

DARWIN SWIMMING CLUB INCORPORATED

CONSTITUTION

As ratified at the Special General
Meeting of 24 February 2022

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PART 1 – PRELIMINARY

1 Name

The name of the association shall be the Darwin Swimming Club Incorporated, hereinafter referred to as “the Club”. Club colours shall be green, gold and black, and its emblem shall be the water buffalo.

2 Objects

The objects of the Club are to:

- (1) promote and encourage the sport of swimming for fitness and recreation;
- (2) encourage and train its members to participate in competition at club, state/territory and national levels; and
- (3) promote social interaction amongst and activities for its members.

3 Definitions

In this Constitution, unless the contrary intention appears –

"Act" means the *Associations Act* and regulations made under that Act;

"Committee" means the Management Committee of the Club;

“Constitution” means the Constitution of the Club;

"financial institution" means an authorised deposit-taking institution within the meaning of section 5 of the *Banking Act 1959* of the Commonwealth;

"general meeting" means a meeting of members convened in accordance with clause 16(1);

"member" means an individual person who is registered as a member of the Club in accordance with clause 7(4);

“Ochre Card” means a current working with children clearance issued by Police SAFE NT;

"register of members" means the register of the Club's members established and maintained under section 34 of the Act;

“SAL” means Swimming Australia Limited;

“SNTI” means Swimming Northern Territory Incorporated;

“special general meeting” means a meeting of members convened in accordance with clause 16(2);

words of the plural shall include the singular and vice versa; and

words of the masculine gender shall include the feminine and vice versa.

4 Powers

- (1) For achieving its objects, the Club has the powers conferred by sections 11 and 13 of the Act.
- (2) Subject to the Act, the Club may do all things necessary or convenient for carrying out its objects and in particular may –
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on the terms and in the manner it considers appropriate;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;

- (f) appoint agents to transact business on its behalf; and
- (g) enter into any other contract it considers necessary or desirable.

5 Constitution

- (1) The Club may alter this Constitution at a special general meeting but not otherwise.
- (2) If the Constitution is altered, the public officer must ensure compliance with section 23 of the Act.
- (3) If there is any inconsistency between this Constitution and the Act, the Act prevails.

PART 2 – MEMBERS

6 Membership

- (1) To become a member a person must apply for membership using a system approved by the Club in accordance with the registration procedures of SAL and SNTI. Categories of membership shall be determined from time to time by the Committee and all members re bound to SNTI and SA policies and procedures.
- (2) Members shall be bound by this Constitution, and any Code of Conduct or similar publication setting out members' rights and obligations published by SNTI or SA, and rights are not transferable.
- (3) Children under the age of 16 years must also have a parent or guardian as a member unless otherwise approved by the Committee.
- (4) Life membership may be conferred upon a member who has displayed sustained excellence in furthering the objects of the Club and whose nomination by at least two members is endorsed by the Committee. The nomination is to be put to members at the next annual general meeting, with a full history of service circulated to members at least 21 days in advance.
- (5) Life members, as long as they remain resident in the Northern Territory, shall enjoy all the benefits of membership without payment of annual membership fees.
- (6) The Club must have at least ten members.

7 Approval of Committee

- (1) A responsible officer delegated by the Committee must consider any application made under clause 6 at the earliest possible time.
- (2) If an application is rejected, the applicant may appeal against the decision by giving notice to the Secretary within 14 days after being advised of the rejection.
- (3) If an applicant gives notice of an appeal against the rejection of his or her application, the Committee must reconsider the application at the next committee meeting after receipt of the notice – its decision then being final.
- (4) Membership commences on approval of the application, payment of the required fee and entry of the applicant's name and address in the register of members.

8 Annual Membership Fees

- (1) The annual membership fee is the amount determined from time to time by the Committee within the framework of fees payable to SAL and SNTL.
- (2) Each member must pay the annual membership fee to the Club by a date determined by the Committee.
- (3) A member whose subscription is not paid within one month after the due date ceases to be a member unless the Committee determines otherwise.

9 Rights of Members

- (1) Each member over the age of 18 years is entitled to vote at general meetings of the Club.
- (2) Members shall be permitted to inspect copies of this Constitution, minutes of general meetings, annual reports and annual financial reports.
- (3) A member may raise a grievance or complaint about a committee member, the Committee or another member of the Club – and the procedures in Part 7 then apply.

10 Termination of Membership

- (1) Membership may be terminated by –
 - (a) a notice of resignation addressed and forwarded to the Club or given personally to the Secretary or another committee member;
 - (b) non-payment of the annual membership fee within the time allowed under clause 8(3); or
 - (c) expulsion.
- (2) If a member dies or the whereabouts of a member are unknown, the Committee must cancel that membership.

