

# Constitution



**BARBARIANS**  
MASTERS SWIM TEAM

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# CONSTITUTION OF BARBARIANS MASTERS SWIM TEAM INC.

## PART 1 — PRELIMINARY

### 1 RULES OF ASSOCIATION SUMMARY

The name of the association is “Barbarians Masters Swim Team Inc”.

#### 1.1 Objectives of the association

The objectives of the association are:

- (a) To provide swimmers with the framework to be able to compete at Masters Swimming Meets in Queensland, in Australia, and in the world.
- (b) To promote the Barbarians Masters Swim Team

#### 1.2 Quorum for management committee meetings

- (a) At a management committee meeting, more than 50% of the members elected to the committee as at the close of the last general meeting of the members form a quorum.
- (b) If there is no quorum within 30 minutes after the time fixed for a management committee meeting called on the request of members of the committee, the meeting lapses.

#### 1.3 Quorum for general meetings

- (a) The quorum for a general meeting of an incorporated association is at least the number of members elected or appointed to the association’s management committee at the close of the association’s last general meeting plus 1.
- (b) However, if all members of the association are members of the association’s management committee, the quorum is the total number of members less 1.
- (c) If an incorporated association makes a decision at a meeting of the association for which there is no quorum, the decision has no effect.

#### 1.4 Financial year

The Associations financial year will be the period of twelve (12) months commencing on 1 January and ending on 31 December each year.

## 2 DEFINITIONS AND INTERPRETATION

### 2.1 Definitions

**“Act”** means the Associations Incorporation Act 1981.

**“Associate Member”** means a member with the rights referred to in rule 8.1.

**“Association”** means Barbarians Masters Swim Team Inc.

**“BMST”** means Barbarians Masters Swim Team

**“Management committee”** means the body consisting of the directors and the executive officer.

**“Books”** of the association includes the following:

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

**“By-laws”** means any by-laws made by the management committee

**“Chairperson”** means the management committee member holding office as the chairperson of the association.

**“Delegate”** means the person(s) appointed from time to time to act for and on behalf of a member and to represent the member at association meetings.

**“Director”** means a member of the management committee (including the president and the director of finance) and includes any person acting in that capacity from time to time appointed in accordance with these rules of Association but does not include the executive officer.

**“Financial Records”** includes:

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

**“Financial Statements”** means the financial statements in relation to the association required reporting.

**“Financial Year”** means the period of twelve (12) months commencing on 1 January and ending on 31 December each year.

**“General Meeting”** includes the annual general meeting and any meetings of the association that all members are entitled to receive notice of and to attend.

**“Individual Member”** means a registered, financial member or a natural person who is otherwise recognised by the association as a member.

**“Intellectual Property”** means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the Association or any activity of or conducted, promoted or administered by the Association in Queensland.

**“Instrument”** means a formal or legal written document; a document in writing, such as a deed, lease, bond or contract.

**“Life Member”** means an individual appointed as a Life Member under these rules.

**“Member”** means a member of the association under these rules

**“Membership Fees”** means all membership, affiliation fees and levies payable by a member to the association.

**“MSA”** means Masters Swimming Australia Inc.

**“MSQ”** means Masters Swimming Queensland Inc.

**“Objects”** means the objects of the association under these rules.

**“Register of Members”** means the register of members referred to in the Act and kept and maintained in accordance to the Act.

**“Seal”** means the common seal of the association.

**“Special Resolution”** means a resolution passed by the members at a general meeting in accordance with section 51 of the Act.

**“Sport”** means the sport of swimming, as conducted in accordance with the rules and practices that are recognised as Masters Swimming.

## 2.2 Interpretation

In these rules of association:

- (a) A reference to a function includes a reference to a power, authority and duty;
- (b) A reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) Words importing the singular include the plural and vice versa;
- (d) Words importing any gender include the other genders;
- (e) References to persons include corporations and bodies politic;
- (f) References to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) A reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) A reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

## 2.3 Severance

If any provision of this constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of these rules of association.

## 2.4 The Act

Except where the contrary intention appears, in these rules of association, an expression that deals with a matter under the *Act* has the same meaning as that provision of the *Act*. Model rules under the *Act* are expressly displaced by these rules of association.

