy of the Register.
  - (b) The Board may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Club.
  - (c) The Club may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Board from time to time.
  - (d) The Member may make a handwritten copy of details from the Member Register under supervision by a Board member or anyone who is authorised by the Board of the Club but has no right to remove or take digital images of the register of the Club for that purpose.
  - (e) No member shall have the right to inspect or copy the Junior Competitors Register.
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#### **8.4 When Using the Information in the Register is Prohibited**

A Member must not use or disclose the information on the Register:

- (a) to gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) to contact, send material to the Club or a Member for the purpose of advertising for political, religious, charitable or commercial purposes unless the use of the information is approved by the Board, or
- (c) for any other purpose unless the purpose:
  - (i) is directly connected with the affairs of the Club; or
  - (ii) relates to the provision of information to the Commissioner in accordance with a requirement of the Act.

### **9. MEMBERSHIP FEES**

#### **9.1 Entrance Fee**

The Board may from time to time determine the amount of the entrance fee, if any, to be paid by each Member or each class of Members upon becoming a Member.

#### **9.2 Annual Membership Fee**

- (a) The Board may from time to time determine the amount of the annual membership fee, if any, to be paid by each Member or each Class of Members.
- (b) Each Member must pay the Member's annual membership fee determined under Rule 9.2(a) to the Treasurer, or a person authorised by the Board to receive payments, as and when decided by the Board.
- (c) If a Member pays the annual membership fee within 2 months after the due date, the Member retains all the rights and privileges of a Member for the purposes of these Rules during that time, including the right to vote.
- (d) Subject to Rule 9.2(e), if a person fails to pay the annual membership fee within 2 months after the due date, the person ceases to be a Member.
- (e) If a person ceases to be a Member under Rule 9.2(d), and subsequently pays to the Club all the Member's outstanding fees, the Board may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding fees are paid, including the right to vote.
- (f) In the case of a Junior Competitor, Rules 9.2 (a) – (d) still apply.

### **10. POWERS AND COMPOSITION OF THE BOARD**

#### **10.1 Powers of the Board**

- (a) The governing body of the Club is to be called the Board and it has authority to control and manage the affairs of the Club.
  - (b) Subject to the Act, these Rules and any by-law or lawful resolution
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passed by the Club in General Meeting, the Board:

- (i) may exercise all powers and functions as may be exercised by the Club, other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members; and
- (ii) has power to perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the business and affairs of the Club.

## **10.2 Board Members**

- (a) The Board is to consist of:
    - (i) the office holders of the Club; and
    - (ii) not less than one (1) other Member.
  - (b) The maximum number of other Members of the Board is to be determined by the Board.
  - (c) The office holders of the Club are:
    - (i) the President;
    - (ii) the Vice-President;
    - (iii) the Secretary;
    - (iv) the Treasurer;
    - (v) the Registrar.and such other office holders as the Club may otherwise approve by resolution at a General Meeting.
  - (d) A Board Member must be:
    - (i) a natural person;
    - (ii) over 18 years in age; and
    - (iii) an Ordinary Member; or
    - (iv) Life Member
  - (e) No person shall be entitled to hold more than one of the positions set out in Rule 10.2(c) at any time.
  - (f) No person shall be entitled to hold a position on the Board if the person has been convicted of, or imprisoned in the previous five years for:
    - (i) an indictable offence in relation to the promotion, formation or management of a body corporate;
    - (ii) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
    - (iii) an offence under Part 4 Division 3 or section 127 of the Act;
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unless the person has obtained the consent of the Commissioner.

- (g) No person shall be entitled to hold a position on the Board if the person is, according to the *Interpretation Act* section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.

## **11. ROLE AND RESPONSIBILITIES OF BOARD MEMBERS**

### **11.1 Obligations of the Board**

The Board must take all reasonable steps to ensure the Club complies with its obligations under the Act and these Rules.

### **11.2 Responsibilities of Board Members**

- (a) A Board Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.
- (b) A Board Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of the Club and for a proper purpose.
- (c) A Board Member or former Board Member must not improperly use information obtained because he or she is a Board Member to:
- (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Club.
- (d) A Board Member or former Board Member must not improperly use his or her position to:
- (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Club.
- (e) A Board Member having any material personal interest in a matter being considered at a Board Meeting must:
- (i) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
  - (ii) disclose the nature and extent of the interest at the next General Meeting of the Club; and
  - (iii) not be present while the matter is being considered at the Board Meeting or vote on the matter.
- (f) Rule 11.2(e) does not apply in respect of a material personal interest that:
- (i) exists only because the Board Member belongs to a class of persons for whose benefit the Club is established; or
  - (ii) the Board Member has in common with all, or a substantial proportion of, the Members of the Club.
- (g) The Secretary must record every disclosure made by a Board Member under Rule 11.2(e) in the minutes of the Board Meeting at which the disclosure is made.
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- (h) No Board Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Club unless the person is authorised by the Board to do so and such authority is recorded in the minutes of the Board Meeting.

