

Lodged in the office of the  
Commissioner for  
Consumer Protection on the

18 SEP 2023

**CLUB CONSTITUTION  
MANDURAH SWIMMING CLUB INCORPORATED  
Update Ratified: 09 June 2023**

## **1. PRELIMINARY**

### **1.1 Name of Association**

The name of the Association is Mandurah Swimming Club Incorporated

### **1.2 Objects of Association**

The objects and purposes of the Association are:

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

### **1.3 Quorum for Committee Meetings**

Any Sixty Percent (60%) of the total membership of Committee Members or Seven (7) whichever is the least to constitute a quorum for the conduct of the business at a Committee Meeting.

### **1.4 Quorum for General Meetings**

Twenty Percent (20%) of the total membership of Members (being Members entitled to vote under these Rules at a General Meeting), personally present will constitute a quorum for the conduct of business at a General Meeting.

### **1.5 Financial Year**

The Association's Financial Year will be the period of 12 months commencing on 1 April and ending on 31 March.

## **2. INTERPRETATION**

### **2.1 Definitions**

In these Rules, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 2015*

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

**Books of the Association** includes the follow:

- a register;
- financial records, financial statements or financial reports, however compiled, recorded or store a document;
- any other record of conversation

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

**By-laws** means by-laws made by the Association under Rule 25.

**President** means the Committee Member holding office as the president of the Association.

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

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

**Committee** means the management committee of the Association.

**Committee Meeting** means a meeting of the Committee.

**Committee Member** means a Member of the Committee.

**Financial Records** includes:

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

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

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

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

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

**Member** means a person who is a Competing Member or a Non-Competing Member of the Association and **Members** has a corresponding meaning.

**Ordinary Committee Member** means a Committee Member who is not an office holder of the Association under Rule 10.2(c).

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

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

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

**Secretary** means the Committee Member holding office as the secretary of the Association

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

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

**Subcommittee** means a subcommittee appointed by the committee under Rule 16.1(a)

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

- a. the debts and liabilities of the Association; and
- b. the costs, charges and expenses of winding up the Association,

but does not include books pertaining to the management of the Association

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

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

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

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

**Treasurer means** the Committee Member holding office as the treasurer of the Association.

## **2.2 Notices**

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

## **3. POWERS OF THE ASSOCIATION**

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

## **4. NOT FOR PROFIT**

- a. The property and income of the Association must be applied solely towards promoting the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in promoting those objects or purposes.

- b. A payment may be made to a Member out of the funds of the Association only if it is authorised under Rule 4(c).
- c. A payment to a Member out of the funds of the Association is authorised if it is:
  - I. the payment in good faith to the Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - II. the payment of interest, on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - III. the payment of reasonable rent to the Member for premises leased by the Member to the Association; or
  - IV. the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

## **5. BECOMING A MEMBER**

### **5.1 Qualifications for Membership**

- a. Competing Member – Non-Voting

Any person who:

- I. is under the age of 18 years;
- II. is a natural person;
- III. supports the purposes of the Association; and
- IV. is a member of SWA.

is eligible to apply for membership as a Competing Member – Non-Voting.

- b. Competing Member – Voting

Any person who:

- I. Is over the age of 18 years;
- II. is a natural person;
- III. supports the purposes of the Association; and
- IV. is a member of SWA.

is eligible to apply for membership as a Competing Member – Voting.

- c. Non-Competing Member – Voting

Any person who:

- I. Is over the age of 18 years;
- II. is a natural person;
- III. supports the purposes of the Association;
- IV. is a parent or guardian of a competing member; or
- V. is a technical member; or
- VI. is a life member; or
- VII. is a member as set by the committee; and
- VIII. is a member of SWA.

is eligible to apply for membership as a Non Competing Member – Voting.

## **5.2 Applying for Membership**

- a. A person who wants to become a Member must apply in writing (which includes applying through any online application maintained by the Association) to the Association.
- b. The application form must be signed by the applicant (unless submitted in an online application).
- c. If the Association has more than one Class of Membership, the application form must specify the applicable Class of Membership.

## **5.3 Deciding Membership Applications**

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

## **5.4 Becoming a Member**

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

- i. the applicant is eligible for membership under Rule 5.1;
- ii. the applicant applies in accordance with Rule 5.2;
- iii. the Committee approves the applicant's application for membership; and
- iv. the applicant pays any fees due under Rule 9.

