



CONSTITUTION OF

SWIMMING METRO NORTH WEST INCORPORATED

22nd April 2008

**Amended 17th May 2018
Amended 8th February 2020
Amended 16th June 2022**

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1. NAME

The name of the association is *Swimming Metro North West* Incorporated.

2. OBJECTS

The objects of the Association are to:

- (a) operate as an Area Swimming Association established by Swimming New South Wales Limited and affiliate in accordance with the constitutions of Swimming Australia Limited and Swimming New South Wales Limited or their successors or assigns;
- (b) conduct, encourage, promote, advance and administer relevant swimming activities within the Area;
- (c) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects;
- (d) collect, distribute and publish information in connection with swimming to its Members;
- (e) promote Area competitions and championships and to the extent relevant, promote and assist in conducting state competitions and championships;
- (f) promote Swimming New South Wales meetings and represent the Area at Swimming New South Wales meetings and forums;
- (g) promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of swimming and related activities in the Area; and
- (g) comply with the objects of Swimming New South Wales Limited as listed in its constitution in relation to swimming activities.

3. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association, in addition to any powers it has under the Act, may with the approval of SNSW adopt its own rules which may provide for:

- (a) the election of officers to control the Area;
- (b) the election of a Board to provide training and conduct examinations for the qualification of members as technical officials;
- (c) the annual subscription to be paid by each Club within the Area;
- (d) the conduct of championships restricted to the Area;
- (e) the appointment of officials to control Area competitions;
- (f) the control of its own finances; and
- (g) the making of By-Laws which are not contrary to SNSW constitution or by-laws.

4. DEFINITIONS AND INTERPRETATIONS

4.1 Definitions

In this Constitution unless the context otherwise requires:

“Act” means *Associations Incorporations Act 2009*.

“Area” means the association recognized by Swimming NSW Limited to administer the sport of swimming in a particular geographic region of New South Wales as determined by Swimming NSW Limited.

“Association” means *Swimming Metro North West* Incorporated.

“By-Laws” means any by-laws made by the Association under Clause 29.

“Club” means and includes those organisations admitted to this category of membership in accordance with Clause 6.

“Board” means the management Board of the Association elected or appointed as detailed in this Constitution.

“Constitution” means the Constitution for the time being of the Association.

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

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

“FINA” means Federation Internationale de Natation or its successors or assigns.

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

“Individual Director” means a member of the Board who is not an office-bearer of the Association.

“Individual Member” means a registered financial member of a Club.

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

“Life Member” means an Individual Member upon whom life membership of the Association has been conferred under Clause 5.2.

“Objects” means the objects of the Association in Clause 2.

“Policy” means the policies made by the Association under Clause 29.

“President” means the president for the time being of the Association.

“Regulation” means the *Associations Incorporation Regulation 2016*.

“SAL” means Swimming Australia Limited or its successors or assigns.

“SNSW” means Swimming New South Wales Limited or its successors or assigns being the governing body for swimming in New South Wales.

“Secretary” means the person holding office under this constitution as secretary of the Association, or if no such person holds that office, the public officer of the Association.

“Special General Meeting” means a General Meeting of the Association other than an Annual General Meeting.

“Special Resolution” means a resolution passed;

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

4.2 Interpretation

- (a) Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.
- (b) In this Constitution unless the context otherwise requires:
 - (i) a reference to a function includes a reference to a power, authority and duty;
 - (ii) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty;
 - (iii) words importing the singular include the plural and vice versa;
 - (iv) words importing any gender include the other gender;
 - (v) references to persons include corporations and bodies politic;
 - (vi) references to a person include the legal personal representatives, successors and permitted assigns of that person;
 - (vii) 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);
 - (viii) an expression used in the Act that is given a special meaning for the purposes of the Act, has in any Clause of this Constitution that deals with the same matter, the same meaning as in the Act; and
 - (ix) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution.

- (c) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.

