
Constitution of West Coast Swimming Club Inc.

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CONSTITUTION of West Coast Swimming Club Inc.

Port Lincoln Leisure Centre

Port Lincoln SA 5606

1. DEFINITIONS AND INTERPRETATION

1.1. *Definitions*

In this Constitution, unless the context otherwise requires:

'Act' means the Associations Incorporations Act 1985 as amended from time to time;

SSA means Swimming SA Inc;

SAL means Swimming Australia Limited;

'By-Laws' means any By-Laws made by the Club Committee;

'Club' means the West Coast Swimming Club Inc. being the incorporated body outlined in this constitution;

'Committee' means the body elected by the Members of the Club to oversee the administration of its affairs;

'Committee Member' means a person elected by the members to the Committee and includes any person acting in that capacity from time to time;

'Competitions' means and includes any competition interclub meet or time trial organised for and on behalf of the Club whether by the Club SSA, SAL or FINA;

'Competitor' means and includes a swimmer registered with SSA or such other person or body as may be prescribed by SSA;

'Constitution' means the Constitution for the time being of West Coast Swimming Club Inc.;

'Delegate' means the persons appointed by the Club to act for and on behalf of the Club and represent the Club at General Meetings and includes Alternate Delegates (where appointed);

'Financial year' means the year ending 30th June each year;

'General Meeting' means the annual or any special general meeting of the Club;

'Honorary Member' means a member of the community who is given an honorary membership by the Club;

'Intellectual Property' means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Club or any Event, competition, championship, meeting or swimming activity of or conducted, promoted or administered by the Club;

'Life Member' means an individual upon whom Life Membership of the Club and has been conferred under the Clubs By-Laws;

'Member' means a financial member for the time being of the Club;

'Objects' means the objects of the Club;

'Official' means any person elected or appointed to any position within the Club or SSA;

'Chairperson' means the Chairperson for the time being of the Club;

'Special Resolution' means a resolution passed:

- a) at a General Meeting of the Club of which at least 21 days' notice is given to all members of the association; and
- b) the business of which notice is given in accordance with the constitution; and
- c) and carried by at least seventy five per cent (75%) of those members entitled to vote at the meeting.

1.2. *Interpretation*

- a) Expressions referring 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.
- b) In this Constitution, unless the context otherwise requires:
 - i) words importing the singular include the plural and vice versa;
 - ii) words importing any gender include the other gender;
 - iii) references to persons include corporations and bodies politic;
 - iv) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution;
 - v) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction; and

2. PURPOSES

2.1. West Coast Swimming Club Inc.

- a) is an Incorporated Body
- b) will operate predominantly for the promotion and development of swimming in accordance with the Objects;
- c) will apply its profits (if any) or other income in promoting its Objects; and
- d) is not carried on for the purpose of profit or gain to its members.

3. OBJECTS AND POWERS

3.1. The Objects of West Coast Swimming Club Inc. and to which its Members are bound, are to:

- a) affiliate and otherwise liaise with Swimming SA and such other bodies as may be desirable to achieve these Objects;
- b) conduct, encourage, promote, advance, control and administer natatorial activities in the Club

- c) act in good faith and loyalty to ensure the maintenance and enhancement of the Club, its standards, quality and reputation for the collective and mutual benefit of the Members and swimming;
- d) at all times to act on behalf of, in the interests of, and in conjunction with, the Members;
- e) ensure compliance with SSA's and SAL's rules and By-laws;
- f) use and protect the Intellectual Property of the Club;
- g) collect, distribute and publish information in connection with swimming;
- h) through or in association with Members promote the health and safety of all Members;
- i) formulate or adopt and implement appropriate policies, including but not limited to Member Welfare and Protection, drugs in sport, health, safety, junior and senior programs and such other matters as arise from time to time as issues to be addressed in swimming;
- j) represent the interests of its Members and of swimming generally in any appropriate forum;
- k) respect the rights dignity and worth of others, and to refrain from any form of abuse, harassment or discrimination;
- l) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- m) undertake and or do all things or activities, which are necessary, incidental or conducive to advance these Objects.