### **11.3 President**

The President must:

- (a) must consult with the Secretary regarding the business to be conducted at each Board Meeting and each General Meeting;
- (b) may convene Special Meetings of the Board under Rule 14.1(c);
- (c) may preside over Board Meetings under Rule 14.3;
- (d) may preside over General Meetings under Rule 17.4; and
- (e) must ensure that the minutes of a General Meeting or Board Meeting are reviewed and signed as correct under Rule 20.1(c).

### **11.4 Vice President**

The Vice president must:

- (a) stand in for the President as required;
- (b) perform any other duties as are imposed by these Rules or the Club on the Vice President.

### **11.5 Secretary**

The Secretary must:

- (a) co-ordinate the correspondence of the Club;
  - (b) consult with the President about all business to be conducted at meetings and convene General Meetings and Board Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
  - (c) keep and maintain in an up to date condition the Rules of the Club as required by Rule 24.1 and any by-laws of the Club made in accordance with Rule 25;
  - (d) maintain the record of office holders of the Club, referred to in Rule 11.6;
  - (e) ensure the safe custody of the Books (with the exception of the Accounting Records) of the Club under Rule 27.1;
  - (f) keep full and correct minutes of Board Meetings and General Meetings; and
  - (g) perform any other duties as are imposed by these Rules or the Club on the Secretary.
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**11.6 Treasurer**

The Treasurer must:

- (a) ensure all moneys payable to the Club are collected, and that receipts are issued for those moneys in the name of the Club;
- (b) ensure the payment of all moneys referred to in Rule 11.6(a) into the account or accounts of the Club as the Board may from time to time direct;
- (c) ensure timely payments from the funds of the Club with the authority of a General Meeting or of the Board;
- (d) ensure that the Club complies with the account keeping requirements in Part 5 of the Act;
- (e) ensure the safe custody of the Financial Records of the Club and any other relevant records of the Club;
- (f) if the Club is a Tier 1 Club, coordinate the preparation of the Financial Statements of the Club prior to their submission to the annual general meeting of the Club;
- (g) if the Club is a Tier 2 Club or Tier 3 Club, coordinate the preparation of the Financial Report of the Club prior to its submission to the annual general meeting of the Club;
- (h) assist the reviewer or auditor (if any) in performing their functions; and
- (i) perform any other duties as are imposed by these Rules or the Club on the Treasurer.

**11.7 Registrar**

The Registrar must:

- (a) Collate all membership forms (if applicable) and accompanying money and documents to be put to the Board for ratification;
- (b) Maintain an update and accurate register of all members, with the Junior Competitors register being kept separate;
- (c) Record members' registrations via the SWA online membership portal;
- (d) Oversee all transfers in and out of the Club;
- (e) perform any other duties as are imposed by these Rules or the Club on the Registrar.

**11.8 Record of Office Holders**

- (a) The Secretary or a person authorised by the Board from time to time must maintain a record of office holders.
  - (b) The record of office holders must include:
    - (i) the full name of each office holder;
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- (ii) the office held and the dates of appointment and (if applicable) cessation of the appointment; and
  - (iii) a current contact postal, residential or email address of each office holder.
- (c) The record of office holders must be kept and maintained at the Secretary's place of residence, or at such other place as the Board decides.

#### **11.9 Inspecting the Record of Office Holders**

- (a) Any Member is able to inspect the record of office holders free of charge, at such time and place as is mutually convenient to the Club and the Member.
- (b) The Member may make a copy of details from the record of office holders but has no right to remove the record for that purpose.

### **12. APPOINTING BOARD MEMBERS**

#### **12.1 Appointment to the Board**

Board Members are appointed to the Board by:

- (a) election at a General Meeting; or
- (b) appointment to fill a casual vacancy under Rule 13.1(b).

#### **12.2 Nominating for Membership of the Board**

- (a) A Member who wishes to be a Board Member must nominate either in writing or by other means as determined from time to time.
- (b) The Secretary must send a notice calling for nominations for election to the Board and when and where the election shall take place.
- (c) The nomination for election must be:
  - (i) in writing; and
  - (ii) delivered to the Secretary on or before the date for the close of nominations.
- (d) A Member may nominate for more than one position on the Board but may only fill one position.

#### **12.3 Electing Board Members**

- (a) If the number of valid nominations received under Rule 12.2 is equal to the number of vacancies to be filled for the relevant position on the Board, the Member nominated shall be deemed to be elected at a General Meeting.
  - (b) If the number of valid nominations exceeds the number of vacancies to be filled for the relevant position on the Board, elections for the positions must be conducted at a General Meeting.
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- (c) If there are not enough valid nominations to fill the number of vacancies for the relevant positions on the Board, the candidates nominated (if any) shall be deemed to be elected and further nominations may be received from the floor of a General Meeting.
- (d) Where the number of nominations from the floor exceeds the remaining number of vacancies on the Board, elections for those positions must be conducted.
- (e) If an insufficient number of nominations are received from the floor for the number of vacancies on the Board that remain, each relevant position on the Board is declared vacant by the person presiding at a General Meeting and Rule 13.1(b) applies.
- (f) The elections for office holders or Ordinary Board Members are to be conducted at a General Meeting in the manner directed by the Board.

