

Blacktown City Swim Club Constitution 2015

Under the Associations Incorporation Act 2009

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Part 1 - Preliminary

1. Definitions

(1) In this constitution:

Association is taken to mean the Club.

committee means the Management Committee of the Association elected

club executives shall mean the President, Vice-President, Secretary and Treasurer

Director-General means the Director-General of the Department of Fair Trading and Finances.

general meeting means an annual general meeting or special general meeting

junior member is one who is under sixteen (16) years of age and has no voting rights.

member is one who is sixteen (16) years of age or over, and if financial, is allowed to vote at all Annual General Meeting (AGM) and Special General Meeting (SGM).

ordinary committee member means a member of the committee who is not an office-bearer of the association.

secretary means:

(a) the person holding office under this constitution as secretary of the association, or

(b) if no such person holds that office - the public officer of the association.

special general meeting means a general meeting of the association other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2010*.

(2) In this constitution:

(a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) Honorary Life Member

The Members may, at an Annual General Meeting, elect Honorary Life Members for Special Services rendered to the Association. Nominations for Honorary Life Membership shall be made by the Committee immediately preceding the Annual General Meeting. Such recommendation must be carried by a three-fourths (3/4) majority of those members present and voting at the Annual General Meeting. Honorary Life Members shall be entitled to attend and speak to any motion at any AGM or SGM of the Association but are not entitled to vote on motions nor shall they be eligible for election as an officer of the Association.

(4) Life Member

The Members may, at an Annual General Meeting, elect Life Members for Special Services rendered to the Association. Nominations for Life Membership shall be made by the Committee immediately preceding the Annual General Meeting. Such recommendation must be carried by a three-fourths (3/4) majority of those members present and voting at the Annual General Meeting. Members nominated for Life Membership must have completed at least seven (7) years with the Association. A Life Member shall be entitled to attend and speak to any motion at all meetings of the Association, allowed one vote on motions at the AGM or SGM and shall be eligible for election as an officer of the Association.

(5) Second Claim Member shall be elected to membership in accordance with Clause 5. If financial, a second claim member over the age of sixteen (16) years shall be entitled to attend and speak to any motion at any AGM or SGM of the Association. A Second Claim Member shall not be eligible for election as an officer of the Association. A Second Claim Member shall not be entitled to vote at any AGM or SGM of the Association unless otherwise qualified.

Part 2. TITLE:

2. The Club shall be known as:

BLACKTOWN CITY SWIMMING CLUB INCORPORATED

(The Club was founded in 1961 as Blacktown Amateur Swimming Club; subsequently changed to Blacktown City Amateur Swimming Club; and Incorporated in 1992 and is now known as Blacktown City Swimming Club Incorporated).

Part 3. OBJECTS:

The objects of the club shall be:

3.1 To promote, teach and encourage the arts of swimming to each individuals full potential and promote a positive team environment within the Club.

3.2 To stimulate public opinion in favour of providing proper accommodation and facilities for swimming.

3.3 To do such things as are necessary and incidental to attain the objects of the Club.

3.4 To affiliate to the Swimming NSW Limited and Swimming Metro South West Incorporated.

3.5 Affiliation to other kindred bodies may be effected from time to time by the committee.

Part 4 - Membership

4. Membership generally

(1) A person is eligible to be a member of the association if the person has been approved for membership of the association by the Committee.

(2) The Membership of the Club shall consist of the following categories:

- (a) Member;
- (b) Honorary Life Member
- (c) Life Member
- (d) Junior Member
- (e) Second Claim Member

5. Nomination for membership

(1) A nomination of a person for membership of the association:

- (a) apply via the online registration portal located on the Club's website; and
- (b) one Parent/Guardian of a junior member is required to be a registered member of SNSW and a member of the Club

- (2) As soon as practicable after receiving a nomination for membership, the registrar must refer the nomination to the committee which is to determine whether to approve or to reject the nomination. The committee is not required to supply reasons for accepting or rejecting an application for membership.
- (3) As soon as practicable after the committee makes that determination, the secretary must:
 - (a) notify the nominee, in writing or by any practical electronic means, that the committee approved or rejected the nomination (whichever is applicable), and
 - (b) if the committee approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable by a member as approved by the Club as entrance fee and annual subscription.
- (4) The registrar must, on payment by the nominee of the amounts referred to in subclause (3) (b) within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

6. Cessation of membership

A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due;

7. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the association terminates on cessation of the person's membership.