# PART 2 — POWERS OF THE ASSOCIATION

## 3 POWERS OF THE ASSOCIATION

- 3.1** Solely for furthering the objects, the association has, in addition to the rights, powers and privileges conferred on it under *Act*, the legal capacity and powers of a company as set out under *Act*.
- 3.2** Subject to the rules of association, the power and control of the association shall be vested in and reside in:
- (a) The management committee; and
  - (b) Who shall manage the affairs of the association on behalf of the members.
- 3.3** To receive income derived from business conducted under a trading name or names in accordance with the *Act*.
- 3.4** To receive and accept donations, endowments, gifts of money and any other asset whatsoever, either subject or not subject to any special trusts or conditions.
- 3.5** To make and carry out any arrangements for joint working or cooperation by affiliation or otherwise with any organisation or body, whether incorporated or not, carrying on work similar to any work carried out by the Association and paying any moneys incidental thereto.
- 3.6** To undertake, execute and perform any trusts and conditions affecting any real or personal property of any description acquired by the Association.
- 3.7** To enter into any arrangements with any authority or department of Commonwealth, State or Local Governments.
- 3.8** To apply for and exercise any powers obtained under any Act of Commonwealth or State Governments which may be deemed expedient for any of the objects of the association.
- 3.9** To accumulate, sell, improve, manage, develop, exchange, lease, mortgage or otherwise dispose of or deal with or turn to account all or any property or rights of the association provided that no disposition of any real or leasehold property shall be made without such consent or approval, if any, as may be required by law.

- 3.10** To invest all moneys and funds of the association which are not immediately required to be expended in authorised investments.
- 3.11** To employ, hire, appoint, engage, remove or suspend such managers, secretaries, officers, clerks, agents or other servants for permanent, temporary, part time or special services as may from time to time be thought fit and to determine their duties and to grant, continue and pay such salaries, pensions, gratuities or other forms of emoluments in recognition of services as may from time to time be sanctioned by the Association.
- 3.12** To do all such other acts and things as are or may be deemed incidental or conducive to the attainment of any of the objects of the association.

#### **4 NOT FOR PROFIT**

- 4.1** The property and income of the association must be applied solely towards promoting the objects of the association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member or director, except in good faith in promoting those objects.

#### **5 PAYMENTS TO MEMBERS**

- 5.1** A payment may be made to a member out of the funds of the association only if;
- (a) The payment is made 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
  - (b) The payment of interest, on money borrowed by the association from the member, at a rate of not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (c) The payment of reasonable rent to the member for premises leased by the member to the association; or
  - (d) The reimbursement of reasonable expenses properly incurred by the member or a management committee member on behalf of the association.

#### **6 PAYMENTS TO MANAGEMENT COMMITTEE MEMBERS**

- 6.1** A payment to a management committee member out of the funds of the association is authorised is it is;
- (a) In accordance with Rule 5.1; or
  - (b) For the reimbursement of reasonable expenses for travel and accommodation properly incurred in connection with the performance of the director's functions; or by resolution at a general meeting of members.

## **PART 3 — MEMBERS**

### **7 MEMBERSHIP**

#### **7.1 Number of members**

The association must have at least seven (7) members. Membership is unlimited in numbers.

#### **7.2 Qualifications for membership**

Any individual that supports the objects of the association is eligible to apply for membership.

#### **7.3 Rejection of membership**

The management committee reserves the right to reject an application for membership. A rejection decision needs to be voted on by the management committee fulfilling a quorum.

### **8 CLASSES OF MEMBERSHIP**

The members of the association shall consist of:

- (a) Individual members who have attained the age of eighteen (18) years and who shall have rights to debate and to vote at meetings; and
- (b) Support members who have attained the age of eighteen (18) years and who shall have the right to receive notice of meetings and to be present and to debate at Meetings, but shall have no voting rights;
- (c) Life members, who are subject to these rules of association, shall have the right to receive notice meetings and to be present and to debate at meetings, but shall have no voting rights;

### **9 BECOMING A MEMBER**

#### **9.1 Individual members**

Individual membership of the association is gained and commenced by:

- (a) Agreeing to support the objects of the association;
- (b) Agreeing to comply with the rules, by-laws and policies of the association;
- (c) Joining the association and by paying the required membership fees online, and
- (d) Only individual members are eligible for affiliation with MSQ and MSA.

#### **9.2 Support members**

Support membership of the association is gained and commenced by:

- (a) Agreeing to support the Objectives of the association;
- (b) Agreeing to comply with the rules, by-laws and policies of the association; and
- (c) Joining the association and by paying the required membership fees online.



### **9.3 Life members**

- (a) The management committee may recommend to the association's annual general meeting that any natural person, who has rendered distinguished service to the association or Masters Swimming, where such service is deemed to have assisted the advancement of Barbarians Masters Swim Team in Australia, be appointed as a life member.
- (b) A resolution of the annual general meeting to confer life membership (subject to rule 9.3(c)) on the recommendation of the management committee must be a special resolution.
- (c) A person must accept or reject the association's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the register and from the time of entry on the register the person shall be a life member.