## **5.5 Nominated Membership Positions**

- a. The Committee may nominate any person to become a Life Member of the Association, provided that the nominee is eligible for membership under Rule 5.5(b)
- b. Life Member  
  
Any person who:
  - i. is over the age of 18 years;
  - ii. supports the purposes of the Association;
  - iii. has made a significant and meritorious service to the Association;

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

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

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

- a. As soon as a person becomes a Member (either by application or nomination), that person is entitled to exercise all the rights and privileges of their membership, including the right to vote (if applicable), and must comply with all of the obligations of membership under these Rules.
- b. As soon as practicable after becoming a Member, the Member must become a member of SWA and must ensure that they continue to be a member of SWA throughout the course of the Member's membership.

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

The Secretary must enter a person's name in the Register within 28 days after the person becomes a Member.

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

## **6.1 Members**

- a. The Association consists of Competing Members and Non-Competing Members.
- b. A person can only be a Competing Members and Non-Competing Members.
- c. The Association may make such Classes of Membership in its By-laws as it sees fit, in accordance with Rule 25.2.
- d. Voting Members (Competing or Non-Competing) have full voting rights and any other rights conferred on Members by These Rules or approved by resolution at a General Meeting or determined by the Committee.
- e. The number of Members of any class is not limited unless otherwise approved by resolution at a General Meeting.

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

- a. Each Voting Member of the Association has one vote at a General Meeting of the Association.

## **6.3 Liability of Members**

- a. A Member is only liable for their outstanding membership fees payable under Rules 9.1 and 9.2, if any.
- b. Subject to Rule 6.3(a), a Member is not liable, by reason of the person's membership, for the liabilities of the Association or the cost of winding up the Association.
- c. Rule 6.3(b) does not apply to liabilities incurred by or on behalf of the Association by the Member before incorporation.

## **6.4 Payment to Members**

- a. Subject to Rule 6.(4b), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
  
- b. Rule 6.4(a) does not prevent:
  - i. the payment in good faith of remuneration to any officer, employee or Member in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual course of business;
  - ii. the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the "Cash Rate Target" from time to time on money borrowed from any Member;
  - iii. the payment of reasonable and proper rent by the Association to a Member for premises leased by the Member to the Association; or
  - iv. the reimbursement of expenses incurred by any Member or any Committee Member on behalf of the Association.
  - v. The payment of honorariums.

## **6.5 Membership Entitlements not Transferable**

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

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

# **7. CEASING TO BE A MEMBER**

## **7.1 Ending Membership**

- a. A person ceases to be a Member when any of the following takes place:
  - i. for a Member who is an individual, the individual dies;
  - ii. the person resigns from the Association under Rule 7.2;
  - iii. the person is expelled from the Association under Rule 7.3;
  - iv. the person ceases to be a Member under Rule 9.2(d).
  
- b. The Secretary must keep a record, for at least one year after a person ceases to be a Member, of:
  - i. the date on which the person ceased to be a Member; and
  - ii. the reason why the person ceased to be a Member.

## **7.2 Resigning as a Member**

- a. A Member may resign from membership of the Association by giving written notice of the resignation to the Secretary.
  
- b. The resignation takes effect;
  - i. when the Secretary receives the notice; or
  - ii. if a later time is stated in the notice, at that later time.

- c. A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.
- d. The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

### **7.3 Suspending or Expelling Members**

- a. The Committee may, by resolution, suspend or expel a Member from membership if:
  - i. the Member refuses or neglects to comply with these Rules; or
  - ii. the Member's conduct or behaviour is detrimental to the interests of the Association.
- b. The Committee must hold a Committee Meeting to decide whether to suspend or expel a Member.
- c. The Secretary must, not less than 28 days before the Committee Meeting referred to in Rule 7.3(b), give written notice to the Member:
  - i. of the proposed suspension or expulsion and the grounds on which it is based;
  - ii. of the date, place and time of the Committee Meeting;
  - iii. that the Member, or the Member's representative, may attend the Committee Meeting; and
  - iv. that the Member, or the Member's representative, may address the Committee at the meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
- d. At the Committee Meeting referred to in Rule 7.3(b) the Committee must:
  - i. give the Member, or the Member's representative, a full and fair opportunity to state the Member's case orally;
  - ii. give due consideration to any written statement submitted by the Member; and
  - iii. determine whether or not the Member should be:
    - A. expelled from the Association; or
    - B. suspended from membership, and if so, the period that the Member should be suspended from membership.
- e. Once the Committee has decided to suspend or expel a Member under Rule 7.3(d), the Member is immediately suspended or expelled from membership.
- f. The Secretary must inform the Member in writing of the decision of the Committee and the reasons for the decision, within 7 days of the Committee Meeting referred to in Rule 7.3(d).