#### **12.4 Voting in Elections for Membership of the Board**

- (a) Subject to Rule 19.3(e), each Ordinary Member present and eligible to vote at a General Meeting may vote for one candidate for each vacant position on the Board.
- (b) A Member who nominates for election or re-election may vote for himself or herself.

#### **12.5 Term of Office of Board Members**

- (a) The Board Members appointed on incorporation of the Club will hold office until the conclusion of the first General Meeting and will be eligible for re-election.
- (b) At each General Meeting of the Club, the appointment of the Board Members at a General Meeting will be for the period between the date of their appointment and the latter of:
  - (i) one year after the date of their appointment; and
  - (ii) the next General Meeting.
- (c) Subject to Rule 12.5(a), a Board Member's term will commence on the date of his or her:
  - (i) election at General Meeting; or
  - (ii) appointment to fill a casual vacancy that arises under Rule 13.1(b).
- (d) All retiring Board Members are eligible, on nomination under Rule 12.2, for re-election.

### **13. CEASING TO BE A MEMBER OF THE MANAGEMENT BOARD**

#### **13.1 Vacant Positions on the Board**

- (a) A casual vacancy occurs in the office of a Board Member and that office becomes vacant if the Board Member:
    - (i) dies;
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- (ii) ceases to be a Member;
  - (iii) becomes disqualified from holding a position under Rule 10.2 (f) or (g) as a result of bankruptcy or conviction of a relevant criminal offence;
  - (iv) becomes permanently incapacitated by mental or physical ill-health;
  - (v) resigns from office under Rule 13.2;
  - (vi) is removed from office under Rule 13.3; or
  - (vii) is absent from more than:
    - (A) three (3) consecutive Board Meetings without the consent of the board; or
    - (B) four (4) Board Meetings in the same Financial Year without the consent of the board, where the Member received notice of the meetings, and the Board has resolved to declare the office vacant.
- (b) If a position on the Board is declared vacant under Rule 12.3(e), or there is a casual vacancy within the meaning of Rule 13.1(a), the continuing Board Members may:
- (i) appoint a Member to fill that vacancy until the conclusion of the next General Meeting; and
  - (ii) subject to Rule 13.1(c), act despite the vacant position on the Board.
- (c) If the number of Board Members is less than the number fixed under Rule 1.3 as the quorum for Board Meetings, the continuing Board Members may act only to:
- (i) increase the number of Members on the Board to the number required for a quorum; or
  - (ii) convene a General Meeting of the Club.

### **13.2 Resigning from the Board**

- (a) A Board Member may resign from the Board by giving written notice of resignation to the Secretary, or if the Board Member is the Secretary, to the President.
- (b) The Board Member resigns:
  - (i) at the time the notice is received by the Secretary or President under Rule 13.2(a); or
  - (ii) if a later time is stated in the notice, at the later time.

### **13.3 Removal from Board**

- (a) Rule 13.1(a)(vii) will apply and is at the sole discretion of the Board. However, a Board Member may also be removed from his or her position
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on the Board by resolution at a Board Meeting of the Club if a majority of the Board members present at the Board meeting vote in favour of the removal.

- (b) The Board Member who faces removal from the Board must be given a full and fair opportunity at the Board Meeting referred to in 13.3 (a) to state his or her case either orally or in writing before any vote is to take place as to why he or she should not be removed from his or her position on the Board.
- (c) If all Board Members are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Board. The interim Board must, within two months, convene a General Meeting of the Club for the purpose of electing a new Board.

## **14. BOARD MEETINGS**

### **14.1 Meetings of the Board**

- (a) The Board must meet at least eight times in each year.
- (b) The Board is to determine the place and time of all Board Meetings.
- (c) Special Meetings of the Board may be convened under Rule 14.2 by:
  - (i) the President; or
  - (ii) any two Board Members.

### **14.2 Notice of Board Meetings**

- (a) The Secretary must give each Board Member at least 7 days' notice of each Board Meeting before the time appointed for holding the meeting.
- (b) Notice of a Board Meeting must specify the general nature of the business to be transacted at the meeting.
- (c) Subject to Rule 14.2(d), only the business specified on the notice of the Board Meeting is to be conducted at that meeting.
- (d) Urgent business may be conducted at Board Meetings if the Board Members present at a Board Meeting unanimously agree to treat the business as urgent.