## **10 REGISTER OF MEMBERS**

### **10.1 Association to keep a register of members**

The association will keep and maintain in an up-to-date condition a register in which shall be entered:

- (a) The full name of each members of the association;
- (b) A contact postal, residential, contact phone number and email address for each member;
- (c) The class of membership held by the member;
- (d) The date on which the member became a member; and

### **10.2 Record keeping**

- (a) Members, directors and life members shall provide notice of any change and required details to the association within one month of such change.
- (b) Any change in membership of the association must be recorded in the register of members within twenty-eight (28) days after the change occurs.
- (c) The register of members must be kept and maintained at such place as the management committee decides.
- (d) The register must be available in electronic or paper form for inspection by members of the association at all reasonable times.
- (e) A member must contact the secretary to arrange for an inspection of the register.
- (f) However, the management committee may, on the application of a member of the association, withhold information about the membership (other than the members full name) from the register available for inspection, if the Secretary or the management committee has reasonable grounds for believing the disclosure of the information would put the member at risk of harm or invade their confidentiality and privacy.

### **10.3 Prohibition on use of information on register of members**

A member of the association must not—

- (a) Use information obtained from the register of members of the association to contact, or send material to, another member of the association for the purpose of advertising for political, religious, charitable or commercial purposes; or

- (b) Disclose information obtained from the register to someone else, knowing that the information is likely to be used to contact, or send material to, another member of the association for the purpose of advertising for political, religious, charitable or commercial purposes.

Subrule (b) does not apply if the use or disclosure of the information is approved by the management committee of the association.

## **11 EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

These rules of association constitute a contract between each of them and the association and that they are bound by these rules of association and the by-laws;

- (a) They shall comply with and observe these rules of association and the by-laws and any determination, resolution or policy which may be made or passed by the management committee or other entity with delegated authority;
- (b) By submitting to these rules of association and by-laws they are subject to the jurisdiction of the association;
- (c) The rules of association and by-laws are necessary and reasonable for promoting the objects; and
- (d) That individual members with voting rights are entitled to all benefits, advantages, privileges and services of the association affiliation with MSQ and MSA.

## **12 CEASING OF MEMBERSHIP**

### **12.1 Notice of resignation**

A member having paid all arrears of fees payable to the association may resign or withdraw from the Association by giving one month's notice in writing to the management committee of such resignation or withdrawal.

### **12.2 Discontinuance for breach**

- (a) Affiliation with the association may be discontinued by the management committee upon breach of any rule of these rules of association or the by-laws, including but not limited to the failure to pay any monies owed to the association, failure to comply with the by-laws or any resolutions or determinations made or passed by the management committee or any duly authorised committee.
- (b) Affiliation shall not be discontinued by the management committee under rule 13.2(a) without the management committee first giving the accused Affiliate the opportunity to explain the breach and/or remedy the breach.
- (c) Where an Affiliated club fails, in the management committee's view to adequately explain the breach, that club's affiliation shall be discontinued under rule 13.2(a) by the association's giving written notice of the discontinuance to the affiliate. the register of members shall be amended to reflect any discontinuance of affiliation as soon as practicable.

### 12.3 Forfeiture of rights

A member who or which ceases to be an affiliate, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any property of the association including intellectual property. Any association documents, records or other property in the possession, custody or control of that affiliate shall be returned to the association immediately.

### 12.4 Refund of membership fees

Membership fees or subscriptions paid by the member are not refundable.

## 13 MEMBERSHIP SUBSCRIPTIONS AND FEES

Membership subscriptions and fees shall be set as follows:

- (a) The annual membership subscription and any fees or other levies payable by members to the association, the time for and manner of payment shall be as determined by the management committee;

## PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### 14 DISCIPLINE

- (a) Where the management committee is advised or considers that a member has allegedly:
  - (i) breached, failed, refused or neglected to comply with a provision of these rules of association, the by-laws, the MSQ constitution or by-laws, the MSQ Constitution or by-laws or any resolution or determination of the management committee or any duly authorised committee; or
  - (ii) acted in a manner unbecoming of an affiliate, or prejudicial to the Objects and interests of the Association, MSA and/or Masters Swimming; or
  - (iii) brought the association, MSA, MSQ, any other member or Masters Swimming into disrepute,
- (b) The management committee may commence or cause to be commenced, disciplinary proceedings against that member, and that member, will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Association set out in the by-laws.
- (c) The management committee may appoint a mediator to deal with any disciplinary matter referred to it. Such a mediator shall operate in accordance with the procedures expressed in the by-laws but subject always to the *Act*.

### 15 GRIEVANCE PROCEDURE

- (a) In this section, member also refers to a member expelled within six (6) months before the dispute has come to the attention of each party to the dispute.