8. Resignation of membership

A member of the association may resign from membership of the association by giving to the secretary written notice of the member's intention to resign, which becomes effective immediately.

9. Register of members

- (1) The registrar of the association must establish and maintain a register of members of the association specifying the name and postal or residential address of each person who is a member of the association together with the date on which the person became a member.
- (2) The register of members must be kept in New South Wales:
 - (a) at the main premises of the association, or
 - (b) if the association has no premises, at the association's official address; or
 - (c) on a secured online system approved and provided by Swimming Australia or Swimming NSW

10. Fees and subscriptions

- (1) A member of the association must, on admission to membership, pay to the association a fee as determined by the committee.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee as determined by the committee before 15 October in each calendar year.

Should any Member fail to pay their fees before the fifteenth of October in each year, then they shall forfeit all rights to membership and interest in the property or assets of the Club

11. Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association is limited to \$10.

12. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the association:
 - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the committee decides to deal with the complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12. Written notice may include via electronic means, eg email, to the address provided at the time of registration or renewal of registration or unless updated otherwise.
- (6) The expulsion or suspension does not take effect:
 - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or

- (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 12, whichever is the later.
- (7) To advise Swimming NSW Limited of the action taken in disciplining a member involving suspension, disqualification or expulsion.

13. Right of appeal of disciplined member

- (1) A member may appeal to the association against a resolution of the committee under clause 12, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The appeal may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of an appeal from a member under subclause (1), the secretary must notify the committee which is to convene a special hearing to be held within 28 days after the date on which the secretary received the notice.
- (4) At a special hearing convened under subclause (3):
 - (a) an independent committee is to be formed, which may include members from the Area Committee, SNSW, external parties or a combination of all three;
 - (b) no business other than the question of the appeal is to be transacted, and
 - (c) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (d) the independent committee members are to vote by secret ballot on the question of whether the appeal should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the independent committee.

Part 5 - The Committee

14. Powers of the committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

15. Composition and membership of committee

- (1) The committee is to consist of:
 - (a) the office-bearers of the association, and
 - (b) at least 3 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 16.
- (2) The total number of committee members is to be 10.
- (3) The office-bearers of the association are as follows:
 - (a) the President,
 - (b) the Vice-President,
 - (c) the Treasurer,
 - (d) the Secretary,
 - (e) the Club Race Secretary,
 - (f) the Registrar,
 - (g) the Publicity/Social Officer
 - (h) Committee Member (3 positions)
- (4) A committee member may hold no more than one position
- (5) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

16. Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:
 - (a) must be made in writing on the prescribed nomination form,
 - (b) seconded by a member or Life Member,
 - (c) must have held a minimum of 3 continuous months membership immediately prior to the AGM, and
 - (c) must be delivered to the secretary of the association at least one month prior to the annual general meeting.

- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting by secret ballot. The ballot will be determined on a first past the post basis of the number of members present and voting. In the case of a tie, the winner will be determined by a lot.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

17. Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
 - (a) all meetings of office-bearers and members of the committee, and
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting and endorsed.

18. Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

19. Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the committee, after calling for written nominations, the committee may elect a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the committee occurs if the member:
 - (a) dies, or
 - (b) ceases to be a member of the association, or

- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 19(g) or clause 20, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

20. Removal of committee members

The association in a special general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution elect another person to hold office until the expiration of the term of office of the member so removed.