11 Suspension or Expulsion

- (1) If the Committee considers that a member should be suspended or expelled because his or her conduct is detrimental to the interests of the Club, the Committee must give notice of the proposed suspension or expulsion to the member.
- (2) The notice must –
 - (a) be in writing and include the particulars of the conduct and the time, date and place of the committee meeting at which the matter will be decided; and
 - (b) be given to the member not less than 30 days before the date of the committee meeting referred to above.
- (3) At the meeting, the Committee must afford the member a reasonable opportunity to be heard or to make representations in writing.
- (4) The Committee may suspend or expel or decline to suspend or expel the member from the Club and must give written notice of the decision and the reason for it to the member.
- (5) If there is no appeal, the decision to suspend or expel a member takes effect 14 days after the day on which notice of the decision is given to the member.
- (6) A member who is suspended or expelled may appeal by giving notice to the Secretary within 14 days after receipt of the Committee's decision.
- (7) The appeal must be considered at a general meeting of the Club and the member must be afforded

a reasonable opportunity to be heard at the meeting or to make representations in writing prior to the meeting for circulation at the meeting.

- (8) The members present at the general meeting must, by resolution, either confirm or set aside the Committee's decision – which is of no effect until they do so.

PART 3 – MANAGEMENT COMMITTEE

12. Role and Powers

- (1) The business of the Club must be managed by or under the direction of a Management Committee.
- (2) The Committee may exercise all the powers of the Club except those matters that the Act or this Constitution require the Club to determine through a general meeting of members.
- (3) The Committee may appoint a member to fill any casual vacancy, appoint and remove staff, and establish one or more subcommittees consisting of such members as it sees fit.
- (4) The Committee may delegate to a subcommittee or staff any of its powers and functions other than this power of delegation or a duty imposed on the Committee by the Act or any other law.
- (5) Any delegation must be in writing, may be subject to any conditions and limitations the Committee sees fit and may, in writing, be revoked wholly or in part at any time.

13. Composition and Term of Appointment

- (1) The Management Committee shall consist of –
 - (a) a President;
 - (b) a Vice-President;
 - (c) a Secretary;
 - (d) a Treasurer;
 - (e) a Registrar;
 - (f) the Head Coach as appointed under contract to the Club, who shall not have voting rights; and
 - (g) up to three other committee members.
- (2) With the exception of the Head Coach, committee members must be financial members of the Club 18 years of age or over and shall hold office from the time of their appointment until the next annual general meeting unless –
 - (a) they are or become disqualified under sections 30 or 40 of the Act;
 - (b) they cease to be a member of the Club or resident in the Territory;
 - (c) they resign by written or oral notice to the Committee;
 - (d) they are permanently incapable of performing the duties of office due to mental or physical ill-health; or
 - (e) they are absent from more than three consecutive committee meetings or three committee meetings in the same financial year without tendering an apology to the President.
- (3) Committee members must hold or have applied for an Ochre Card and may serve consecutive terms.

- (4) The Committee must appoint one of its members to be the Club's public officer.
- (5) Members, through a special general meeting, may remove any committee member before the member's term of office ends. In that event, an election must be held to fill the vacancy.

14. Duties

- (1) As soon as practicable after being elected, each committee member must become familiar with the Act and its regulations. The Committee is collectively responsible for ensuring the Club complies with both.
- (2) A committee member who has a direct or indirect pecuniary interest in a contract, or proposed contract, with the Club must disclose the nature and extent of the interest to the Committee in accordance with section 31 of the Act. The Secretary must record the disclosure in the minutes of the meeting and the President must ensure the committee member complies with section 32 of the Act.

President and Vice-President

- (3) Subject to subclause (4), the President (or if absent, the Vice-President) shall preside at all meetings of members and the Committee.
- (4) If the President and the Vice-President are both absent, the presiding member for that meeting must be –
 - (a) for a meeting of members, a member elected by the other members present; or
 - (b) for a committee meeting, a committee member elected by the others present.

Secretary

- (5) The Secretary shall –
 - (a) coordinate Club correspondence;
 - (b) provide notice of meetings and prepare agendas;
 - (c) ensure minutes of all meetings of members and the Committee are kept in accordance with section 38 of the Act;
 - (d) unless members resolve otherwise at a general meeting – have custody of all books, documents, records and registers of the Club, other than those required by clause 14(7) to be in the custody of the Treasurer and those required by clause 14(9) to be in the custody of the Registrar;
 - (e) provide information about the Club to new and potential members;
 - (f) liaise with pool management and the City of Darwin as required on all relevant matters pertaining to the operation of the Club; and
 - (g) perform any other duties imposed by this Constitution on the Secretary.