3.2. For the purpose of carrying out its objects, West Coast Swimming Club Inc may, subject to this Act and its rules—

- a) acquire, hold, deal with, and dispose of, any real or personal property; and
- b) administer any property on trust; and
- c) open and operate ADI (Authorised Deposit Taking Institution) accounts; and
- d) invest its moneys—
 - i. in any security in which trust moneys may, by Act of Parliament, be invested; or
 - ii. in any other manner authorised by the rules of West Coast Swimming Club Inc.
- e) borrow money upon such terms and conditions as West Coast Swimming Club Inc. thinks fit; and
- f) give such security for the discharge of liabilities incurred by West Coast Swimming Club Inc. as West Coast Swimming Club Inc. thinks fit; and
- g) appoint agents to transact any business of West Coast Swimming Club Inc. on its behalf; and
- h) enter into any other contract it considers necessary or desirable.

3.3. By becoming a Member of SSA the West Coast Swimming Club Inc. adopts the objects of SSA and shall abide by the Constitution and By-Laws of SSA.

4. DOCTRINE OF ULTRA VIRES

4.1. It is intended that this clause and the other provisions of this Constitution shall be construed to:

- a) prevent the application of the doctrine of ultra vires to the powers of the Club to further its Objects; and

- b) ensure that the Club is able to give effect to its Objects set out in this Constitution without the necessity to specifically include a power.

5. INCOME AND PROPERTY

- 5.1. The income and property of the Club shall be applied solely towards the promotion of the Objects.
- 5.2. No portion of the income or property of the Club shall be paid or transferred, directly or indirectly by way of bonus or otherwise to any Member.
- 5.3. No remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office of the Club.
- 5.4. Nothing contained in this constitution shall prevent payment in good faith to any Member:
 - a) for any services actually rendered to the Club whether as an employee or otherwise;
 - b) for goods supplied to the Club in the ordinary and usual course of business;
 - c) of interest on money borrowed from any Member;
 - d) of rent of premises demised or let by any Member to the Club; or
 - e) for any out-of-pocket expenses incurred by the Member on behalf of the Club;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arms-length in a similar transaction.

6. ADDITION, ALTERATION OR AMENDMENT

- 6.1. No addition, alteration or amendment shall be made to this Constitution unless it has been approved by:
 - a) SSA in accordance with clause 10.4.2 of the SSA Constitution; and
 - b) by Special Resolution of the members of the West Coast Swimming Club Inc.
- 6.2. Any and all alterations to this Constitution shall be registered with Consumer and Business Services, Corporate Affairs Commission, as required by the Act within 30 days of the Annual General Meeting.

7. DISTRIBUTION OF PROPERTY ON WINDING UP

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

8. MEMBERS AND MEMBERSHIP

- 8.1. ***The Members of the Club shall consist of:***
 - a) **Junior Members** under the age of 18 years;
 - b) **Members** over the age of 18 years;
 - c) **Life Members;**

- d) **Honorary Member**; and
- e) such new categories of Members, as may be created in accordance with this Constitution.

8.2. **Creation of New Categories of Membership**

The Committee has the right and power from time to time to create new categories of membership with such rights (other than voting rights), privileges and obligations as are determined applicable, even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights unless passed by special resolution. The Committee shall advise Members of the new categories and the associated rights.

8.3. **Life Members**

- a) The Club may, from among persons who have provided long and meritorious service for the Club, appoint Life Members in recognition of their efforts in furthering the interests of the Club;
- b) A Life Membership may only be conferred by Special Resolution at an Annual General Meeting;

8.4. **Register of Members**

The Club shall maintain, in a form and with such details as are acceptable to SSA, a register of all its Members. Each Club shall provide a copy of the register at a time and in a form acceptable to SSA and shall provide prompt and regular updates of that register to SSA when required.

8.5. **Subscriptions and Fees**

- a) Fees including annual membership fees and levies payable by Members to the Club, and the time for and the manner of payment, shall be determined by the Committee.
- b) Any Member who has not paid all monies due and payable by that Member to the Club shall (subject to the Committee discretion) have all rights under this Constitution immediately suspended (including membership of the Club) from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise in the Committee discretion. If monies remain unpaid for a period of 30 days, shall be terminated and the person shall thereafter be at liberty to apply to become a Member pursuant to this constitution.