- (b) The grievance procedure set out in this rule 16 applies to disputes under these rules between:
  - i) Members; or
  - (ii) one (1) or more members and the association.
- (c) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.
- (d) 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 ten (10) days, refer the dispute for resolution to an independent tribunal established by the management committee in accordance with the procedures prescribed in the by-laws.
- (e) Any party to the dispute may:
  - (i) request that the dispute goes straight to mediation; or
  - (ii) give written notice to the management committee within fourteen (14) days after receiving notice of the tribunal's determination under rule 16(d) requesting the appointment of a mediator.

## 16 MEDIATION

- (a) Any mediator appointed must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement:
    - A. in the case of a dispute not involving the management committee or any member or the management committee, a person appointed by the management committee; or
    - B. in the case of a dispute involving the management committee or a member of the management committee, a person who acts as a mediator for another not-for-profit body such as a community legal centre or be otherwise acceptable to all parties
- (b) The person appointed as a mediator may be a member or former member or the association, but must not:
  - (i) have a personal interest in the matter that is the subject of the mediation; or
  - (ii) be biased in favour of or against any party to the mediation.
- (c) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (d) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least five (5) days before the mediation takes place.
- (e) In conducting the mediation, the mediator must:
  - (i) give each part to the mediation every opportunity to be heard; and
  - (ii) allow each party of the mediation to give due consideration to any written statement given by another party; and
  - (iii) ensure that natural justice is given to the parties to the mediation throughout the mediation process.

- (f) The mediator cannot determine the matter that is the subject of the mediation.
- (g) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (h) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator, and are to be paid in advance.

## **PART 5 — MANAGEMENT COMMITTEE**

### **17 POWERS OF THE MANAGEMENT COMMITTEE**

**17.1** Subject to the *Act* and these rules of association, the business of the association shall be managed, and the powers of the association shall be exercised, by the management committee. In particular, the management committee as the governing body for the association shall be responsible for acting in accordance with the objects and shall operate for the benefit of the members.

### **18 COMPOSITION AND DUTIES OF MANAGEMENT COMMITTEE**

#### **18.1 Composition of the management committee**

The management committee shall consist of minimum three (3) directors, and a maximum of seven (7) directors follows:

- (a) The President (elected);
- (b) The Director of Finance (elected);
- (c) The Secretary (elected); and
- (d) Up to additional four (4) management committee members (elected)

#### **18.2 President duties**

The President functions include, but are not limited to:

- (a) Preside at all management committee meetings when present. In the absence of the president, those qualified to vote shall elect a chairperson;
- (b) Have a casting vote in the event of a tied vote at a management committee meeting. In the absence of the president, the elected Chairperson shall have a casting vote in the event of a tied vote;
- (c) Guide the other management committee members and officers and employees of the association in the commission of their duties; and
- (d) Represent the association at official functions when available.

#### **18.3 Director of finance duties**

The director of finance functions include, but are not limited to:

- (a) Ensure that any amounts payable to the association are collected, and that receipts for those amounts are issued in the Association's name;
- (b) Ensure that any amounts paid to the association are credited to the appropriate account of the association, as directed by the management committee;
- (c) Ensure that any payments to be made by the association that have been authorised by the management committee or at a general meeting are made on time;
- (d) Ensure that the association complies with the relevant requirements of the *Act*;

- (e) Ensure the safe custody of the association's financial records, financial statements and financial reports, as applicable to the association;
- (f) Coordinate the preparation of the association's financial report before its submission to the association's annual general meeting;
- (g) Provide any assistance required by an auditor or reviewer conducting an audit or review of the association's Financial Statements or financial report under the Act; and
- (h) Carry out any other duty given to the director of finance under these rules, the by-laws, or as directed by the management committee.

#### **18.4 Secretary duties**

The secretary's functions include, but are not limited to:

- (a) Calling meetings of the association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the president of the association; and
- (b) Keeping minutes of each meeting; and
- (c) Keeping copies of all correspondence and other documents relating to the association; and,
- (d) Maintaining the register of members of the association; and
- (e) Representing the association.

#### **18.5 Portfolios for management committee members**

The management committee may allocate portfolios and/or titles to management committee members; these shall be provided for in the by-laws.

#### **18.6 How members become management committee members**

A member becomes a management committee member if the member:

- (a) Is elected to the management committee at an annual general meeting; or
- (b) Is appointed to the management committee by the management committee to fill a casual vacancy under rule 23.

### **19 DIRECTORS**

#### **19.1 Nominations**

- (a) Nominations to fill vacancies for the director positions of president, director of finance, secretary and management committee members shall be called for sixty (30) days prior to the association's annual general meeting. When calling for nominations details of the necessary qualifications and job descriptions for the positions shall also be provided. qualifications and job descriptions shall be as determined by the management committee from time to time.
- (b) Nominees for director positions must declare any position they hold in an Inc. including as an officer or as a full-time employee.