5. MEMBERS

5.1 Members of Association

The Members of the Association shall consist of:

- (a) the Clubs, which subject to this Constitution, shall be represented by its Delegates who have the right to attend, debate and vote at General Meetings for and on behalf of the Club;
- (b) Individual Members who may attend General Meetings but otherwise have no right to debate or vote at General Meetings (unless also a Delegate);
- (c) Life Members of the Association, who may attend and debate but not vote at General Meetings of the Association (unless also a Delegate).

5.2 Life Members

- (a) The Association may, from among persons who have provided long and meritorious service with the Association, appoint Life Members in recognition of their efforts in furthering the interests of the Association.
- (b) A Life Member may only be elected by Special Resolution at an Annual General Meeting.
- (c) A nomination for Life Membership may only be made by the Board or a Club.
- (d) Nominations for life membership must be submitted to the Association and must be received by the Secretary sixty (60) days prior to the relevant Annual General Meeting.
- (e) Nominations for life membership shall be examined by the Board. After reviewing the nomination and completing any relevant enquiries, the Board shall make a recommendation to the Annual General Meeting in relation to the nomination.
- (f) Upon life membership being conferred, the person's details shall be entered upon the register. A person shall become a Life Member from the time their life membership is formally announced.
- (g) All existing life members of the predecessor Areas shall automatically become Life Members of this Association.

6. CLUBS

6.1 Clubs

The Association shall consist of such Clubs as are recognised and admitted to membership as a Club by SNSW.

6.2 Admission of Clubs

- (a) After receiving advice from SNSW the Association shall accept membership of a Club which has been assigned to the Association in accordance with the SNSW constitution.
- (b) The Secretary of the Association must, as soon as practicable after the advice from SNSW provide the Club with the appropriate membership information.

6.3 Compliance of Clubs

Each Club shall:

- (a) provide the Association not later than twenty eight (28) days after its annual general meeting a list of the names of the office bearers elected at the meeting; and
- (b) maintain, in a form and with such details as are acceptable to the Association, a register of all its members. Each Club shall provide a copy of the register at a time and in a form acceptable to or required by the Association and shall provide prompt and regular updates of that register to the Association when requested by the Board.

6.4 Operation of Constitution

The Association and the Members agree:

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

7. SUBSCRIPTIONS AND FEES

- (a) The funds of the Association are to be derived from annual membership fees and such additional fees as decided at a General Meeting of the Association.
- (b) Fees including annual membership fees payable by Members (or any category of Member) to the Association, the basis of, the time for and the manner of payment shall be as decided at a General Meeting of the Association.
- (c) Monies payable to the Association by the Clubs under Clause 7(b) shall be forwarded to the Association for the Association's use by such dates as are prescribed by the Board.
- (d) Any Club which has not paid all monies due and payable by that Club to the Association, shall (subject to the Board's discretion), have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise in the Board's discretion. The Club shall be dealt with in the Board's discretion, which includes the right to recommend to SNSW suspension as detailed in Clause 11.1.
- (e) Where the Board exercises its discretion under Clause 7(d) and imposes a penalty on a Club which or who has not paid all monies due and payable by that Club to the Association, the rules of natural justice are hereby expressly excluded and do not apply to the imposition of that penalty.

8. ASSOCIATION REGISTER OF MEMBERS

8.1 Association to Keep Register

The Association shall keep and maintain a register (in written or electronic form) of Members in which shall be entered such information as is required under the Act from time to time, including name, postal, residential or email address of each person who is a member of the Association together with the date the person became a member.

8.2 Inspection of Register

- (a) Having regard to privacy and confidentiality considerations and subject to Clause 8.2(b), an extract of the register, excluding the address of any Member, shall be available for inspection (but not copying), upon reasonable request.
- (b) The extract of the register can only be inspected by Clubs and only in relation to Individual Members in their Club.
- (c) If the register is kept in electronic form, it must be convertible into hard copy.

9. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

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

10. DISCONTINUANCE OF MEMBERSHIP

10.1 Notice of Cessation

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

10.2 Forfeiture of Property Rights

A Club who ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Association and its property including Intellectual Property. Any of the Association documents, records or other property in the possession, custody or control of that Club shall be returned to the Association immediately.