Treasurer

- (6) The Treasurer shall –
 - (a) receive all money paid to the Club, issuing corresponding receipts in the name of the Club, and deposit it into the Club's account within five working days or as soon as reasonably practical after that date;
 - (b) make any payments authorised by the Committee or by a general meeting of the Club from

the Club's funds - ensuring cheques or bank transfers are signed or authorised by the Treasurer and at least one other committee member, or by any two other committee members authorised by the Committee;

- (c) prepare an annual budget and monitor expenditure against it - submitting to the Committee as required from time to time a report, balance sheet or financial statement;
 - (d) ensure the accounting records of the Club are kept in accordance with section 41 of the Act and coordinate preparation of the Club's annual statement of accounts;
 - (e) liaise with pool management and the City of Darwin in consultation with the Head Coach on pool bookings; and
 - (f) perform any other duties imposed by this Constitution on the Treasurer.
- (7) The Treasurer shall have custody of all securities, books and documents of a financial nature and accounting records of the Club unless the members resolve otherwise at a general meeting.
- (8) With the approval of the Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

Registrar

- (9) The Registrar shall -
- (a) maintain the register of members in accordance with section 34 of the Act;
 - (b) organise the registration of members according to the rules and procedures from time to time of Swimming Australia Ltd; and
 - (c) maintain a register of Club record times in a form determined by the Committee.

Public Officer

- (10) The public officer shall -
- (a) ensure that documents are filed with the Commissioner of Consumer Affairs in accordance with sections 23, 28 and 45 of the Act; and
 - (b) keep a current copy of this Constitution.

15. Meetings

- (1) The Committee shall meet for the conduct of business not less than four times in each financial year.
- (2) The President, or at least half the committee members, may at any time convene a special meeting of the Committee.
- (3) A quorum requires four committee members to be present. A person simultaneously in contact with each other committee member by any means of instantaneous communication during a meeting shall be taken to be present in person.
- (4) Business shall be decided by a majority of votes cast with each member present, with the exception of the Head Coach, having one deliberative vote. If there is no majority, the person presiding shall have an additional casting vote.
- (5) Order of business and procedures to be followed shall be determined from time to time by the Committee.
- (6) For a special meeting of Committee, only the business for which the meeting is convened may be considered.

PART 4 – GENERAL MEETINGS

16. General Meetings and Special General Meetings

- (1) The Committee may at any time convene a general meeting by giving members at least 14 days' notice specifying the date, time and place of the meeting and indicating the general nature of the business to be discussed.
- (2) The Committee -
 - (a) may at any time convene a special general meeting;
 - (b) shall convene one within 30 days of receiving a notice of appeal under clause 11(6) or after it receives a request under subclause (3) -

and in all cases members shall be given not less than 21 days' notice specifying when and where the meeting is to be held and the particulars of and order of business.

- (3) Half the number of members constituting a quorum for a general meeting may make a written request to the Committee for a special general meeting by signing a written request stating the purpose of the meeting.
- (4) If the Committee fails to convene a special general meeting within the time allowed –
 - (a) for clause 11(6) – the appeal against the decision of the Committee is upheld; and
 - (b) for subclause (3) – the members who made the request may convene a special general meeting as if they were the Committee.
- (5) If a special general meeting is convened under subclause (4)(b) the Club must meet any reasonable expenses of convening and holding the meeting.

17. Annual general meeting

- (1) The Club shall hold its annual general meeting within five months after the end of the Club's financial year.
- (2) The Secretary shall give all members not less than 30 days' notice of an annual general meeting. The notice shall specify when and where the meeting is to be held and shall call for written nominations of members for all Committee positions. Nominations shall include the names of the nominator and seconder and confirm the nominee's acceptance.
- (3) Nominations for each position shall remain open until the Chairperson calls for final nominations for that position and the relevant vote is taken. A member may propose or second him or herself for a position and also vote for him or herself.
- (4) The agenda shall be -
 - (a) opening of meeting, confirmation of quorum and receipt of apologies;
 - (b) confirmation of minutes of previous annual general meeting;
 - (c) presentation of the President's annual report and its acceptance;
 - (d) consideration of the auditor's report and its acceptance;
 - (e) election of new committee members; and
 - (f) any other business of which due notice has been given requiring members' consideration.
- (5) The election shall be conducted in a manner determined from time to time by resolution at a general meeting but for each vote, the member elected must be declared by the Chairperson

before moving on to the next vote. Positions remaining vacant after declaration of the election results are taken to be casual vacancies and may be filled by the new Committee in accordance with clause 12(3).