## **19.2 Form of nomination**

Nominations must be:

- (a) In writing;
- (b) On the prescribed form provided for that purpose;
- (c) Signed by an authorised representative from two (2) individual members;
- (d) certified by the nominee (who must be an individual member) expressing their willingness to accept the position for which they are nominated; and
- (e) delivered to the association not less than thirty-five (35) days before the date fixed for the association's annual general meeting.

## **19.3 Election of president, director of finance, and secretary**

- (a) If only one member has nominated for a vacancy in either or all of these positions, then those nominated shall be declared elected only if approved by the majority of members entitled to vote.
- (b) In the event of no written nomination for either or all positions, the chairperson may accept late nominations.
- (c) If there is no nomination for positions, or if the person is not approved by the majority of members under rule 20.3(a), the position will be deemed a casual vacancy under rule 23.1.
- (d) If more than one member has nominated for a position, voting papers shall be prepared containing the names of the candidates in alphabetical order, for each vacancy on the management committee.
- (e) Voting for president, director of finance and secretary shall be as set out in rule 20.3 excepting where a sitting member of the management committee is seeking re-election to the same position and there is a tied vote, the sitting member shall retain the position.
- (f) Voting shall be conducted in such manner and by such method as may be determined by the management committee from time to time.

## **19.4 Elections of management committee members**

- (a) If the number of nominations received for management committee members is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the management committee, then those nominated shall be declared elected only if approved by the majority of members entitled to vote.
- (b) In the event of no written nomination the chairperson may accept late nominations.
- (c) If there are insufficient nominations received to fill all vacancies on the management committee, or if a person is not approved by the majority of members under rule 20.4(a), the positions will be deemed casual vacancies under rule 22.1.
- (d) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order, for each vacancy on the management committee.
- (e) Voting for members of the management committee shall be as set out in this Rule 20.4 excepting where a sitting member of the management committee is seeking re-election to the same position and there is a tied vote, the sitting member shall retain the position.
- (f) Voting shall be conducted in such manner and by such method as may be determined by the management committee from time to time.

## 19.5 Term of appointment for directors

- (a) Directors elected shall be elected for a term of two (2) years.
- (b) Subject to provisions in these rules of association relating to earlier retirement or removal of directors, directors shall remain in office from the conclusion of the association's annual general meeting at which the election occurred until the conclusion of the second annual general meeting following.

## 20 EXISTING DIRECTORS

The members of the management committee of the association in office immediately prior to approval of these rules of association under the *Act* shall continue in those positions until the next association's annual general meeting following such adoption of these rules of association. After this annual general meeting the positions of directors shall be filled, vacated and otherwise dealt with in accordance with the rules of the association.

## 21 VACANCIES ON THE MANAGEMENT COMMITTEE

### 21.1 Casual vacancies

Any casual vacancy occurring in the position of director may be filled by the remaining directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the director's term under the rules of the association.

### 21.2 Grounds for termination of director or vacancy of position

In addition to the circumstances in which the office of a director becomes vacant by virtue of the *Act*, the office of a director becomes vacant if the director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns their office in writing to the association;
- (e) is absent without the consent of the management committee from meetings of the management committee held during a period of six (6) months;
- (f) holds any office of employment with the association;
- (g) is directly or indirectly interested in any contract or proposed contract with the association and fails to declare the nature of their interest; and
- (h) in the opinion of the management committee (but subject always to the rules of the association):
  - (i) has acted in a manner unbecoming or prejudicial to the objects of the association;  
or
  - (ii) has brought the association into disrepute; or
  - (iii) is removed by special resolution; or
  - (iv) would otherwise be prohibited from being a director of a corporation under the *Act*.



## **22 MANAGEMENT COMMITTEE MAY ACT**

In the event of a casual vacancy or vacancies in the office of a director or directors, the remaining directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of the management committee, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute such a quorum.

## **23 MEETINGS OF THE MANAGEMENT COMMITTEE**

### **23.1 Management committee to meet**

The management committee shall meet as often as is deemed necessary, and at least four (4) times, in every calendar year for the dispatch of business and subject to these rules of association may adjourn and otherwise regulate its meetings as it thinks fit. The president or a director may at any time convene a meeting of the management committee within a reasonable time.

### **23.2 Decisions of management committee**

Subject to these rules of association, questions arising at any meeting of the management committee shall be decided by a majority of votes and a determination of a majority of directors shall for all purposes be deemed a determination of the management committee. All directors shall have one (1) vote on any question. Where voting is equal, the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote, the motion will be lost.

