

CONSTITUTION

OF

SWIMMING NORTH COAST

INCORPORATED

<u>Incorporation Number</u>	<i>INC9894722</i>	
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CONSTITUTION OF SWIMMING NORTH COAST INCORPORATED

1. NAME

The name of the association is Swimming North Coast 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
- (h) 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 committee to provide presentations and conduct assessments 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 the Associations Incorporation Act (ACT) or the Associations Incorporation Act (NSW) as required.

“**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 North Coast 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.

“**Committee**” means a standing or other committee 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.

“**Executive**” means the President, Vice President(s), Secretary and Treasurer.

“**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 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.

“**Management Committee**” means the elected office-bearers of the Association, each of whom is to be elected at the Annual General Meeting of the Association under Clause 23.

“**Member**” means a member for the time being of the Association under Clause 5 that is financially affiliated to both SNSW and Swimming North Coast.

“**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.

“Rules” means Swimming Rules or Policies put in place by the Association.

“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 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 Interpretations

- (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, may attend, debate and vote at General Meetings of the Association.

5.2 Life Members

- (a) The Association may, from among persons who have provided long and meritorious service with the Association and of the former Swimming Mid North Coast Inc and Far North Coast Swimming Association Inc, 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 Management Committee or a Club.
- (d) Nominations for life membership must be submitted to the Association and must be received by the Secretary forty-five (45) days prior to the relevant Annual General Meeting.
- (e) Nominations for life membership shall be examined by the Management Committee. After reviewing the nomination and completing any relevant enquiries, the Management Committee 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.

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 thirty (30) 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 Management Committee.

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 Management Committee.
- (d) Any Club which has not paid all monies due and payable by that Club to the Association, shall (subject to the Management Committee's discretion), have all

rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise in the Management Committee's discretion. The Club shall be dealt with in the Management Committee's discretion, which includes the right to recommend to SNSW suspension as detailed in Clause 11.1.

- (e) Where the Management Committee 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 of Members & Individual Members in which shall be entered such information as is required under the Act from time to time.

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.

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 Management Committee or any duly authorised committee;
- (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 Management Committee.

11. DISCIPLINE OF MEMBERS

11.1 Discipline of Clubs

- (a) The Management Committee may recommend NSW 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 Management Committee makes such a recommendation, the Management Committee 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 Management Committee decides to recommend the taking of disciplinary action against a Club, the Management Committee must give a written notice of the decision to the Club.

11.2 National Integrity Framework

Members are bound to comply with the National Integrity Framework. Accordingly, all complaints or disputes under the National Integrity Framework will be dealt with in accordance with the processes set out under the National Integrity Framework. Members agree to submit unreservedly to the jurisdiction, disciplinary procedures, penalties and the appeal mechanisms set out in the National Integrity Framework.

11.3 Safe Sport Framework

Members are bound to comply with the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy, as a result of clause 29.5 of this Constitution. Accordingly, all complaints or disputes under the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy, will be dealt with in accordance with the processes set out under the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy. Members agree to submit unreservedly to the jurisdiction, disciplinary procedures, penalties and the appeal mechanisms set out in the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy.

11.4 Establishing a Disciplinary Committee

(a) Where the Management Committee is advised of an allegation (not being vexatious, trifling or frivolous) or considers that a Member has allegedly:

- (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Management Committee or any duly authorised committee
- (ii) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Association and/or Swimming; or
- (iii) brought the Association, any other Member or Swimming into disrepute,

and that matter is not being dealt with under the Safe Sport Framework, the Management Committee may by resolution establish a Disciplinary Committee to convene to hear a matter against any Member and to determine what action, if any, to take against that Member (**Disciplinary Hearing**), and that Member will be subject to, and submits unreservedly to the jurisdiction, disciplinary procedures, penalties and the appeal mechanisms of the Association in this Constitution.

(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.

11.5 Provisional Suspension

- (a) Upon establishing a disciplinary committee in accordance with clause 11.4 the Committee may by resolution provisionally suspend the Member subject to the Disciplinary Hearing until such time as the disciplinary committee makes a finding.
- (b) The disciplinary committee may lift a provisional suspension prior to making a finding at the Disciplinary Hearing.

11.6 Disciplinary Committee Members

- (a) The members of the disciplinary committee:
 - (i) may be Members or anyone else; but
 - (ii) must not be biased against, or in favour of, the Member concerned.

11.7 Notice of Alleged Breach

- (a) Where a disciplinary committee is established, the Area shall serve on the Member not earlier than 28 days and not later than 14 days before the Disciplinary Hearing is to be held, a notice in writing:

- (i) setting out the alleged breach of the Member and the grounds on which it is based;
- (ii) stating that the Member may address the disciplinary committee at the Disciplinary Hearing;
- (iii) stating the date, place and time of that Disciplinary Hearing;
- (iv) informing the Member that he, she or it may do one or more of the following:
 - (A) attend that Disciplinary Hearing;
 - (B) give the disciplinary committee prior to or at that meeting a written statement regarding the alleged breach.