### **14.3 Chairing at Board Meetings**

- (a) The President or, in the President's absence, the Vice-President is to preside as president of each Board Meeting.
- (b) If the President and the Vice-President are absent or unwilling to act, the remaining Board Members must choose one of their number to preside as President at the Board Meeting.

### **14.4 Procedure of the Board Meeting**

- (a) The quorum for a Board Meeting is specified at clause 1.3 is five (5). The Board cannot conduct business unless a quorum is present.
  - (b) If, within half an hour of the time appointed for the meeting, a quorum is
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not present the meeting is to stand adjourned to the same time, day and place in the following week.

- (c) If at a meeting adjourned under Rule 14.4(b), a quorum is not present but no less than 4 board members are present within half an hour of the time appointed for the meeting, the Board Members personally present will constitute a quorum.
- (d) Board Meetings may take place:
  - (i) where the Board Members are physically present together; or
  - (ii) where the Board Members are able to communicate by using any technology that reasonably allows the Board Member to participate fully in discussions as they happen in the Board Meeting and in making decisions, provided that the participation of the Member in the Board Meeting must be made known to all other Members.
- (e) A Board Member who participates in a meeting as set out in Rule 14.4(d)(ii):
  - (i) is deemed to be present at the Board Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum,

until the Board Member notifies the other Board Members that he or she is no longer taking part in the Board Meeting.
- (f) Subject to these Rules, the Board Members present at the Board Meeting are to determine the procedure and order of business to be followed at a Board Meeting.
- (g) All Board Members have the right to attend and vote at Board Meetings.
- (h) All Members, or other guests, may attend Board Meetings if invited by the Board but the person shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- (i) The Secretary or a person authorised by the Board from time to time must keep minutes of the resolutions and proceedings of all Board Meetings together with a record of the names of persons present at each meeting.

#### **14.5 Voting at Board Meetings**

- (a) Each Board Member present at a Board Meeting has a deliberate vote.
  - (b) A question arising at a Board Meeting is to be decided by a majority of votes, but if there is an equality of votes, the President of the Board Meeting as set out in Rule 14.3 is entitled to exercise a second or casting vote.
  - (c) Decisions may be made by general agreement or a show of hands.
  - (d) A poll by secret ballot may be used if the Board prefers to determine a matter in this way and the person presiding over the Board Meeting is to
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oversee the ballot.

#### **14.6 Acts not Affected by Defects or Disqualifications**

Any act performed by the Board, a Committee or a person acting as a Board Member is deemed to be valid even if the act was performed when:

- (a) there was a defect in the appointment of a Board Member, Committee or person holding a subsidiary office; or
- (b) a Board Member, a Committee Member or a person holding a subsidiary office was disqualified from being a Member.

#### **15. REMUNERATION OF BOARD MEMBERS**

- (a) The Club may pay a Board Member's expenses as properly incurred and approved at the next board meeting:
  - (i) in connection with the Club's business.
- (b) Board Members must not receive any remuneration for their services as Board Members other than as described at Rule 15(a).

#### **16. COMMITTEE AND DELEGATION**

##### **16.1 Appointment of Committee**

- (a) The Board may appoint one or more Committees as considered appropriate by the Board from time to time to assist with the conduct of the Club's operations.
- (b) A committee may comprise (in such numbers as the Board determines) Members and non-Members.
- (c) Subject to these Rules, the Committee Members present at the committee meeting are to determine the procedure and order of business to be followed at the Committee meeting.

##### **16.2 Delegation by Board to Committee**

- (a) The Board may delegate, in writing, to any or all of the Committees, any authority, power or functions and may cancel any authority, powers or functions, as the Board sees fit from time to time.
- (b) Despite any delegation under this Rule, the Board may continue to exercise all its functions, including any function that has been delegated to a Committee and remains responsible for the exercise of those functions at all times.

##### **16.3 Delegation to Subsidiary Offices**

- (a) The Board may create and fill such subsidiary office as may be necessary for the proper and efficient management of the Club's affairs.
  - (b) The Board may delegate, in writing, to any person holding a subsidiary office any authority, power or functions and may cancel any authority, powers or functions, as the Board sees fit from time to time.
  - (c) Despite any delegation under this Rule, the Board may continue to
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exercise all its functions, including any function that has been delegated to a subsidiary office and remains responsible for the exercise of those functions at all times.

**17. GENERAL CUSTODY**

**17.1 Procedure for General Meetings**

- (a) General Meetings may take place:
  - (i) where the Members are physically present together.
- (b) A Member who participates in a meeting as set out in Rule 17.1(a)(i):
  - (i) is deemed to be present at the General Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum,

until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

**17.2 Quorum for General Meetings**

- (a) The Quorum for General Meetings is specified in Rule 1.4.
- (b) Subject to Rules 17.2(c) and (d), no business is to be conducted at a General Meeting unless a quorum of twelve (12) Members entitled to vote under these Rules is present at the time when the meeting is considering that item.
- (c) If, within half an hour of the time appointed for the commencement of a General Meeting, a quorum is not present:
  - (i) in the case of a Special General Meeting, the meeting lapses; or
  - (ii) in the case of a General Meeting, the meeting is to stand adjourned to:
    - (A) the same time and day in the following week; and
    - (B) the same place unless another place is specified by the President at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
- (d) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, the Members present are to constitute a quorum.