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

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

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

If the Committee's decision to suspend or expel a Member is revoked under these Rules, any act performed by the Committee or Members in General Meeting during the period that the Member was suspended or expelled from membership under Rule 7.3(e), is deemed to be

valid, notwithstanding the Member's inability to exercise their rights or privileges of membership, including voting rights, during that period.

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

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

## **8. MEMBERSHIP REGISTER**

### **8.1 Register of Members**

- a. The Secretary or a person authorised by the Committee from time to time must maintain a register of Members and make sure that the Register is up to date.
- b. The Register must contain:
  - i. the full name of each Member;
  - ii. a contact postal, residential or email address of each Member;
  - iii. the Class of Membership held by the Member; and
  - iv. the date on which the person became a Member,together with any other information required to be maintained in the Register by section 53 of the Act.
- c. Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- d. The Register must be kept and maintained at the Secretary's place of residence, or at such other place as the Committee decides.

### **8.2 Inspecting the Register**

- a. Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the Member.
- b. A Member must contact the Secretary to request to inspect the Register.
- c. The Member may make a copy of details from the Register but has no right to remove the Register for that purpose.

### **8.3 Copy of the Register**

- a. A Member may make a request in writing for a copy of the Register.
- b. The Committee may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.

- c. The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Committee from time to time.

#### **8.4 When Using the Information in the Register is Prohibited**

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

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

### **9. MEMBERSHIP FEES**

#### **9.1 Entrance Fee**

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

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

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

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

#### **10.1 Powers of the Committee**

- a. The governing body of the Association is to be called the Committee and it has authority to control and manage the affairs of the Association.

- b. Subject to the Act, these Rules and any by-law or lawful resolution passed by the Association in General Meeting, the Committee:
  - i. may exercise all powers and functions as may be exercised by the Association, other than those powers and functions that are required by these Rules to be exercised by General Meetings of the Members; and
  - ii. has power to perform all acts and do all things as appear to the Committee to be necessary or desirable for the proper management of the business and affairs of the Association.

## **10.2 Committee Members**

- a. The Committee is to consist of:
  - i. the office holders of the Association; and
  - ii. not less than one other Member.
- b. The maximum number of other Members of the Committee is to be determined by the Committee.
- c. The office holders of the Association are:
  - i. the President;
  - ii. the Vice-President;
  - iii. the Secretary;
  - iv. the Treasurer,
  - v. the Registrar.

and such other office holders as the Association may otherwise approve by resolution at a General Meeting.
- d. A Committee Member must be:
  - i. a natural person;
  - ii. over 18 years in age; and
  - iii. a Voting Member.
- e. No person shall be entitled to hold more than one of the positions set out in Rule 10.2(c) at any time.
- f. No person shall be entitled to hold a position on the Committee if the person has been convicted of, or imprisoned in the previous five years for:
  - i. an indictable offence in relation to the promotion, formation or management of a body corporate;
  - ii. an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
  - iii. an offence under Part 4 Division 3 or section 127 of the Act;

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

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

### **11.1 Obligations of the Committee**

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

## **11.2 Responsibilities of Committee Members**

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

## **11.3 President**

The President:

- a. must consult with the Secretary regarding the business to be conducted at each Committee Meeting and each General Meeting;
- b. may convene Special Meetings of the Committee under Rule 14.1(c);
- c. may preside over Committee Meetings under Rule 14.3;
- d. may preside over General Meetings under Rule 17.4; and

- e. must ensure that the minutes of a General Meeting or Committee Meeting are reviewed and signed as correct under Rule 20.1(c).