### **23.3 Resolutions not in meeting**

- (a) A resolution in writing, signed or assented to by postal or electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the directors.
- (b) Without limiting the power of the management committee to regulate its meetings as it thinks fit, a meeting of the management committee may be held where one (1) or more of the directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other forms of communication;
  - (ii) notice of the meeting is given to all the directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the management committee or these rules of association and such notice specifies that directors are not required to be present in person;
  - (iii) if a failure in communications prevents rule 24.3(b)(i) from being satisfied by that number of directors which constitutes a quorum, and none of such directors is present at the place where the meeting is deemed by virtue of the further provisions of this rule to be held then the meeting shall be suspended until rule 24.3(b)(i) is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated or adjourned; and
  - (iv) any meeting held where one (1) or more of the directors is not physically present shall be deemed to be held at the place specified in the notice of the meeting provided a director is there present and if no director is there present the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

#### **23.4 Quorum**

No business shall be transacted at any management committee meeting unless a quorum is present at the time when the meeting proceeds to business.

#### **23.5 Notice of management committee meetings**

Unless all directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than seven (7) days of written notice of the meeting of the management committee shall be given to each director. The agenda shall be forwarded to each director not less than forty-eight (48) hours prior to such meeting.

#### **23.6 Directors' interests**

A director is disqualified by holding any place of profit or position of employment in the association or in any company or incorporated association in which the association is a shareholder or otherwise interested or from contracting with the association either as vendor, purchaser or otherwise except with express resolution of approval of the management committee. Any such contract or any contract or arrangement entered into by or on behalf of the association in which any director is in any way interested will be void unless approved by the management committee.

#### **23.7 Conflict of interest**

A director shall declare their interest in any:

- (a) Contractual matter;
- (b) Selection matter;
- (c) Disciplinary matter; or
- (d) Financial matter.

In which a conflict of interest arises or may arise, and shall, unless otherwise determined by the management committee, absent themselves from discussions of such matter and shall not be entitled to vote in respect of such matter. If the director votes the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the management committee, or if this is not possible, the matter shall be adjourned or deferred.

#### **23.8 Disclosure of interests**

The nature of the interest of such director must be declared by the director at the meeting of the management committee at which the relevant matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the management committee after the acquisition of the interest. If a director becomes interested in a matter after it is made or entered into the declaration of interest must be made at the first meeting of the management committee after the director becomes so interested.

#### **23.9 General disclosure**

A general notice that a director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is a sufficient declaration under rule 24.8 as regards such director and the said transactions. After such general notice it is not necessary for such director to give a special notice relating to any particular transaction with that firm or company.

### **23.10 Recording disclosures**

Any declaration made, any disclosure or any general notice given by a director in accordance with rules 24.7, 24.8 and/or 24.9 must be recorded in the minutes of the relevant meeting.

## **24 DELEGATIONS**

### **24.1 Management committee may delegate functions**

The management committee may by instrument in writing create or establish or appoint special committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the management committee determines from time to time. In exercising its power under this rule 25 the management committee must take into account broad stakeholder involvement.

### **24.2 Delegation by instrument**

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

- (a) This power of delegation; and
- (b) A
- (c) function imposed on the management committee by the Act or any other law, or these rules of association or by resolution of the association in a meetings.

### **24.3 Delegated function exercised in accordance with terms**

A function, the exercise of which has been delegated under rule 25, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

### **24.4 Procedure of delegated entity**

The procedures for any entity exercising delegated power shall, subject to these rules of association and with any necessary or incidental amendment, be the same as that applicable to meetings of the management committee under rule 24 above. The entity exercising delegated powers shall make decisions in accordance with the objects, and shall promptly provide the management committee with details of material decisions and shall provide any other reports, minutes and information as the management committee may require from time to time.

### **24.5 Delegation may be conditional**

A delegation under rule 25 may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

### **24.6 Revocation of delegation**

The management committee may by instrument in writing, at any time revoke wholly or in part any delegation made under rule 25 and may amend or repeal any decision made by such body or person under this rule.

## **PART 6 — GENERAL MEETINGS OF THE ASSOCIATION**

### **25 ANNUAL GENERAL MEETING**

- (a) An annual general meeting of the association shall be held in accordance with the *Act* and these rules of association and on a date and at a venue to be determined by the management committee.
- (b) All meetings other than the annual general meeting shall be special meetings and shall be held in accordance with rules of the association.
- (c) The notice convening an annual general meeting must specify that it is the annual general meeting of the association, include the names of members who have been nominated for election and otherwise must comply with rule 28.

### **26 GENERAL MEETINGS - SPECIAL MEETINGS**

#### **26.1 Special meetings may be held**

The management committee may, whenever it thinks fit, convene a special meeting of the association.