10.3 Forfeiture of Representation Rights

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

10.4 Membership May be Reinstated

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

10.5 Individual Members and Clubs

Where a Club ceases to be a Member in accordance with this Constitution or the Act, the Individual Members of that Club may continue to be recognised by the Association to the extent (if any) and for such time (if any) as is determined in the sole discretion of the Board.

11. DISCIPLINE OF MEMBERS

11.1 Discipline of Clubs

- (a) The Board may recommend SNSW take disciplinary action against a Club if the Club:
 - (i) does not comply with any of the provisions of this constitution, or
 - (ii) acts in a way considered to be injurious or prejudicial to the objectives or interest of the Association, or
 - (iii) has membership fees in arrears for at least three months.
- (b) Before the Board makes such a recommendation, the Board must give a full and fair opportunity to the Club to show why the recommendation should not be made.
- (c) If, after considering all representations made, the Board decides to recommend the taking of disciplinary action against a Club, the Board must give a written notice of the decision to the Club.

11.2 Discipline of Members

- (a) Where the Board is advised or considers that a member has allegedly:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws, the Policies and the rules or any resolution or determination of the Board; or
 - (ii) acted in a manner unbecoming of a member or prejudicial to the Objects and interests of the Association and/or swimming; or
 - (iii) brought the Association or swimming into disrepute;

the Board may commence or cause to be commenced disciplinary proceedings against that member, and that member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Association as set out in its Constitution and/or By-Laws.
- (b) 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 but does not include a Club.

11.3 Jurisdiction to Hear Matters

The Association may choose to not accept an appeal or other matter under this Clause where it considers it has been properly addressed by a Club.

11.4 Non Application of Clause 11

This Clause 11 shall not apply to any incident or matter to which the By-Laws, the Policies or the rules apply and which include a disciplinary procedure. Any disciplinary matter which may be dealt with in accordance with the By-Laws, the Policies or the rules shall be dealt with in accordance with the disciplinary procedure set out in such By-Laws, Policies or rules.

12. DELEGATES

12.1 Appointment of Delegates

- (a) Each Club shall be entitled to appoint such number of persons as determined in the By-Laws to be its delegates at General Meetings of the Association. Clubs shall appoint their Delegates for such term as is deemed appropriate by the Club.
- (b) A Delegate must be:
 - (i) an Individual Member of the Club which appoints him; and
 - (ii) appropriately empowered by his Club to make decisions at General Meetings.

12.2 Delegates as Representative

Delegates shall represent their Club at General Meetings and shall have full power to consider and vote on resolutions at General Meetings.

12.3 Clubs to Advise

The Club must advise the Association of its appointed Delegates by a specified time determined by the Board and in writing signed on behalf of the Club Board.

13. GENERAL MEETINGS

13.1 Powers of the General Meeting

The Members in General Meeting shall act in accordance with the Objects and for the mutual and collective benefit of the Members and swimming throughout its Area. The Members in General Meetings will act in the best interests of the Area and will in addition to its other powers and functions under the Act:

- (i) requisition a General Meeting;
- (ii) convene a General Meeting;
- (iii) elect / dismiss, Directors and standing Directors;
- (iv) alter the Constitution;
- (v) consider the annual report;
- (vi) consider Special Resolutions; and
- (vii) be the final arbiter on matters referred to it by the Board.