#### **11.4 Secretary**

The Secretary must:

- a. co-ordinate the correspondence of the Association;
- b. consult with the President about all business to be conducted at meetings and convene General Meetings and Committee Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
- c. keep and maintain in an up to date condition the Rules of the Association as required by Rule 24.1 and any by-laws of the Association made in accordance with Rule 25;
- d. maintain the register of the Members, referred to in Rule 8.1;
- e. maintain the record of office holders of the Association, referred to in Rule 11.6;
- f. ensure the safe custody of the Books (with the exception of the Accounting Records) of the Association under Rule 27.1;
- g. keep full and correct minutes of Committee Meetings and General Meetings; and
- h. perform any other duties as are imposed by these Rules or the Association on the Secretary.

#### **11.5 Treasurer**

The Treasurer must:

- a. ensure all moneys payable to the Association are collected, and that receipts are issued for those moneys in the name of the Association;
- b. ensure the payment of all moneys referred to in Rule 11.5(a) into the account or accounts of the Association as the Committee may from time to time direct;
- c. ensure timely payments from the funds of the Association with the authority of a General Meeting or of the Committee;
- d. ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
- e. ensure the safe custody of the Financial Records of the Association and any other relevant records of the Association;
- f. if the Association is a Tier 1 Association, coordinate the preparation of the Financial Statements of the Association prior to their submission to the annual general meeting of the Association;
- g. if the Association is a Tier 2 Association or Tier 3 Association, coordinate the preparation of the Financial Report of the Association prior to its submission to the annual general meeting of the Association;
- h. assist the reviewer or auditor (if any) in performing their functions;

- i. perform any other duties as are imposed by these Rules or the Association on the Treasurer; and
- j. must not hold office without re-election:
  - i. past the third annual general meeting following the Treasurer's appointment or last election; or
  - ii. for more than three years, whichever is the longer.

## **11.6 The Registrar**

The Registrar must:

- a. Keep a list of all financial members who are registered with the club
- b. Approve all online registrations in the nominated Swimming WA Database.
- c. Oversees the transaction of all Club transfers.
- d. Processes swim meet entries and payments.
- e. Operates Meet Manager software during club hosted race meets, forwarding results to SWA for recording.

## **11.7 Record of Office Holders**

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

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

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

# **12. APPOINTING COMMITTEE MEMBERS**

## **12.1 Appointment to the Committee**

Committee Members are appointed to the Committee by:

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

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

- a. A Member who wishes to be a Committee Member must be nominated by one other Member as a candidate for election.
- b. Nominations for election to the Committee shall close at least 7 days before a General Meeting.
- c. The Secretary must send a notice calling for nominations for election to the Committee and specifying the date for the close of nominations to all Members at least 14 days before the date for the close of nominations.
- d. The nomination for election must be:
  - i. in writing; and
  - ii. delivered to the Secretary on or before the date for the close of nominations.
- e. A Member may only be nominated for one position on the Committee prior to a General Meeting.
- f. If a nomination for election to the Committee is not made in accordance with Rules 12.2(a)-(e) the nomination is to be deemed invalid and the Member will not be eligible for election unless Rule 12.3(c) takes effect.

## **12.3 Electing Committee Members**

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

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

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

## **12.5 Term of Office of Committee Members**

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

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

### **13.1 Vacant Positions on the Committee**

- a. A casual vacancy occurs in the office of a Committee Member and that office becomes vacant if the Committee Member:
  - i. dies;
  - ii. ceases to be a Member;
  - iii. becomes disqualified from holding a position under Rule 10.2 (f) or (g) as a result of bankruptcy or conviction of a relevant criminal offence;
  - iv. becomes permanently incapacitated by mental or physical ill-health;
  - v. resigns from office under Rule 13.2;
  - vi. is removed from office under Rule 13.3; or
  - vii. is absent from more than:
    - A. three consecutive Committee Meetings without a good reason; or
    - B. three Committee Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Committee Meetings,

where the Member received notice of the meetings, and the Committee has resolved to declare the office vacant.

- b. If a position on the Committee is declared vacant under Rule 12.3(e), or there is a casual vacancy within the meaning of Rule 13.1(a), the continuing Committee Members may:
  - i. appoint a Member to fill that vacancy until the conclusion of the next General Meeting; and
  - ii. subject to Rule 13.1(c), act despite the vacant position on the Committee.

- c. If the number of Committee Members is less than the number fixed under Rule 1.3 as the quorum for Committee Meetings, the continuing Committee Members may act only to:
  - i. increase the number of Members on the Committee to the number required for a quorum; or
  - ii. convene a General Meeting of the Association.