### **27 NOTICE OF MEETING**

- (a) Notice of every meeting shall be given to every member or other member entitled to receive notice at the address appearing in the register of members kept by the association. The directors shall also be entitled to notice of every meeting, which shall be sent to their last notified address. No other person shall be entitled as of right to receive notices of meetings.
- (b) A notice of a meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (c) At least sixty (60) days' notice of a Meeting shall be given to members entitled to receive notice.
- (d) At least twenty-one (21) days' notice shall be given of:
  - (i) the agenda for the meeting; and
  - (ii) any notice of motion received from members entitled to vote.
- (e) Notice of every Meeting shall be given in writing.

## **28 BUSINESS**

- (a) The business to be transacted at the association's annual general meeting includes the consideration of accounts and the reports of the management committee and auditors, the election of directors under these rules of association.
- (b) All business that is transacted at a meeting and all business that is transacted at an association's annual general meeting, with the exception of those matters set down in rule 29(a) shall be special business.

## **29 NOTICES OF MOTION**

Members entitled to vote may submit notices of motion for inclusion as special business at a meeting. All notices of motion must be submitted in writing to the secretary not less than thirty (30) days (excluding receiving date and meeting date) prior to the meeting.

## **30 PROCEEDINGS AT GENERAL MEETINGS OF THE ASSOCIATION**

### **30.1 Proxies**

- (a) An individual member may appoint a member, including another Delegate, as its proxy to vote and speak on its behalf at a General Meeting.
- (b) The appointment of a proxy must be in writing and signed by an authorised representative of the individual member making the appointment.
- (c) The Individual member appointing the proxy may give specific directions as to how the proxy is to vote on its behalf. If no instructions are given to the proxy, the proxy may vote on behalf of the member in any matter as the proxy sees fit.
- (d) If the management committee has approved a form for the appointment of a proxy, the member may use that form or any other form:
  - (i) that clearly identifies the person appointed as the member's proxy; and
  - (ii) that has been signed by the Individual member.
- (e) A form appointing a proxy must be given to the Chairperson or Secretary of the meeting before the commencement of the General Meeting for which the proxy is appointed.
- (f) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the association not later than twenty-four (24) hours before the commencement of the meeting.

### **30.2 Quorum**

No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business.

### **30.3 Chairperson to preside**

The Chairperson of the management committee shall, subject to these rules of association, preside as chair at every Meeting except:

- (a) In relation to any election for which the chairperson is a nominee; or
- (b) Where a conflict of interest exists.

If the chairperson is not present, or is unwilling or unable to preside the delegates present shall appoint another director to preside as chairperson for that meeting only.

### **30.4 Adjournment of meeting**

- (a) If within half an hour from the time appointed for the meeting, a quorum is not present the meeting shall be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the chairperson may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in rule 31.4(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

### **30.5 Voting procedure**

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

- (a) The chairperson; or
- (b) A simple majority of Delegates on behalf of their members.

### **30.6 Recording of determinations**

Unless a poll is demanded under rule 31.5, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the association shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

### **30.7 Where poll demanded**

If a poll is duly demanded under rule 31.5 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

## **31 VOTING AT GENERAL MEETINGS OF THE ASSOCIATION**

### **31.1 Members entitled to vote**

Each individual member shall be entitled to one (1) vote at association meetings which, subject to this rule, shall be exercised by the individual member or their nominated proxy.

### **31.2 Chairperson may exercise casting vote**

Where voting at association meetings is equal the chairperson may exercise a casting vote. If the chairperson does not exercise a casting vote the motion will be lost.

### **31.3 Postal Voting**

No motion shall be determined by a postal ballot unless determined by the management committee. If the management committee so determines, the postal ballot shall be conducted under the procedures set by the management committee from time to time in the by-laws.

## **PART 7 — FINANCIAL AND ADMINISTRATION**

### **32 RECORDS AND ACCOUNTS**

#### **32.1 Records**

The association shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the association and the management committee and shall produce these as appropriate at each management committee or meeting.

#### **32.2 Records kept in accordance with the act**

Proper accounting and other records shall be kept in accordance with the *Act*. The books of account shall be kept in the care and control of the directors.

#### **32.3 Association to retain records**

The association shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

#### **32.4 Management committee to submit accounts**

The management committee shall submit to members at the association's annual general meeting the statements of account of the Association in accordance with these rules of association and the *Act*.

#### **32.5 Accounts conclusive**

The statements of account when approved or adopted by an association's annual general meeting shall be conclusive except as regards any error discovered in them within three (3) months after such approval or adoption.

#### **32.6 Accounts to be sent to members**

The secretary shall cause to be sent to all persons entitled to receive notice of association's annual general meetings in accordance with these rules of association, a copy of the statements of account, the management committee's report, and the auditor's report.