14. ANNUAL GENERAL MEETING TO BE HELD

- (a) The Association's Annual General Meeting shall be held in accordance with the Act and this Constitution. It shall be held on a date and at a venue determined by the Board.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

15. NOTICE OF GENERAL MEETINGS

- (a) Notice of every General Meeting shall be given to every Club, Life Member and Director at the address appearing in the register kept by the Association. No other person shall be entitled as of right to receive notices of General Meetings, except the Association's auditor(s).
- (b) At least twenty eight (28) days notice of the place, day and hour of the General Meeting shall be given.
- (c) At least twenty (21) days notice of the business to be transacted at a General Meeting shall be given, together with:
 - (i) any notice of motion received from any Club or the Board in accordance with this Constitution;
 - (ii) relevant accounts and reports in accordance with this Constitution and the Act; and
 - (iii) the agenda for the meeting. The agenda shall include under the topic of general business – business without notice
- (d) Notice of intention to attend a General Meeting shall be given to the Association Secretary by each delegate at least seven days prior to the scheduled day of meeting. Should the Secretary fail to receive notice that a quorum intend to be present at the meeting, the Secretary shall notify all such delegates, by whatever means are appropriate, that the meeting is cancelled and consult the members of the Board as to the next appropriate date to hold such meeting.

16. BUSINESS OF GENERAL MEETINGS

16.1 Business to be Transacted

- (a) The business to be transacted at the Annual General Meeting includes the following:
 - (i) the confirmation of the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
 - (ii) to receive from the Board reports on the activities of the Association during the preceding financial year;
 - (iii) to receive and consider the statement which is required by the Act to be submitted to Members;
 - (iv) to elect members of the Board and standing Boards; and

- (v) the appointment of a Patron or Patrons, if agreed to by the meeting
- (b) All business that is transacted at a General Meeting, with the exception of those matters set out in Clause 16.1(a) shall be Special Business. "Special Business" is business of which a notice of motion has been submitted in accordance with Clause 17.

17. NOTICES OF MOTION

All notices of motion from Clubs and/or the Board for inclusion as Special Business at a General Meeting must be submitted in writing (in the required form) to the Association Secretary not less than twenty eight (28) days (excluding receiving date and meeting date) prior to the General Meeting.

18. SPECIAL GENERAL MEETINGS

18.1 Special General Meetings may be Held

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

18.2 Requisition of Special General Meetings

- (a) The Board shall on the requisition in writing made by not less than twenty five percent (25%) of the Clubs convene a Special General Meeting.
 - (i) A requisition may be in electronic form, and
 - (ii) A signature may be transmitted, and a requisition may be lodged, by electronic means.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting and shall be signed by the Clubs making the requisition and be sent to the Board Secretary. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Clubs making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within twenty eight (28) days after the date on which the requisition is sent to the Board, the Clubs making the requisition, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- (d) A Special General Meeting convened by Clubs under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board and any Member who consequently incurs expenses is entitled to be reimbursed by the Association for any expenses so incurred.

19. PROCEEDINGS AT GENERAL MEETINGS

19.1 Quorum Present

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings shall be at least fifty (50) percent of the Clubs being Members.

19.2 President to Preside

The President or, in the President's absence, the vice-president, is to preside as chairperson at each General Meeting of the Association.

If the President and the vice-president are absent or unwilling to act, the Members present must elect one of their number to preside as chairperson at the meeting.

19.3 Usage Of Technology At General Meeting

- (a) A General Meeting may be held at 2 or more venues using any technology approved by the Board that gives each of the Member's a reasonable opportunity to participate.
- (b) A Member who participates in a General Meeting using that technology is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

19.4 Proxy Votes Not Permitted

Proxy votes must not be undertaken at or in respect of a General Meeting.

19.5 Postal or Electronic Ballots

- (a) The Association may hold a postal or electronic ballot (as the Board determines) to determine any issue or proposal (other than an appeal under Clause 25.5)
- (b) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

19.6 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting:
 - (i) if convened on the requisition of the Clubs, is to be dissolved; and
 - (ii) in any other case shall be adjourned to such other day and at such other time and place as the chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Delegates and members of the Board present form a quorum.

- (b) The chair may, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for twenty eight (28) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in Clause 19.6(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

19.7 Poll

At any General Meeting of the Association a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands):

- (a) directed by the chair; or
- (b) demanded by over half the Delegates present.

19.8 Recording of Determinations

Except when a poll is conducted in terms of Clause 19.7, a declaration by the chair that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

19.9 Where Poll Demanded

If a poll is conducted under Clause 19.7 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll shall be the resolution of the motion in respect of which the poll was conducted.