8.6. **Effect of Membership**

Members acknowledge and agree that:

- a) this Constitution constitutes a contract between each of them and the Club and that this Constitution and its objects bind them and
- b) they shall comply with and observe this Constitution and any determination, resolution or policy, which may be made or passed by the Committee.

8.7. **Forfeiture of Rights**

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

8.8. **Representation Rights**

Where a person ceases to be a Member, the person shall also forfeit all representation rights at General Meetings. A member shall return any club documents, records or other property in its possession, custody or control to the Club immediately upon cessation of membership.

8.9. **Membership May be Reinstated**

Membership that has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Club, on application in accordance with this Constitution and otherwise on such conditions as the Committee sees fit.

8.10. **Resignation**

- a) A Member may resign from the Club upon giving written notice to the Club. The resignation shall come into effect upon receipt of the notice by the Club.
- b) In the event that a Member resigns from the Club, the Member must fulfil all its obligations to the Club up to and including the date of resignation.

9. THE CLUB.

9.1. The Club shall:

- a) be incorporated;
- b) be a Member of SSA;
- c) provide SSA with copies of its audited accounts, annual report and other associated documents within two (2) months of the Annual General Meeting;
- d) adopt the Objects and adopt rules which reflect and which are, to the extent permitted or required by the State Acts, generally in conformity with this Constitution;
- e) do all that is reasonably necessary to enable the Objects to be achieved;
- f) at all times act on behalf of and in the interests of the Members, and swimming.

10. DISCIPLINE OF MEMBERS

10.1. Member's Failure to Comply

Where a Member fails to comply with the Constitution or its Objects or fails to comply with payment of fees and subscriptions levied, the Committee may determine that the Member to be in breach of the constitution. On determination that a Member is in breach of the constitution, the Committee shall give notice to the Member of:

- a) the Committee's determination; and
- b) the grounds for the Committee determination; and
- c) request that the Member show cause within 21 days from the date of that notice as to why some action should not be taken against the Member.

10.2. The Member's failure to respond may result in the Committee's suspending or terminating the Member's membership of the Club, or otherwise imposing such conditions on the member as the Committee sees fit. Such penalty will take effect upon notification by the Committee.

10.3. If the Committee determines that the Member is in breach of the Constitution, the Committee may terminate, suspend or impose such other penalty and/or conditions on membership as the Committee sees fit. Such penalty will take effect upon notification by the Committee.

10.4. Members will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties imposed by the Committee. The findings of the Committee shall be binding on all parties

11. GENERAL MEETINGS

11.1. *Eligibility*

Notwithstanding any other clause of this Constitution, no Member shall be represented at, or take part in a General Meeting, unless all monies then due and payable by that Member to the Club are paid.

11.2. *Annual General Meeting*

The annual general meeting of the Members of the Club will be held on a day determined by the Committee in accordance with the Act.

11.3. *Business of Annual General Meetings*

The business of the annual general meeting will be to:

- a) confirm the minutes of the previous meeting;
- b) receive any reports;
- c) adopt and approve the annual report and financial statements;
- d) deal with any business arising out of the minutes;
- e) consider motions to alter this Constitution;
- f) election of members of the Committee; and
- g) any other business as required by the Act or this Constitution or By-Laws.

11.4. *General Meetings*

- a) The Club will upon resolution passed at a meeting of the Committee, convene a general meeting of the Members at any time provided notice of the meeting is given in accordance with clause 11.5.
- b) The Club on request in writing from at least five (5) voting Members shall convene a General Meeting notice of which shall be given in accordance with the next clause.

11.5. *Notice of Meeting*

- a) A notice of General Meeting including Annual General Meeting, must give a minimum of twenty one (21) days notice of the meeting and specify the place, date, time of meeting.
- b) Notices of motion from Members, for inclusion at a General meeting must be submitted in writing to the Club not less than fourteen (14) days prior to the meeting date.
- c) All business to be transacted at a general meeting convened in accordance with this clause shall be restricted to the business the subject of the notice.
- d) All resolutions at a General Meeting (other than resolutions requiring a special resolution) shall be carried by a simple majority.

11.6. *Quorum*

- a) No business will be transacted at any general meeting of the Members of the Club unless a quorum of Members is present at the time the meeting proceeds to business.
- b) The quorum for a general meeting of the Members is one third of the members entitled to vote at the general meeting.