11.8 Determination of Disciplinary Committee

- (a) The disciplinary committee shall ensure that the Disciplinary Hearing accords with the principles of natural justice by ensuring that:
 - (i) the Member has the opportunity to be heard and to call witnesses; and
 - (ii) due consideration is given to any written statement submitted by the Member or a witness
 before determining whether the alleged breach occurred.
- (b) If the disciplinary committee determines there was a breach under clause 11.8(a), it will determine what penalty (if any) shall be given to the Member, and give notice of this to the Management Committee.
- (c) The penalties able to be given to the Member by the disciplinary committee include:
 - (i) expel a Member from the Area; or
 - (ii) suspend a Member from membership of the Area or accessing certain privileges of membership for a specified period; or
 - (iii) fine a Member; or
 - (iv) impose such other penalty, action or educative process as the disciplinary committee sees fit which shall include but is not limited to removing that Member from being an office-bearer of the Association (if the relevant Member is an office-bearer of the Association).

11.9 Appeal

- (a) Subject to clause 11.8 (b), an appeal tribunal may be appointed by the Management Committee to hear and adjudicate on any appeal lodged by a Member against the decision of the disciplinary committee.
- (b) An appeal may only be lodged:
 - (i) by a party directly affected by a decision; and
 - (ii) on the grounds that new information or evidence can be presented that was not available at the time of the original decision being appealed against.

11.10 Appeal Tribunal

- (a) The Management Committee will appoint an appeal tribunal to determine an appeal lodged in accordance with the provisions of clause 11.9. The composition of an appeal tribunal shall be:

- (i) an individual with legal training or experience in dispute resolution; or
 - (ii) a panel of 2 or 3 persons deemed suitable by the Management Committee including a chairperson with legal training or experience in dispute resolution.
- (b) No member of the appeal tribunal pursuant to clauses 11.10(a)(i) and 11.10(a)(ii) may have been a party to or directly interested in the decision under appeal or the original matter brought for determination.

11.11 Appeals Process

- (a) A request for an appeal against a decision of the disciplinary committee must be forwarded to the Management Committee in writing within 5 days of the relevant party being given notice of the disciplinary committee decision.
- (b) The lodgement of appeal must be accompanied by payment of an appeal fee as determined by the Management Committee from time to time. The fee shall be fully refundable if the appeal is successful.
- (c) The Management Committee shall determine whether the appeal falls within the grounds for appeal pursuant to clause 11.9(b). If satisfied, an appeal tribunal will be appointed as soon as practicable after formal lodgement of the appeal.
- (d) The appeal tribunal will schedule a date and venue for a hearing as soon as possible and circumstances permitting, no later than 30 days after formal lodgement of the appeal.
- (e) If, as the circumstances may be, all parties are unable to be present at an appeal hearing, they may participate by teleconference or other medium as determined appropriate at the discretion of the appeal tribunal.
- (f) The parties will be advised of the grounds for appeal and invited to lodge written submissions which must be received by the appeal tribunal no later than 2 business days prior to the scheduled appeal hearing.
- (g) The appeal tribunal will consider the appeal in accordance with the principles of natural justice as broadly outlined in clause 11.8.
- (h) The appeal tribunal may adjourn a hearing to obtain further information or evidence.
- (i) At the conclusion of the hearing the appeal tribunal shall:
 - (i) uphold the appeal and rescind the original decision; or
 - (ii) dismiss the appeal; or
 - (iii) dismiss the appeal and review the penalty within the provisions of clause 11.8(c).
- (j) The decision of the appeal tribunal shall be final and binding on the parties.
- (k) The appeal tribunal must forward to the Management Committee a written report outlining their determination of the matter.

11.12 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.

11.13 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:
 - (iv) an Individual Member of the Club which appoints him; and
 - (v) 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 Management Committee and in writing signed on behalf of the Club committee.

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:

- (a) requisition a General Meeting;
- (b) convene a General Meeting;
- (c) elect / dismiss, Management Committee members and standing committee members;
- (d) alter the Constitution;
- (e) consider the annual report;
- (f) consider Special Resolutions; and
- (g) be the final arbiter on matters referred to it by the Management Committee.