### **13.2 Resigning from the Committee**

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

### **13.3 Removal from Committee**

- a. Subject to Rule 13.1(a)(vii), a Committee Member may only be removed from his or her position on the Committee by resolution at a General Meeting of the Association if a majority of the Members present and eligible to vote at the meeting vote in favour of the removal.
- b. The Committee Member who faces removal from the Committee must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Committee.
- c. If all Committee Members are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Committee. The interim Committee must, within two months, convene a General Meeting of the Association for the purpose of electing a new Committee.

## **14. COMMITTEE MEETINGS**

### **14.1 Meetings of the Committee**

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

### **14.2 Notice of Committee Meetings**

- a. The Secretary must give each Committee Member at least 7 days' notice of each Committee Meeting before the time appointed for holding the meeting.
- b. Notice of a Committee Meeting must specify the general nature of the business to be transacted at the meeting.

- c. Subject to Rule 14.2(d), only the business specified on the notice of the Committee Meeting is to be conducted at that meeting.
- d. Urgent business may be conducted at Committee Meetings if the Committee Members present at a Committee Meeting unanimously agree to treat the business as urgent.

#### **14.3 Chairing at Committee Meetings**

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

#### **14.4 Procedure of the Committee Meeting**

- a. The quorum for a Committee Meeting is specified at clause 1.3. The Committee cannot conduct business unless a quorum is present.
- b. If, within half an hour of the time appointed for the meeting, a quorum is not present the meeting is to stand adjourned to the same time, day and place in the following week.
- c. If at a meeting adjourned under Rule 14.4(b), a quorum is not present within half an hour of the time appointed for the meeting, the Committee Members personally present will constitute a quorum.
- d. Committee Meetings may take place:
  - i. where the Committee Members are physically present together; or
  - ii. where the Committee Members are able to communicate by using any technology that reasonably allows the Committee Member to participate fully in discussions as they happen in the Committee Meeting and in making decisions, provided that the participation of the Member in the Committee Meeting must be made known to all other Members.
- e. A Committee Member who participates in a meeting as set out in Rule 14.4(d)(ii):
  - i. is deemed to be present at the Committee Meeting; and
  - ii. continues to be present at the meeting for the purposes of establishing a quorum, until the Committee Member notifies the other Committee Members that he or she is no longer taking part in the Committee Meeting.
- f. Subject to these Rules, the Committee Members present at the Committee Meeting are to determine the procedure and order of business to be followed at a Committee Meeting.
- g. All Committee Members have the right to attend and vote at Committee Meetings.
- h. All Members, or other guests, may attend Committee Meetings if invited by the Committee but the person shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- i. The Secretary or a person authorised by the Committee from time to time must keep minutes of the resolutions and proceedings of all Committee Meetings together with a record of the names of persons present at each meeting.

#### **14.5 Voting at Committee Meetings**

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

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

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

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

### **15. REMUNERATION OF COMMITTEE MEMBERS**

- a. The Association may pay a Committee Member's travelling and other expenses as properly incurred:
  - i. in attending Committee Meetings or sub-committee meetings;
  - ii. in attending any General Meetings of the Association; and
  - iii. in connection with the Association's business.
- b. Committee Members must not receive any remuneration for their services as Committee Members other than as described at Rule 15(a).

### **16. SUB-COMMITTEES AND DELEGATION**

#### **16.1 Appointment of Sub-Committee**

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

#### **16.2 Delegation by Committee to Sub-Committee**

- a. The Committee may delegate, in writing, to any or all of the sub- committees, any authority, power or functions and may cancel any authority, powers or functions, as the Committee sees fit from time to time.

- b. Despite any delegation under this Rule, the Committee may continue to exercise all its functions, including any function that has been delegated to a sub-committee and remains responsible for the exercise of those functions at all times.

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

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

## **17. GENERAL MEETINGS**

### **17.1 Procedure for General Meetings**

- a. General Meetings may take place:
  - i. where the Members are physically present together; or
  - ii. where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
- b. A Member who participates in a meeting as set out in Rule 17.1(a)(ii):
  - i. is deemed to be present at the General Meeting; and
  - ii. continues to be present at the meeting for the purposes of establishing a quorum, until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

### **17.2 Quorum for General Meetings**

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

### **17.3 Notice of General Meetings and Motions**

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

### **17.4 Presiding Member**

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

### **17.5 Adjournment of General Meetings**

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

## **18. SPECIAL GENERAL MEETINGS**

### **18.1 Special General Meeting**

- a. The Committee may at any time convene a Special General Meeting of the Association.
- b. The Secretary must convene a Special General Meeting of the Association within 28 days after receiving a written request to do so from at least 25 per cent of the total number of Members.