#### **32.7 Negotiable instruments**

All cheques, promissory notes, bankers, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) duly authorised directors or in such other manner as the management committee determines.

## **PART 8 — GENERAL AFFAIRS**

### **33 WINDING UP**

- (a) The association may be dissolved or wound up by a resolution at any annual general meeting or extraordinary meeting called for such purpose.
- (b) At least sixty (60) days' notice to members must be given for the holding of such extraordinary meeting; the reasons being set out in the notice calling the meeting and no other business shall be transacted at such meeting.

### **34 SEAL**

The association is not using a common seal.

### **35 DISTRIBUTION OF PROPERTY ON DISSOLUTION**

If upon the dissolution or winding up of the association, any property of the association remains after the satisfaction of the debts and liabilities of the association and the costs, charges and expenses of that dissolution or winding up, then that property shall be distributed:

- (a) To another association incorporated under the *Act*; or
- (b) For charitable purposes;

which incorporated association or purposes, as the case requires shall be determined by resolution of the members when authorising and directing the management committee to prepare a distribution plan for the distribution of the surplus property of the association.

### **36 ALTERATION OF RULES OF ASSOCIATION**

- (a) Subject to the *Act*, these rules may be amended, repealed or added to by a special resolution carried at a general meeting.
- (b) However an amendment, repeal or addition is valid only if it is registered by the chief executive.

### **37 BY-LAWS**

#### **37.1 Management committee to formulate by-laws**

- (a) The management committee may make, amend, or repeal by-laws, not inconsistent with these rules, for the internal management of the association.
- (b) A by-law may be set aside by a vote of members at a general meeting of the association.

#### **37.2 By-laws binding**

All by-laws are binding on the association and all members.

#### **37.3 By-laws deemed applicable**

All clauses, rules, by-laws and by-laws of the association in force at the date of the approval of these rules of association insofar as such clauses, rules, by-laws and are not inconsistent with, or have been replaced by these rules of association, shall be deemed to be by-laws and shall continue to apply.



### **37.4 Bulletins binding on affiliates**

Amendments, alterations, interpretations or other changes to by-laws shall be advised to members by means of Bulletins approved by the management committee and prepared and issued by the president. The matters in the Bulletins are binding on all members.

## **38 STATUS AND COMPLIANCE OF ASSOCIATION**

### **38.1 Compliance of association**

The members acknowledge and agree the Association shall:

- (a) Be or remain incorporated in Queensland;
- (b) Apply its property and capacity solely in pursuit of the Objects;
- (c) Do all that is reasonably necessary to enable the Objects to be achieved;
- (d) Act in good faith and loyalty to ensure the maintenance and enhancement of Masters Swimming, its standards, quality and reputation for the benefit of the members and Masters Swimming;
- (e) At all times act in the interests of the members and Masters Swimming;
- (f) Abide by the rules of Masters Swimming.

### **38.2 Operation of rules of association**

The Association and the members acknowledge and agree:

- (a) That they are bound by these rules of association and that these rules of association operate to create uniformity in the way in which the Objects of Masters Swimming are to be conducted, promoted, encouraged, advanced and administered;
- (b) To ensure the maintenance and enhancement of Masters Swimming, its standards, quality and reputation for the benefit of the members and Masters Swimming;
- (c) Not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Masters Swimming and its maintenance and enhancement;
- (d) To promote the economic and community service success, strength and stability of each other and to act interdependently with each other in pursuit of their respective Objects; and
- (e) To act in the interests of Masters Swimming and the members.

## **39 RULES OF ASSOCIATION**

### **39.1 Notice**

- (a) Notices may be given by the association to any person entitled under these rules of association to receive any notice by sending the notice by pre-paid post or electronic mail, to the affiliate's registered address or facsimile number or electronic mail address, or in the case of a delegate, to the last notified address, facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected three (3) days after posting.
- (c) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.
- (d) The accidental omission to give any notice to any person entitled to attend the association's annual general meeting or other meetings shall not invalidate the meeting or its proceedings, including any resolution or appointment made thereat.

## **40 PATRONS AND VICE PATRONS**

The association at its annual general meeting may appoint annually on the recommendation of the management committee a chief patron, subject to agreement of that person.

## **41 INDEMNITY**

- (a) Every director and employee of the association shall be indemnified out of the property and assets of the association against any liability incurred by them in their capacity as director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the court.
- (b) The association shall indemnify its directors and employees against all damages and losses (including legal costs) for which any such director or employee may be or become liable to any third party in consequence of any act or omission except willful misconduct:
  - (i) in the case of a director, performed or made whilst acting on behalf of and with the authority, express or implied of the association; and
  - (ii) in the case of an employee, performed or made in the course of, and within the scope of their employment by the association.