**17.3 Notice of General Meetings and Motions**

- (a) The Secretary must give at least:
    - (i) 14 days' notice of a General Meeting to each Member, or
    - (ii) 21 days' notice of a General Meeting to each Member if a Special Resolution is proposed to be moved at the General Meeting.
  - (b) The notice convening a General Meeting must specify:
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- (i) the place, date and time of the meeting; and
  - (ii) the particulars and order of the business to be conducted at the meeting.
- (c) The notice convening a General Meeting or any notice of motion must be issued in the manner prescribed by Rule 2.2.

**17.4 Presiding Member**

- (a) The President or, in the President's absence, the Vice-President is to preside as president and chairperson of each General Meeting.
- (b) If the President and the Vice-President are absent or unwilling to act, the remaining Board Members must choose one of their number to preside as president and chairperson at the General Meeting.

**17.5 Adjournment of General Meetings**

- (a) The person presiding over a General Meeting, at which a quorum is present, may adjourn the meetings from time to time and place to place with the consent of a majority of Members present at the meeting.
- (b) No business is to be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- (c) When a General Meeting is adjourned for 14 days or more, the Secretary must give notice of the adjourned meeting in accordance with Rules 2.2 and 17.1 as if that General Meeting was a new General Meeting.

**18. SPECIAL GENERAL MEETINGS**

**18.1 Special General Meeting**

- (a) The Board may at any time convene a Special General Meeting of the Club.
- (b) The Secretary must convene a Special General Meeting of the Club within 28 days after receiving a written request to do so from at least 50 per cent of the total number of Members and of those Members must have been a member of the club for at least 6 months.

**18.2 Request for Special General Meeting**

A request by the Ordinary Members for a Special General Meeting must:

- (a) state the ordinary resolution proposed for the meeting;
- (b) be signed by the required number of Ordinary Members making the request as specified in Rule 18.1(b), and all signatures must be the original signatures. No copies of signatures shall be accepted; and
- (c) be lodged with the Secretary.

**18.3 Failure to Convene Special General Meeting**

- (a) If the Secretary fails to convene a Special General Meeting within the 28 days referred to in Rule 18.1(b), the Members who made the request; may convene a Special General Meeting within 3 months after the original
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request was lodged as if the Members were the Board.

- (b) A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Board and the Club must pay the reasonable expenses of convening and holding the Special General Meeting.

## **19. MAKING DECISIONS AT GENERAL MEETINGS**

### **19.1 Special Resolutions**

- (a) A Special Resolution must be moved at a General Meeting where notice of the Special Resolution has been given under Rule 19.1(c).
- (b) A Special Resolution of the Club is required to:
  - (i) amend the name of the Club;
  - (ii) amend the Rules, under Rule 24.2;
  - (iii) affiliate the Club with another body;
  - (iv) transfer the incorporation of the Club;
  - (v) amalgamate the Club with one or more other Incorporated Clubs or Associations;
  - (vi) voluntarily wind up the Club;
  - (vii) cancel incorporation; or
  - (viii) request that a statutory manager be appointed.
- (c) Notice of a Special Resolution must:
  - (i) be in writing;
  - (ii) include the place, date and time of the meeting;
  - (iii) include the intention to propose a Special Resolution;
  - (iv) set out the wording of the proposed Special Resolution; and
  - (v) be given in accordance with Rule 2.2.
- (d) If notice is not given in accordance with Rule 19.1(c), the Special Resolution will have no effect.
- (e) A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three- fourths of the Members present, in person and eligible to cast a vote at the meeting.

### **19.2 Ordinary Resolutions**

Subject to these Rules, a majority of votes will determine an Ordinary Resolution.

### **19.3 Voting at meetings**

- (a) Subject to these Rules, each Ordinary Member has one vote at a General Meeting of the Club.
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- (b) A person casts a vote at a meeting by voting at the meeting in person.
- (c) In the case of an equality of votes at a General Meeting, the President of the meeting is entitled to exercise a second or casting vote.
- (d) A Member is not entitled to vote at any General Meeting of the Club unless all money due and payable by the Member to the Club has been paid in accordance with Rules 9.1 and 9.2.
- (e) A Member is only entitled to vote at a General Meeting if the Member's name is recorded in the Register as at the date the notice of the General Meeting was sent out under Rule 17.3.

#### **19.4 Proxies**

- (a) Proxy voting shall not be permitted at General Meetings or Board meetings.