- c) If a quorum is not present within thirty (30) minutes of from the time appointed for the meeting, the meeting:
 - i. if convened in accordance with this clause the General Meeting, will be dissolved; and
 - ii. will be adjourned for seven (7) days to the same place and at the same time. All Members will be notified of the adjournment in writing with at least forty eight (48) hours notice. In the event of a quorum not being present at the further meeting, the business will proceed with those present and in accordance with the original agenda.

11.7. **Chairperson**

The Chairperson of the Committee will preside as chairperson at every general meeting of the Members. In the absence or incapacity of the Chairperson, the Members present at the general meeting will elect a chairperson to preside at that general meeting.

11.8. **Voting**

- a) At any general meeting of the Members a resolution put to the vote of the meeting will be decided by show of hands or, if there be an objection, by secret ballot.
- b) To vote, a Member must be financial and over the age of 18 years.
- c) Honorary Members are not entitled to vote and nor are new categories of Members created in accordance with this constitution unless by special resolution they are permitted to vote.

12. ESTABLISHMENT OF COMMITTEE

12.1. **Powers Of The Committee**

- a) Subject to the Act and this Constitution, the business of the Club shall be governed, and the powers of the Club shall be exercised by the Committee. The Committee shall act in accordance with the objects of the Club and shall operate for the collective and mutual benefit of the Club, the Members and swimming.
- b) The responsibility for the management of the operational affairs of the Club will be vested in the Committee and the primary functions of the Committee are to manage the Club and its Members in accordance with the directions of the Club, the objects of the Club, the Act and this Constitution and Regulations.

12.2. **Composition of Committee**

- a) The Committee will consist of a minimum of nine (9) members, who shall be elected at the Annual General Meeting each being a Member of the Club.
- b) The Committee will consist of the following portfolios: President, Secretary, Treasurer, Registrations Officer and Publicity Officer.

12.3. **Appointment of executive committee**

- a) The Committee may appoint an executive committee consisting of three or more members to consider and make decisions on matters affecting the Club and report those decisions to the Committee at its next meeting; and
- b) The committee shall consider and ratify or amend those decisions.

12.4. **Nomination of Committee Members**

Nominations for Committee Members will be called for prior to or at the Annual General Meeting.

12.5. **Term of Office of Committee**

- a) Committee Members are elected for a term of one (1) year.
- b) Committee Members will be eligible to stand for nomination and re-election at the conclusion of each term.
- c) The Chairperson shall be a Committee Member and be elected by the Committee at the first Committee meeting following the Annual General Meeting.

12.6. **Vacation, Disqualification and Removal of Committee Members**

In addition to the circumstances in which the office of a Committee Member becomes vacant by virtue of the Act, the position of a Committee Member will immediately become vacant if the Committee Member:

- a) is absent from three (3) consecutive meetings of the Committee without approved leave of absence from the Committee;
- b) in the absolute discretion of the Club, acts in a manner unbecoming or prejudicial to the objects of the Club or through his actions brings the Committee or the Club into disrepute;
- c) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;
- d) resigns that office by twenty eight (28) days written notice to the Club;
- e) becomes prohibited from being a Committee Member by reason of any order made under or pursuant to any law; or
- f) is convicted of any criminal offence.

13. **CASUAL VACANCY**

- 13.1. If any Committee member resigns or is removed from the Club, that person will immediately cease to be a Committee Member upon resignation or removal and the Club will appoint another Committee Member in his absence for the remainder of the elected term.
- 13.2. In the event of a casual vacancy or vacancies in the Committee, the remaining Committee Members may act but, if the number of remaining Committee Members is not sufficient to constitute a quorum at a meeting, they may act only for the purpose of increasing the number of Committee Members to a number sufficient to constitute such a quorum.

14. **COMMITTEE MEETINGS**

- 14.1. The Chairperson will be the chairperson of the Committee and the Committee may elect an alternate chairperson to preside at any meetings of the Committee at which the Chairperson is unable to attend.
- 14.2. The Committee will meet as often as required for the dispatch of business, adjourn, and otherwise regulate meetings and proceedings thereof as they think fit.
- 14.3. At a meeting of the Committee the number of members whose presence is necessary to constitute a quorum will be half plus one of the Committee.
- 14.4. If a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the meeting shall be adjourned for seven (7) days to the same place and at the same time. All parties shall be notified of the adjournment. In the event of a quorum not being present at the further meeting, the business shall be proceeded with in accordance with the original agenda.