14. ANNUAL GENERAL MEETING TO BE HELD

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

15. NOTICE OF GENERAL MEETINGS

- (a) Notice of every General Meeting shall be given to every Club, Life Member and Management Committee Member 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 forty five (45) days notice of the place, day and hour of the General Meeting shall be given.
- (c) At least twenty one (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 Management Committee 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.
- (d) Notice of intention to attend a General Meeting shall be given to the Association Secretary by each Member 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 Management Committee 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 Management Committee 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 Management Committee and standing committees;
 - (v) to appoint an auditor; and
 - (vi) 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.

16.2 No Other Business

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

17. NOTICES OF MOTION

All notices of motion from Clubs and/or the Management Committee 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 thirty (30) 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 Management Committee 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 Management Committee shall on the requisition in writing made by not less than five (5) clubs convene a Special General Meeting.
- (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 Management Committee 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 Committee does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the Management Committee, 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 Management Committee.

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. If a quorum is present at the commencement of the meeting, this quorum is deemed to be present for the duration of the meeting.

19.2 President to Preside

The President or, in the President's absence, one of the vice-presidents, 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 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 Management Committee present form a quorum.
- (b) The chair may, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in Clause 19.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

19.4 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.

19.5 Recording of Determinations

Except when a poll is conducted in terms of Clause 19.4, a declaration by the chair that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

19.6 Where Poll Demanded

If a poll is conducted under Clause 19.4 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll shall be the resolution of the motion in respect of which the poll was conducted.

19.7 Minutes

- (a) No later than 30 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 MANAGEMENT COMMITTEE

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 Management Committee. The Management Committee 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 MANAGEMENT COMMITTEE

- (a) The Management Committee is to consist of;
 - (i) the office-bearers of the Association, each of whom is to be elected at the Annual General Meeting of the Association under Clause 23.
- (b) The office-bearers of the Association are to be:
 - (i) President,
 - (ii) Two (2) Vice-Presidents,
 - (iii) Secretary,
 - (iv) Treasurer,
 - (v) Competition Coordinator,
 - (vi) Registrar,
 - (vii) Area Technical Swimming Committee Coordinator (ATSCC), and
 - (viii) Development Coordinator

23. ELECTION OF MANAGEMENT COMMITTEE MEMBERS

23.1 Nominations for Management Committee Members

- (a) Nominations must be received by the Secretary of the Association from Members to be considered for election as a Management Committee member thirty (30) days prior to the relevant General Meeting.
- (b) A Member may nominate for any number of Management Committee positions but shall only be eligible to be elected to one (1) position.

- (c) A maximum of two (2) members from any one (1) affiliated North Coast Club may be elected to the Management Committee.

23.2 Form of Nomination

- (a) Nominations for election to the Management Committee pursuant to Clause 23.1 must be in writing on the prescribed form provided for that purpose.
- (b) Nominations for positions on the Management Committee 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 Management Committee members shall be by secret ballot at the Annual General Meeting and in accordance with the By Laws.
- (c) If no nominations are received to fill all vacancies on the Management Committee, 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 no further nominations are received, any vacant positions remaining on the Management Committee are taken to be casual vacancies and dealt with as detailed in Clause 24.2.

23.4 Term of Management Committee Members

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

24. VACANCIES OF MANAGEMENT COMMITTEE MEMBERS

24.1 Grounds for Termination of Management Committee Members

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

- (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 any way 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 Management Committee from three (3) consecutive Management Committee meetings held during a period of six (6) months;
- (g) without the prior consent or later ratification of the Members in General Meeting, holds any office of profit under the 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.

24.2 Casual Vacancies

For any casual vacancy occurring on the Management Committee, the continuing members of the Management Committee 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 Management Committee Members May Act

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

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

25. MEETINGS OF THE MANAGEMENT COMMITTEE

25.1 Management Committee to Meet

- (a) The Management Committee 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 Management Committee shall be given to the Secretary by each Management Committee member at least seven (7) 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 Management Committee as to the next appropriate date to hold such meeting.

25.2 Chair

The President shall chair any Management Committee meeting at which he is present. If the President is not present, or is unwilling or unable to preside one of the vice-presidents, is to preside as chairperson.

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

25.3 Decisions of Management Committee

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

- (b) The Secretary shall notify all Clubs in writing of all administrative decisions made at a Management Committee meeting within 14 days of the conclusion of that meeting.

25.4 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 Management Committee members shall be as valid and effectual as if it had been passed at a meeting of the Management Committee duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Management Committee members.
- (b) Without limiting the power of the Management Committee to regulate its meetings as it thinks fit, a meeting of the Management Committee may be held where one (1) or more of the Management Committee members is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Management Committee members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Management Committee; and
 - (iii) no meeting shall be invalidated merely because no Management Committee member is physically present at the place for the meeting specified in the notice of meeting.