#### **19.5 Manner of Determining Whether a Resolution is Carried**

- (a) Unless a Poll is demanded under Rule 19.6, if a question arising at a General Meeting of the Club is determined by general agreement or a show of hands, a declaration must be made by the President of the General Meeting that the resolution has been:
  - (i) carried unanimously;
  - (ii) carried by a particular majority; or
  - (iii) lost.
- (b) If the declaration relates to a Special Resolution, then subject to Rule 19.1(c), the declaration should state that a Special Resolution has been determined.
- (c) The declaration made under Rule 19.5(a) must be entered into the minute book of the Club.
- (d) The entry in the minute book of the Club under Rule 19.5(c) is evidence of the fact that the resolution has been determined, without proof of the number or proportion of the votes recorded in favour of or against that resolution.

#### **19.6 Poll at General Meetings**

- (a) At a General Meeting, a Poll on any question may be demanded by either:
    - (i) the President of the meeting; or
    - (ii) at least three Ordinary Members present in person.
  - (b) If a Poll is demanded at a General Meeting, the Poll must be taken in a manner as the President of the meeting directs and a declaration by the President of the result of the Poll is evidence of the matter so declared.
  - (c) If a Poll is demanded at a General Meeting, the Poll must be taken:
    - (i) immediately in the case of a Poll which relates to electing a person to preside over the meeting;
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- (ii) immediately in the case of a Poll which relates to adjourning the meeting; or
  - (iii) in any other case, in the manner and time before the close of the meeting as the President directs.

## **20. MINUTES OF MEETINGS**

### **20.1 Minutes of Meetings**

- (a) The Secretary or a person authorised by the Board from time to time must keep minutes of the resolutions and proceedings of all General Meetings and Board Meetings together with a record of the names of persons present at each meeting. All or part of the proceedings at a General or Board meeting may use an audio recording device. The recording may be kept for any the purpose, however the use of an audio recording must be disclosed to those prior to starting the audio recording. If any member does not consent to the recording then this shall be noted in the proceedings within the minutes and the audio recording shall cease.
- (b) The minutes are to be taken and then to be entered within 30 days after the holding of each meeting, into a minute book kept for that purpose.
- (c) The President must ensure that the minutes of a General Meeting or Board Meeting under Rule 20.1(a) are reviewed and signed as correct by:
  - (i) the President of the General Meeting or Board Meeting to which those minutes relate; or
  - (ii) the President of the next succeeding General Meeting or Board Meeting.
- (d) When minutes have been entered and signed as correct under this Rule, they are, until the contrary is proved, evidence that:
  - (i) the General Meeting or Board Meeting to which they relate was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the General Meeting or Board Meeting did in fact take place at the meeting; and
  - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.
- (e) The minutes of General Meetings may be inspected by a Member under Rule 27.2.
- (f) The minutes of Board Meetings may only be inspected by an Ordinary Member under Rule 27.2 unless the Board determines that the minutes of Board Meetings generally, or the minutes of a specific Board Meeting are not to be available for inspection. The minutes of every board meeting shall be marked "confidential" where it is determined that they not be available for inspection.

## **21. FUNDS AND ACCOUNTS**

### **21.1 Control of Funds**

- (a) The funds of the Club must be kept in an account in the name of the
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Club in a financial institution determined by the Board.

- (b) The funds of the Club are to be used in pursuance of the objects of the Club.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Club must be signed by:
  - (i) any two Board Members; or
  - (ii) one Board Member and a person authorised by the Board.
- (d) All expenditure shall be set by the Board from time to time must be approved or ratified at a Board Meeting.

#### **21.2 Source of Club Funds**

- (a) The funds of the Club may be derived from entrance fees and annual membership fees of Members, donations, fund raising activities, grants, interest, and any other sources approved by the Board.
- (b) The Club must, as soon as practicable:
  - (i) deposit all money received by the Club, to the credit of the Club's bank account, without deduction; and
  - (ii) after receiving any money, issue an appropriate receipt.

#### **21.3 Financial Records**

- (a) The Club must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair financial statements to be prepared in accordance with Part 5 of the Act.
- (b) The Club must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

#### **21.4 Financial Statements and Financial Reports**

- (a) For each financial year, the Club must ensure that the requirements under Part 5 of the Act are met.
  - (b) Without limiting sub-Rule (a), those requirements include—
    - (i) if the Club is a Tier 1 Club, the preparation of the Financial Statements;
    - (ii) If the Club is a Tier 2 Club or Tier 3 Club, the preparation of the Financial Report;
    - (iii) if required, the review or auditing of the Financial Statements or Financial Report (whichever is applicable);
    - (iv) if the Club is a Tier 1 Club, the presentation of the Financial Statements to the annual general meeting of the Club (and, if required, a copy of the report of the review or auditor's report, whichever is applicable);
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- (v) if the Club is a Tier 2 Club or a Tier 3 Club, the presentation of the Financial Report to the annual general meeting of the Club (and a copy of the report of the review or auditor's report, whichever is applicable); and
- (vi) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

#### **21.5 Review or Audit of Financial Statements or Financial Report**

The Club must ensure that a review or audit is undertaken of the Financial Statements or Financial Report of the Club if:

- (a) the Club is a Tier 2 or Tier 3 Club;
- (b) the by-laws of the Club require a review or audit;
- (c) the Members require a review or audit by resolution at a General Meeting;
- (d) an audit or review is directed by the Commissioner; or
- (e) an audit or review is required as a condition of a funding arrangement; or holding of a charitable collections licence.