15. DECISIONS OF THE COMMITTEE

15.1. *Decisions of the Committee will be by simple majority.*

- a) All Committee Members including the chairperson will have one vote on any question and the chairperson will have a casting vote where voting is equal.
- b) The Committee will cause full and accurate minutes of all proceedings and resolutions to be recorded.

15.2. *Disclosure of Interest of Committee Members*

- a) A Committee Member who has a direct or indirect interest in any subject matter to be resolved by the Committee must disclose the nature and extent of his interest to the Committee;
- a) Subject to the Act, a Committee Member who has a direct or indirect pecuniary interest in any matter that is being considered at a meeting of the Committee must:
 - i. not vote on the matter; and
 - ii. not be present while the matter (or proposed resolution of that kind) is being considered at the meeting.

16. APPOINTMENT OF STAFF/SUBCOMMITTEES

The Committee may appoint staff to undertake its duties under this constitution to achieve its objects and its purpose.

17. DELEGATIONS

17.1. *Committee may Delegate Functions*

The Committee may create or establish or appoint from among the Committee or Members such subcommittees, individual officers or consultants to carry out such duties and functions and with such powers, as the Committee determines.

17.2. *Delegated function exercised in accordance with terms*

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

17.3. *Revocation of delegation*

The Committee may revoke wholly or in part any delegation made under this clause, and may amend, repeal or veto any decision made by such body or person under this clause.

18. BY-LAWS

18.1. *Committee to formulate By-Laws*

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

18.2. *By-Laws binding*

All By-Laws made under this clause shall be binding on Members.

18.3. *By-Laws deemed applicable*

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

18.4. ***Notices binding on members***

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Clubs by means of notices approved by the Committee, prepared, and issued by the Club. Notices are binding upon all Members.

19. RECORDS AND ACCOUNTS

19.1. ***The Club to Keep Records***

The Club shall establish and maintain proper records and minutes.

19.2. ***Records Kept in Accordance with the Act***

The Club shall keep proper accounting and other records in accordance with the various Acts, generally accepted accounting principles and/or any applicable codes of conduct.

19.3. ***Inspection of accounts***

Subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with this Constitution, the accounts shall be open to inspection (but not copying) by the Member.

19.4. ***Negotiable Instruments***

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Club, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 authorised Committee Members or by 1 authorised Committee Member and one other in such other manner and by such persons the Committee determine.

20. AUDITOR

20.1. A properly registered auditor or auditors shall be appointed by the Committee.

20.2. The accounts of the Club including the profit and loss accounts and balance sheet shall be examined by the auditor or auditors at least once in every year.

21. GENERAL

21.1. ***Manner of Notices***

Notices may be given by the committee to any Member in a form or manner determined by the Committee.

21.2. ***Common Seal***

Any document, that would have required the use of the Common Seal, shall be authorised by the Committee and shall be counter-signed by two Committee Members.

21.3. ***Patrons And Vice Patrons***

The Club at its Annual General Meeting may appoint on the recommendation of the Committee a Chief Patron and such number of Patrons and Vice-patrons, as it considers necessary.

22. INDEMNITY

22.1. *The Club to Indemnify Committee*

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

23. DISSOLUTION

The association may be wound up in the manner provided for in the Act.

24. COLOURS

The colours of the Club shall be Jade, Ultra Marine Blue, Black and White.

25. BADGES AND LOGO

The logo of the Club shall be a stylised fish wearing swim goggles leaping from the water as follows:



26. ELIGIBILITY

26.1. To be eligible to compete in any Competition, competitors must be registered as a;

- a) Junior Member; or
- b) Member.

27. JURISDICTION OVER SWIMMERS

Sentences of suspension or disqualification or expulsion by the Club shall be binding on all Members and such suspension or disqualification shall be notified to SSA immediately. All matters affecting the status or reinstatement of any Swimmer shall be forwarded to SSA by the Club.