19.10 Minutes

- (a) No later than seven (7) days after a General Meeting, minutes of the business transacted shall be issued to each member of the General Meeting and to the secretary of each Club.
- (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.

20. ENTITLEMENTS AT GENERAL MEETINGS

- (a) Each Delegate present is entitled to one (1) vote only. The chair shall not have a casting vote. Where voting is equal the vote shall be lost. No other person shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in Clause 5.1.
- (b) Notwithstanding any other Clause of this Constitution, no Club shall be represented at, or take part in a General Meeting, unless all monies then due and payable by that Club to the Association are paid.

21. POWERS OF THE BOARD

Subject to the Act and this Constitution, the business of the Association shall be governed, and the powers of the Association shall be exercised, by the Board. The Board shall act in accordance with the Objects of the Association and shall operate for the collective and mutual benefit of the Association, the Members and swimming.

22. COMPOSITION OF THE BOARD

The Board is to consist of;

- (a) eight (8) elected Directors who must all be Members, and
 - (b) three (3) Individual Directors, or as many Individual Directors as detailed in the By-Laws
- each of whom is to be elected at the Annual General Meeting of the Association under Clause 23.

23. ELECTION OF DIRECTORS

23.1 Nominations for Directors

- (a) Nominations must be received by the Secretary of the Association from Members to be considered for election as a Director twenty eight (28) days prior to the relevant General Meeting.
- (b) A Member may nominate for any number of Board positions but shall only be eligible to be elected to one (1) only position.

23.2 Form of Nomination

- (a) Nominations for election to the Board pursuant to Clause 23.1 must be in writing on the prescribed form provided for that purpose.
- (b) Nominations for positions on the Board may include a précis submitted by the nominee, of their background, experience and qualifications pertinent to the position.

23.3 Election Process

- (a) A list of the candidates' names in alphabetical order for each position must be notified in writing to each Club at least twenty one (21) days immediately preceding the General Meeting of the Association.
- (b) The election of Directors shall be by secret ballot at the Annual General Meeting and in accordance with the By Laws.
- (c) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated as in Clause 23.1 are taken to be elected and further nominations may be taken from the floor of the meeting. If insufficient further nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies and dealt with as detailed in Clause 24.2.

23.4 Term of Directors

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

A director may not serve more than 10 consecutive terms as a Director. However, the effect of this clause shall commence on the date this Constitution is adopted and any term served prior to the adoption of this Constitution shall not be counted for the purposes of Clause 23.4.

24. VACANCIES OF DIRECTORS

24.1 Grounds for Termination of Directors

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

- (a) is no longer an Individual Member;
- (b) dies;
- (c) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (e) resigns his office by providing notice in writing to the Association;
- (f) is absent without the consent of the Board from three (3) consecutive Board meetings held during a period of six (6) months;
- (g) without the prior consent or later ratification of the Members in General Meeting, holds any office of profit under the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest; or
- (i) is removed from office by Special Resolution.
- (j) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three (3) months, or
- (k) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

24.2 Casual Vacancies

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

24.3 Remaining Directors May Act

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

- (a) increase the number of Directors to the number required for a quorum; or
- (b) call a General Meeting of the Association.

25. MEETINGS OF THE BOARD

25.1 Board to Meet

- (a) The Board shall meet as often as is deemed necessary for the dispatch of business and may adjourn and, subject to this Constitution, otherwise regulate, its meetings as it thinks fit.
- (b) Notice of intention to attend a meeting of the Board shall be given to the Secretary by each Director at least three (3) days prior to the scheduled day of meeting. Should the Secretary fail to receive notice that a quorum of members plan to be present at the meeting, the Secretary shall notify all members, by whatever means are appropriate, that the meeting is cancelled and consult the members of the Board as to the next appropriate date to hold such meeting.

25.2 Chair

The President shall chair any Board meeting at which he is present. If the President is not present, or is unwilling or unable to preside the vice-president, is to preside as chairperson.