### **18.2 Request for Special General Meeting**

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

- a. state the purpose of the meeting;

- b. be signed by the required number of Members making the request as specified in Rule 18.1(b); and
- c. be lodged with the Secretary.

### **18.3 Failure to Convene Special General Meeting**

- a. If the Secretary fails to convene a Special General Meeting within the 28 days referred to in Rule 18.1(b), the Members who made the request; may convene a Special General Meeting within 3 months after the original request was lodged as if the Members were the Committee.
- b. A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Committee and the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

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

### **19.1 Special Resolutions**

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

### **19.2 Ordinary Resolutions**

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

### **19.3 Voting at meetings**

- a. Subject to these Rules, each Voting Member has one vote at a General Meeting of the Association.
- b. A person casts a vote at a meeting either by:
  - i. voting at the meeting either in person or through the use of technology as under Rule 17.1(a)(ii); or
  - ii. by proxy.
- c. In the case of an equality of votes at a General Meeting, the President of the meeting is entitled to exercise a second or casting vote.
- d. A Member or their proxy is not entitled to vote at any General Meeting of the Association unless all money due and payable by the Member or their proxy to the Association has been paid in accordance with Rules 9.1 and 9.2.
- e. A Member is only entitled to vote at a General Meeting if the Member's name is recorded in the Register as at the date the notice of the General Meeting was sent out under Rule 17.3.

#### **19.4 Proxies**

- a. Each Member is entitled to appoint in writing, a natural person who is also a Member of the Association to be the Member's proxy, and to attend and vote on the Member's behalf at any General Meeting of the Association.
- b. Written notice of the proxy must be given to the Secretary before the commencement of the meeting in respect of which the proxy is appointed.
- c. No Member may hold more than five proxies.

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

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

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

- a. At a General Meeting, a Poll on any question may be demanded by either:
  - i. the President of the meeting; or
  - ii. at least three Members present in person or by proxy.

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

## **20. MINUTES OF MEETINGS**

### **20.1 Minutes of Meetings**

- a. The Secretary or a person authorised by the Committee from time to time must keep minutes of the resolutions and proceedings of all General Meetings and Committee Meetings together with a record of the names of persons present at each meeting.
- b. The minutes are to be taken and then to be entered within 30 days after the holding of each meeting, into a minute book kept for that purpose.
- c. The President must ensure that the minutes of a General Meeting or Committee Meeting under Rule 20.1(a) are reviewed and signed as correct by:
  - i. the President of the General Meeting or Committee Meeting to which those minutes relate; or
  - ii. the President of the next succeeding General Meeting or Committee Meeting.
- d. When minutes have been entered and signed as correct under this Rule, they are, until the contrary is proved, evidence that:
  - i. the General Meeting or Committee Meeting to which they relate was duly convened and held;
  - ii. all proceedings recorded as having taken place at the General Meeting or Committee Meeting did in fact take place at the meeting; and
  - iii. all appointments or elections purporting to have been made at the meeting have been validly made.
- e. The minutes of General Meetings may be inspected by a Member under Rule 27.2.
- f. The minutes of Committee Meetings may be inspected by a Member under Rule 27.2 unless the Committee determines that the minutes of Committee Meetings generally, or the minutes of a specific Committee Meeting are not to be available for inspection.

## **21. FUNDS AND ACCOUNTS**

### **21.1 Control of Funds**

- a. The funds of the Association must be kept in an account in the name of the Association in a financial institution determined by the Committee.
- b. The funds of the Association are to be used in pursuance of the objects of the Association.

- c. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - i. any two Committee Members; or
  - ii. one Committee Member and a person authorised by the Committee.
- d. All expenditure above the maximum amount set by the Committee from time to time must be approved or ratified at a Committee Meeting.

## **21.2 Source of Association Funds**

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

## **21.3 Financial Records**

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

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

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

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

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

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

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

The financial year of the Association is at Rule 1.5.