18. Notices

- (1) The Secretary shall give notice of upcoming meetings, within the time periods specified in clauses 16(2) and 17(2), by –
 - (a) giving it to a member personally;
 - (b) sending it by ordinary prepaid mail to a member' address as noted in the register of members;
 - (c) sending it by electronic means;
 - (d) advertising it in a major Darwin daily newspaper; or
 - (e) advertising it in a Club newsletter.
- (2) If a notice is sent by email under subclause (1)(c), sending of the notice is taken to have been properly effected if receipt of the email is acknowledged by the addressee on request of the sender.

19. Quorums

- (1) At a general meeting, special general meeting or annual general meeting, ten members present in person constitute a quorum. A member in contact with each other member present by means of simultaneous communication during a meeting shall be taken to be present in person.
- (2) If a quorum is not present within 30 minutes of the time specified in the notice of meeting –
 - (a) for an annual general meeting or special general meeting convened under clause 16(2)(a) – the meeting stands adjourned to the same time and place the following week;
 - (b) for an adjourned annual general meeting, the members present in person or by proxy may proceed with the adjourned business as though a quorum were present; and
 - (c) for a meeting convened under clause 16(2)(b) to consider an appeal, the members who are present in person or by proxy shall constitute a quorum; or
 - (d) for a meeting convened under clause 16(2)(b) and dealing with a request under clause 16(3), the meeting shall lapse.
- (4) The President may, with the consent of a general meeting at which a quorum is present, and must if directed by the members at the meeting, adjourn that general meeting from time to time and from place to place.
- (5) There must not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.
- (6) If a meeting is adjourned for a period of 30 days or more, the Secretary must give notice of the adjourned meeting as if it were a fresh meeting.

20. Voting

- (1) Subject to clause 9(1), with the sole exception of the Head Coach, each member present in person or by proxy at a general meeting, special general meeting or annual general meeting is entitled to vote.
- (2) At general meetings and annual general meetings, decisions shall be taken by majority of votes

made in person or by proxy.

- (3) At special general meetings, a motion shall be passed if three-quarters of the members who are present in person or by proxy vote in favour of the resolution.
- (4) A poll may be demanded by the Chairperson or by three or more members present in person or by proxy - such poll to be taken immediately and in the manner the Chairperson directs.
- (5) A member may appoint another member as his or her proxy to speak and vote on their behalf at any specified meeting. The appointment must be in writing and signed by the member making the appointment, who may give specific instructions as to how the proxy is to vote on his or her behalf. If no such instructions are given, the proxy may vote on behalf of the member as the proxy sees fit. The instrument of appointment shall be given to the Secretary before commencement of the relevant meeting.

PART 5 – FINANCIAL MANAGEMENT

21. Financial year

The financial year of the Club is the 12 months ending on 30 June.

22. Accounts and Audits

- (1) The responsibility of the Committee under clause 14(1) for ensuring compliance with the Act includes meeting the requirements of Part 5 of the Act and regulations made for that Part relating to –
 - (a) the keeping of accounting records;
 - (b) the preparation and presentation of the Club's annual statement of accounts; and
 - (c) the auditing of the Club's accounts.
- (2) The Club shall open an account with a financial institution from which all Club expenditure is made and into which all Club revenue is deposited.
- (3) Subject to any restrictions imposed by the Club at a general meeting, the Committee may approve expenditure on behalf of the Club within the limits of the budget.
- (4) The Committee shall appoint an auditor prior to the end of each financial year.

PART 6 – GRIEVANCE AND DISPUTES

23. Procedures

- (1) This Part applies to disputes between a member and another member or a member and the Committee.
- (2) Within 14 days after the dispute comes to the attention of the parties to the dispute, they must meet and discuss and, if possible, resolve the dispute.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold another meeting in the presence of a mediator.
- (4) The mediator must be a person chosen by agreement between the parties or in the absence of agreement –
 - (a) for a dispute between two members – a person appointed by the Committee; or
 - (b) for a dispute between a member and the Committee – a person who is a mediator appointed

or employed by the department administering the Act.

- (5) A member of the Club can be a mediator.
- (6) The mediator cannot be a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must –
 - (a) give the parties to the mediation process every opportunity to be heard;
 - (b) allow due consideration by all parties of any written statement submitted by any party;
 - (c) ensure natural justice is accorded to the parties throughout the mediation process; and
 - (d) not determine the dispute.
- (9) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 7 - DISSOLUTION

24. Dissolution

- (1) Members may, by decision at a special general meeting, determine that the Club will be wound up.
 - (2) If, on the winding up or dissolution of the Club and after satisfaction of all its debts and liabilities there remain any assets, the assets must not be distributed to the members or former members.
 - (3) The surplus assets must be given or transferred to another association incorporated under the Act that –
 - (a) has similar objects;
 - (b) is not carried on for profit or gain to its individual members; and
 - (c) is determined by resolution of the members.
-