If the President and the vice-president are absent or unwilling to act, the remaining Directors shall appoint one of their number to preside as chair for that meeting only.

25.3 Usage Of Technology At Board Meeting

- (a) A Board Meeting may be held at 2 or more venues using any technology approved by the Board that gives each of the Board's members a reasonable opportunity to participate.
- (b) A Director who participates in a Board Meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

25.4 Decisions of Board

- (a) Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors present and entitled to vote shall for all purposes be deemed a determination of the Board. All Directors shall have one (1) vote on any question.
- (b) The Secretary shall notify all Clubs in writing of all decisions made at a Board meeting within seven (7) days of the conclusion of that meeting.

25.5 Resolutions Not in Meeting

- (a) A resolution in writing signed or assented to by facsimile or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Directors.
- (b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Board may be held where one (1) or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
 - (iii) in the event of a failure in communications prevents Clause 25.5 (b) (i) from being satisfied by a quorum of Directors then the meeting shall be suspended until Clause 25.5 (b) (i) is satisfied again. If such is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated; and
 - (iv) no meeting shall be invalidated merely because no Director is physically present at the place for the meeting specified in the notice of meeting.

25.6 Quorum

- (a) At meetings of the Board the number of Directors whose presence or participation under Clause 25.5 is required to constitute a quorum is 50% or more of the number of current members of the Board.
- (b) If a quorum is not present within 30 minutes after the time fixed for a Board meeting, the meeting is to be adjourned to:
 - (i) the same day, time and place in the next week; or
 - (ii) a day, time and place decided by the Board.

25.7 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence), not less than seven (7) days' written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than five (5) days prior to such meeting.

25.8 Validity of Board Decisions

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

25.9 Minutes

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

26. CONFLICTS

A Director shall declare to the Board his interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter;
- (d) financial matter; or
- (e) other matter;

in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent himself from discussion of such matter and shall not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred. The minutes shall record any declared conflict of interest/s as they arise.

27. PUBLIC OFFICER

- (a) The Board shall ensure that a person is appointed as public officer in accordance with the Act.
- (b) The public officer will be familiar with the provisions of the Act and will use their best endeavours to ensure that all documents, financial statements, reports and statutory declarations are lodged by the prescribed date and advise the President if any item to be lodged is not available.
- (c) The Board may at any time remove the public officer and appoint a new public officer provided the person appointed is eighteen (18) years of age or older and a resident of the geographical boundaries as required by the Act.
- (d) The public officer shall be deemed to have vacated his position in the following circumstances;
 - (i) death;
 - (ii) resignation;
 - (iii) removal by the Board or at a General Meeting;
 - (iv) bankruptcy or financial insolvency;
 - (v) mental illness; or
 - (vi) residency outside the geographical boundaries as required by the Act.

28. DELEGATIONS

28.1 Board may Delegate Functions

The Board may by instrument in writing create or establish or appoint from among the Directors or otherwise, standing Boards, individual officers or consultants to carry out such duties and functions and with such powers, as the Board determines.

28.2 Delegation by Instrument

The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law or this Constitution.

28.3 Delegated Function Exercised in Accordance with Terms

A function, the exercise of which has been delegated under this Clause, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

28.4 Procedure of Delegated Entity

The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Clauses 25 and 26. The quorum shall be determined by the Board, but shall be no less than one half of the total number of Directors.

28.5 Delegation may be Conditional

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

28.6 Revocation of Delegation

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

28.7 Standing Boards

- (a) There will be standing Boards elected at a General Meeting to deal with matters as described in the By-Laws.
- (b) A standing Board under this Clause will function as Boards of the Board in accordance with this Clause 28. For the avoidance of doubt the standing Boards and their members are responsible to the Board and are subject to the direction of, and delegation prepared by, the Board in accordance with this Clause 28.
- (c) Nominations as detailed in the By-Laws from Members for consideration for election to the standing Boards must be received by the Secretary from Members to be considered for election as a standing Director twenty eight (28) days prior to the relevant General Meeting.