## **23. ANNUAL GENERAL MEETINGS**

### **23.1 Annual General Meeting**

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

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

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

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

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

## **24. RULES OF THE ASSOCIATION**

### **24.1 Rules of the Association**

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

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

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

## **25. BY-LAWS OF THE ASSOCIATION**

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

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

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

## **26. AUTHORITY REQUIRED TO BIND ASSOCIATION**

### **26.1 Executing Documents**

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

### **26.2 Use of the Common Seal**

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

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

### **27.1 Custody of the Books of the Association**

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

### **27.2 Inspecting the Books of the Association**

- a. Subject to these Rules, and in particular Rule 20.1(f), a Member is able to inspect the Books of the Association free of charge at such time and place as is mutually convenient to the Association and the Member.
- b. A Member must contact the Secretary to request to inspect the Books of the Association.
- c. The Member may copy details from the Books of the Association but has no right to remove the Books of the Association for that purpose.

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

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

## **27.4 Returning the Books of the Association**

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

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

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

- a. The Association must ensure that at least one of its Members, at any one time, is a Member Protection Information Officer.
- b. A Member Protection Information Officer any person who:
  - i. is a voting member;
  - ii. has been selected by the Committee;
  - iii. agrees to be a Member Protection Information Officer; and
  - iv. has completed any training course which the Association requires Member Protection Information Officers to have completed, from time to time.
- c. A Member Protection Information Officer shall be available to the Members for Members to discuss and voice their complaints and concerns in relation to the Association and the activities of the Association.
- d. Provided that the Member Protection Information Officer does not have any legal obligation to report any matter disclosed to them in their capacity as Member Protection Information Officer, the Member Protection Information Officer shall keep all matters disclosed to them confidential.

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

- a. This Rule applies to:
  - i. disputes between Members; and
  - ii. disputes between the Association and one or more Members that arise under the Rules or relate to the Rules of the Association.
- b. In this Rule "Member" includes any former Member whose membership ceased not more than six months before the dispute occurred.
- c. The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.
- d. If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this Rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- e. The Secretary must convene a Committee Meeting within 28 days after the Secretary receives notice of the dispute under Rule 28.2(d) for the Committee to determine the dispute.
- f. At the Committee Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.

- g. The Secretary must inform the parties to the dispute of the Committee's decision and the reasons for the decision within 7 days after the Committee Meeting referred to in Rule 28.2(e).
- h. If any party to the dispute is dissatisfied with the decision of the Committee they may elect to initiate further dispute resolution procedures as set out in the Rules.
- i. If the dispute being considered by the Committee relates to a matter concerning the welfare of a child, the Committee must have regard to the process set out to such disputes in the Swimming Australia Limited Member Welfare Policy (as updated from time to time).
- j. If the dispute relates to a Committee Member, it shall be considered that with respect to such dispute, the Committee Member has a material personal interest and therefore the Committee Member must not:
  - i. be present (in his or her capacity as a Committee Member) while the matter is being considered at any Committee Meeting; or
  - ii. vote on the matter.

### **28.3 Mediation**

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

- iii. allow all parties to consider any written statement submitted by any party; and
  - iv. ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- i. The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

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

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

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

- a. The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the Association will:
  - i. apply to the Commissioner for cancellation of its incorporation; or
  - ii. appoint a liquidator to wind up its affairs.
- b. The Association must be wound up under Rule 29(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- c. Prior to making any resolution regarding cancellation or winding up of the Association, the Association must advise SWA of the Association's intention to propose a resolution regarding the cancellation or winding up of the Association.
- d. The Association must provide SWA with copies of the minutes of any meeting of the Association in which the Association proposes and/or resolves to have its incorporation cancelled or wound up.
- e. Upon cancellation of the Association, the Surplus Property must only be distributed SWA, or in the event that SWA is not in existence then to one or more of the following:
  - i. an incorporated Association under the Act;
  - ii. a body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;
  - iii. a company limited by guarantee that is registered as mentioned in section 150 of the *Corporations Act 2001 (Cwth)*;
  - iv. a company holding a licence that continues in force under section 151 of the *Corporations Act 2001(Cwth)*;
  - v. a body corporate that:
    - A. is a Member or former Member of the Association; and
    - B. at the time of the Surplus Property is distributed, has Rules that prevent the property being distributed to its Members;
  - vi. a trustee for a body corporate referred to in Rule 29(e)(v); or
  - vii. a co-operative registered under the *Co-operatives Act 2009* that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.