#### **22. FINANCIAL YEAR OF THE CLUB**

As per Rule 1.5, the Club's Financial Year, will be the period of 12 months commencing on 1 July and ending on 30 June of each year.

#### **23. ANNUAL GENERAL MEETINGS**

##### **23.1 Annual General Meeting**

- (a) Subject to Rules 23.1(b) and 23.1(c), the Club must convene a General Meeting each calendar year:
  - (i) within 6 months after the end of the Club's Financial Year; or
  - (ii) within a longer period as the Commissioner may allow.
- (b) The Club may hold its first General Meeting at any time within the period of 18 months after incorporation under the Act.
- (c) If the Club requires the approval from the Commissioner to hold its General Meeting within a longer period under Rule 23.1(a)(ii), the Secretary must apply to the Commissioner no later than four months after the end of the Club's Financial Year.

##### **23.2 Notice of General Meeting**

The notice convening a General Meeting must specify that it is the General Meeting of the Club and otherwise must comply with Rules 2.2 and 17.3 (as applicable).

##### **23.3 Business to be conducted at General Meeting**

- (a) Subject to Rule 23.1, the General Meeting of the Club is to be convened on a date, time and place as the Board decides.
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- (b) At each General Meeting of the Club, the Club:
- (i) must confirm the minutes of the last preceding General Meeting and of any Special General Meeting held since that meeting if the minutes of that Special General Meeting have not yet been confirmed;
  - (ii) if the Club is a Tier 1 Club, must receive the Financial Statements of the Club for the preceding Financial Year;
  - (iii) if the Club is a Tier 2 Club or a Tier 3 Club, must receive the Financial Report of the Club for the preceding Financial Year;
  - (iv) if applicable, must appoint or remove a reviewer or auditor in accordance with the Act;
  - (v) if applicable, must present a copy of the report of the review or the auditor's report to the Club; and
  - (vi) must elect or appoint the office holders and Ordinary Board Members.

## **24. RULES OF THE CLUB**

### **24.1 Rules of the Club**

- (a) These Rules bind every Member and the Club and each Member agrees to comply with these Rules.
- (b) The Club must provide, free of charge, a copy of the Rules in force, at the time membership commences, to each person who becomes a Member under Rule 5.5.
- (c) The Club must keep a current copy of the Rules.

### **24.2 Amendment of Rules, Name and Objects**

- (a) The Club may alter, rescind or add to these Rules by Special Resolution in accordance with Rule 19.1 and not otherwise.
  - (b) When a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within:
    - (i) one month after the Special Resolution is passed; or
    - (ii) a longer period as the Commissioner may allow.
  - (c) Subject to Rule 24.2(d), an amendment to the Rules does not take effect until the required documents are lodged with the Commissioner under Rule 24.2(b).
  - (d) An amendment to the Rules that changes or has the effect of changing:
    - (i) the name of the Club; or
    - (ii) the objects or purposes of the Club, does not take effect until the required documents are lodged with the Commissioner under Rule 24.2(b) and the approval of the Commissioner is given in writing.
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**25. BY-LAWS OF THE CLUB**

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

**25.2** The by-laws made under Rule 25.1:

- (a) Do not form part of the Rules;
- (b) May make provision for:
  - (i) Classes of Membership and the rights and obligations that apply to each Class of Membership;
  - (ii) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;
  - (iii) restrictions on the powers of the Board including the power to dispose of assets;
  - (iv) a requirement for Members to hold a specified educational, trade or professional qualification; and
  - (v) any other matter that the Club considers necessary or appropriate;
- (c) Must be available for inspection by Members.

**26. AUTHORITY REQUIRED TO BIND CLUB**

**26.1 Executing Documents**

- (a) The Club may execute a document without using a common seal if the document is signed by:
  - (i) any two Board Members; or
  - (ii) one Board Member and a person authorised by the Board.

**26.2 Use of the Common Seal**

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

## **27. THE CLUB'S BOOKS AND RECORDS**

### **27.1 Custody of the Books of the Club**

- (a) Except as otherwise decided by the Board from time to time, the Secretary must keep in his or her custody or under his or her control all of the Books of the Club with the exception of the Financial Records which, except as otherwise directed by the Board from time to time, are to be kept under the custody or control of the Treasurer.
- (b) The Books of the Club must be retained for at least 7 years.