29. BY-LAWS AND POLICIES

29.1 Board to Formulate By-Laws and Policies

The Board may formulate, approve, issue, adopt, interpret and amend such By-Laws and Policies for the proper advancement, management and administration of the Association and, the advancement of the Objects as it think necessary or desirable. Such By-Laws and Policies must be consistent with this Constitution.

29.2 By-Laws and Policies Binding

All By-Laws and Policies made under this Clause shall be binding on the Association and Members.

29.3 By-Laws and Policies Deemed Applicable

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

29.4 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws and Policies shall be advised to Clubs by means of notices approved by the Board and prepared and issued by the Association. Clubs shall be obliged to draw such notices to the attention of its respective members. Notices are binding upon all Members.

30. RECORDS AND ACCOUNTS

30.1 Custody and Inspection of Books

- (a) Except as otherwise provided by this Constitution, the Board must keep in its custody or under its control all records, books and other documents relating to the Association.
- (b) The records, books and other documents of the Association must be open to inspect, free of charge, by a Club at any reasonable hour after reasonable notice.

30.2 Records Kept in Accordance with the Act

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

30.3 The Association to Retain Records

Unless otherwise required by law, the Association shall retain such records for not less than five (5) years after the completion of the transactions or operations to which they relate.

If records and minutes are kept in electronic form, they must be convertible into hard copy.

30.4 Board to Submit Accounts

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

30.5 Accounts Conclusive

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

30.6 Accounts to be Provided to Members

The Association shall cause to be provided to all persons entitled to receive notice of Annual General Meetings of the Association in accordance with this Constitution, a copy of the accounts, the Board's report, the auditor's report and every other document required under the Act.

30.7 Negotiable Instruments

All cheques and other negotiable instruments shall be signed or otherwise executed, by any two (2) signatories approved by the Board.

30.8 Funds and Accounts

- (a) The funds of the Association must be kept in an account in the name of the Association in a financial institution decided by the Board.
- (b) Records and accounts must be kept in the English language showing full and accurate particulars of the financial affairs of the Association.
- (c) All amounts must be deposited in the financial institution account as soon as practicable after receipt.
- (d) All payments of \$100 or more are to be paid by cheque or electronic funds transfer.
- (e) All expenditure must be approved or ratified at a Board meeting.

30.9 Financial Year

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

31. APPLICATION OF INCOME AND PROPERTY

- (a) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (b) 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.
- (c) 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.
- (d) Nothing contained in Clauses 31(b) or 31(c) shall prevent payment in good faith to any Member:
 - (i) for any services actually rendered to the Association whether as an employee or otherwise;
 - (ii) for goods supplied to the Association in the ordinary and usual course of business;
 - (iii) of interest on money borrowed from any Member;

- (iv) of rent for premises demised or let by any Member to the Association; or
- (v) for any out-of-pocket 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.

32. AUDITOR

The Board may appoint an auditor when required. Profit and Loss accounts and Balance Sheets must be prepared by a qualified accountant at least annually.

33. RESOLUTION OF INTERNAL DISPUTES

- (a) Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, are to be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983.
- (b) At least seven (7) days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

34. NOTICES

34.1 Manner of Notice

- (a) Notices may be given to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

35. ADDITION ALTERATION OR AMENDMENT

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

36. WINDING UP OF ASSOCIATION AND LIABILITY OF MEMBERS

36.1 Club Contributions

Each Club undertakes to contribute to the assets of the Association in the event of it being wound up while a Member, or within one (1) year after ceasing to be a Member, for payment of the debts and liabilities of the Association contracted before the time at which it ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

36.2 Distributions of Property on Winding Up

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members but shall be paid to or distributed to an organisation or organisations having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association by Clause 31. Such organisation to be determined by the Members at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of New South Wales as may have or acquire jurisdiction in the matter.

36.3 Liability of Members

The liability of the Members of the Association is limited.

37. INDEMNITY

37.1 Directors to be Indemnified

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

37.2 The Association to Indemnify Directors

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

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