25.5 Quorum

- (a) At meetings of the Management Committee the number of Management Committee members whose presence or participation under Clause 25.4 is required to constitute a quorum is 50% or more of the number of current members of the Management Committee.
- (b) If a quorum is not present within 30 minutes after the time fixed for a Management Committee 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 Management Committee.
- (c) If a quorum is present at the commencement of the meeting, this quorum is deemed to be present for the duration of the meeting.

25.6 Notice of Management Committee Meetings

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

25.7 Validity of Management Committee Decisions

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

25.8 Minutes

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

26. CONFLICTS

A Management Committee member shall declare to the Management Committee 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 Management Committee, 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 Management Committee member to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Management Committee, or if this is not possible, the matter shall be adjourned or deferred. The Secretary shall maintain a register of declared interests.

27. PUBLIC OFFICER

- (a) The Management Committee shall ensure that a person is appointed as public officer in accordance with the Act.
- (b) The public officer will be familiar with the provisions of the Act and will use their best 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 Management Committee may at any time remove the public officer and appoint a new public officer provided the person appointed is eighteen (18) years of age or older and a resident of the geographical boundaries as required by the Act.
- (d) The public officer shall be deemed to have vacated his position in the following circumstances;
 - (i) death;
 - (ii) resignation;
 - (iii) removal by the Committee or at a General Meeting;
 - (iv) bankruptcy or financial insolvency;
 - (v) mental illness; or
 - (vi) residency outside the geographical boundaries as required by the Act.

28. DELEGATIONS

28.1 Management Committee may Delegate Functions

The Management Committee may delegate any of their powers or functions, in writing, to individual members, Standing Committees or other committees consisting of persons they think fit, and may revoke that delegation.

28.2 Delegated Powers

An individual, Standing Committee or other committee must exercise the powers delegated to or according to the terms of the delegation and to any directions of the Management Committee.

Powers delegated to and exercised by the individual, Standing Committee or other committee are taken to have been exercised by the Management Committee.

28.3 Standing Committee and Other Committee Meetings

Meetings of these bodies are governed by the provisions of this Constitution dealing with Management Committee Meetings as far as they are capable of application.

28.4 Standing Committees

- (a) There will be standing committees elected at a General Meeting to deal with matters as described in the By-Laws.
- (b) A standing committee under this Clause will function as committees of the Committee in accordance with this Clause 28. For the avoidance of doubt the standing committees and their members are responsible to the Committee and are subject to the direction of, and delegation prepared by, the Committee in accordance with this Clause 28.
- (c) Nominations as detailed in the By-Laws from Members for consideration for election to the standing committees must be received by the Secretary from Members to be considered for election as a standing committee member thirty (30) days prior to the relevant General Meeting.
- (d) A maximum of two (2) members from any one (1) affiliated North Coast Club may be elected to each of the Development and the Competition Committees.

29. BY-LAWS AND POLICIES

29.1 Management Committee to Formulate By-Laws and Policies

The Management Committee 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 deems 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 Committee 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.

29.5 Safe Sport Framework

- (a) Swimming North Coast has adopted the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy which:
- (i) specifically commits to keeping children and young people safe in swimming;
 - (ii) clarifies and raises the standards of behaviour for dealing with Children and Young People through a “Code of Conduct for dealing with Children and Young People”;
 - (iii) includes a General Code of Conduct;
 - (iv) provides processes and procedures when safe sport concerns or incidents arise;
 - (v) requires rigorous recruitment and screening procedures, as well as reporting by all organisations in swimming; and
 - (vi) provides guidance, advice, tips and tools to assist us to keep each other and our sport safe.
- (b) The Management Committee has adopted the Safe Sport Framework, including Safeguarding Children and Young People Policy and Member Protection Policy, as amended from time to time, as a Regulation which is binding on the Area and all Members.

30. RECORDS AND ACCOUNTS

30.1 Custody and Inspection of Books

- (a) Except as otherwise provided by this Constitution, the Management Committee 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.

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

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

30.4 Management Committee to Submit Accounts

The Management Committee 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 Management Committee'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) office bearers or in such other manner and by such persons the Management Committee determines.

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 Committee.
- (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 Committee 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 arm's length in a similar transaction.

32. AUDITOR

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

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 three (3) 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 being sent to the last known address provided by the member.

35. ADDITION ALTERATION OR AMENDMENT

- (a) Subject to the Act, this Constitution may be amended, repealed or added to following the specific approval of Swimming North Coast Inc 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 or Australian Capital Territory 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 Committee Members to be Indemnified

Every Management Committee member, standing or other committee member, 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 Committee member, auditor, employee or agent in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him by the Court.

37.2 The Association to Indemnify Committee Members

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

- (a) in the case of a Committee member, performed or made whilst acting on behalf of and with the authority, express or implied of the 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.