### **27.2 Inspecting the Books of the Club**

- (a) Subject to these Rules, and in particular Rule 20.1(f), a Member is able to inspect the Books of the Club free of charge at such time and place as is mutually convenient to the Club and the Member.
- (b) A Member must contact the Secretary to request to inspect the Books of the Club.
- (c) The Board may require a Member who requests to inspect the Books to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Club.
- (d) The Member may make a handwritten copy of details from the Books under supervision by a Board member or anyone who is authorised by the Board of the Club but has no right to remove or take digital images the Books of the Club for that purpose.

### **27.3 Prohibition on Use of Information in the Books of the Club**

- (a) A Member must not use or disclose information in the Books of the Club except for a purpose:
  - (i) that is directly connected with the affairs of the Club; or
  - (ii) related to the provision of the information to the Commissioner in accordance with a requirement of the Act.

### **27.4 Returning the Books of the Club**

Outgoing Board Members are responsible for transferring all relevant assets and Books of the Club to the new Board within 14 days of ceasing to be a Board Member.

## **28. RESOLVING CONCERNS AND DISPUTES**

### **28.1 Member Protection Information Officer**

- (a) The Club must ensure that at least one of its Members, at any one time, is a Member Protection Information Officer.
  - (b) A Member Protection Information Officer is any person who:
    - (i) is an Ordinary Member;
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- (ii) has been selected by the Board;
  - (iii) agrees to be a Member Protection Information Officer; and
  - (iv) has completed any training course which the Club requires Member Protection Information Officers to have completed, from time to time.
- (c) A Member Protection Information Officer shall be available to the Members and parent and guardians of Junior Competitors for them to discuss and voice their complaints and concerns in relation to the Club and the activities of the Club.
- (d) Provided that the Member Protection Information Officer does not have any legal obligation to report any matter disclosed to them in their capacity as Member Protection Information Officer, the Member Protection Information Officer shall keep all matters disclosed to them confidential unless permission is obtained from or at the request of the complainant.

## **28.2 Disputes Arising under the Rules**

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

### **28.3 Mediation**

- (a) This Rule applies where a person is dissatisfied with a decision made by the Board under Rule 28.2.
  - (b) Where the dispute relates to a proposal for the suspension or expulsion of a Member this Rule does not apply until the procedure under Rule 7.3 in respect of the proposed suspension or expulsion has been completed.
  - (c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Rule 28.2(c), or a party to the dispute is dissatisfied with a decision made by the Board under Rule 28.2(g) a party to a dispute may:
    - (i) Provide written notice to the Secretary of the parties to, and the details of, the dispute;
    - (ii) Agree to, or request the appointment of, a mediator.
  - (d) The party, or parties requesting the mediation must pay the costs of the mediation.
  - (e) The mediator must be:
    - (i) a person chosen by agreement between the parties; or
    - (ii) in the absence of agreement:
      - (A) if the dispute is between a Member and another Member – a person appointed by the Board; or
      - (B) if the dispute is between a Member or more than one Member and the Club, the Board or a Board Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
  - (f) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
  - (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
  - (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
  - (i) The mediator, in conducting the mediation, must:
    - (i) give the parties to the mediation process every opportunity to be heard;
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- (ii) allow all parties to consider any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (j) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

#### **28.4 Inability to Resolve Disputes**

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

#### **29. CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY**

- (a) The Club may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the Club will:
    - (i) apply to the Commissioner for cancellation of its incorporation; or
    - (ii) appoint a liquidator to wind up its affairs.
  - (b) The Club must be wound up under Rule 29(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
  - (c) Prior to making any resolution regarding cancellation or winding up of the Club, the Club must advise SWA of the Club's intention to propose a resolution regarding the cancellation or winding up of the Club.
  - (d) The Club must provide SWA with copies of the minutes of any meeting of the Club in which the Club proposes and/or resolves to have its incorporation cancelled or wound up.
  - (e) Upon cancellation of the Club, the Surplus Property may only be distributed to the following:
    - (i) an incorporated Club under the Act;
    - (ii) a body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;
    - (iii) a company limited by guarantee that is registered as mentioned in section 150 of the *Corporations Act 2001 (Cwth)*;
    - (iv) a company holding a licence that continues in force under section 151 of the *Corporations Act 2001 (Cwth)*;
    - (v) a body corporate that:
      - a) is a Member or former Member of the Club; and
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- b) at the time of the Surplus Property is distributed, has Rules that prevent the property being distributed to its Members;
  - (vi) a trustee for a body corporate referred to in Rule 29(e)(v); or
  - (vii) a co-operative registered under the *Co-operatives Act 2009* that, at the time of the distribution, is a non-distributing co- operative as defined in that Act.
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