21. Committee meetings and quorum

- (1) The committee must meet at least 9 times in each calendar year at such place and time as the committee may determine.
- (2) Additional meetings of the committee may be convened by the president or by any two members of the committee.
- (3) Written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Any 50% + 1 members of the committee constitutes a quorum for the transaction of the business of a meeting of the committee.
- (5) No business is to be transacted by the committee unless a quorum is present and 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 place and at the same hour of the same day in the following week.
- (6) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (7) At a meeting of the committee:
 - (a) the president or, in the president's absence, the vice-president is to preside, or
 - (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be elected by the members present at the meeting is to preside.

22. Delegation by committee to sub-committee

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

23. Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote. In the event of a tie, the motion is to be declared lost.
- (3) Subject to clause 21 (4), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 6 - General meetings

24. Annual general meetings - holding of

The association must hold its annual general meetings:

- (a) within 3 months after the close of the association's financial year, or
- (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

25. Annual general meetings - calling of and business at

- (1) The annual general meeting of the association is, subject to the Act and to clause 23, to be convened on such date and at such place and time as the committee thinks fit.
- (2) The business of an annual general meeting is to:
 - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
 - (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
 - (c) to elect office-bearers of the association and ordinary committee members,
 - (d) to receive and consider any financial statement or report required to be submitted to members under the Act,
 - (e) vote on any special motions proposed, and
 - (f) vote on any nominations for Life Membership
 - (g) vote on any nominations for Honorary Life Membership
- (3) An annual general meeting must be specified as such in the notice convening it.
- (4) Notice of the meeting shall be sent to members by email in terms of clause 27.
- (5) Only Members may take part in and vote on the business of the meeting.
- (6) No Member shall be allowed to vote at such meetings until such time as all arrears are paid.
- (7) Second Claim Members are not entitled to vote.
- (8) Office bearers, with the exception of Patron, Vice Patrons, Honorary Medical Officer, Honorary Auditor, and Honorary Solicitor shall be chosen from Financial Members of the Club only.
- (9) Ten (10) Members eligible to vote who are in addition to the committee shall form a quorum for the Annual General Meeting

26. Special general meetings - calling of

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition in writing of at least 15 members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:

- (a) must state the purpose or purposes of the meeting, and
 - (b) must be signed by the members making the requisition, and
 - (c) must be lodged with the secretary, and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 2 months after that date.
- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

27. Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 24.
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

28. Making of decisions

- (1) A question arising at an annual general meeting of the association is to be determined by either:
- (a) a show of hands, or
 - (b) if on the direction of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a secret ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a secret ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

29. Special resolutions

- (1) A resolution is passed by the association as a "**special resolution**":
- (a) at a meeting of the association of which notice has been given to its members no later than 21 days before the date on which the meeting is held,
 - or
 - (b) in such other manner as the Director-General may direct,
- if it is supported by at least three-quarters of the votes cast by members of the association who, under the association's constitution, are entitled to vote on the proposed resolution.
- (2) A notice referred to in subsection (1) (a) must include the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a special resolution.
- (3) A direction under subsection (1) (b) may not be given unless the Director-General is satisfied that, in the circumstances, it is impracticable to require votes to be cast in the manner provided by subsection (1) (a).

30. Voting

- (1) On any question arising at an Annual General Meeting or Special General Meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at an Annual General Meeting or Special General Meeting the motion is lost.
- (3) A member is not entitled to vote at any Annual General Meeting or Special General Meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any Annual General Meeting or Special General Meeting of the association if the member is under 16 years of age.

31. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Note: Schedule 1 of the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.

32. Postal ballots

- (1) The association may not hold a postal ballot to determine any issue or proposal.

Part 7 - Miscellaneous

33. Insurance

The association may effect and maintain insurance.

34. Funds - source

- (1) The funds of the association are to be derived from operation of the Club's swimming program, swimming carnivals, annual subscriptions of members, donations, fundraising and such other sources as the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

35. Funds - management

- (1) The funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the executives being members authorised to do so by the committee.
- (3) Where electronic banking is utilised by the Club, the Treasurer is to ensure the electronic Banking platform is secure and that all transactions are authorised by two members of the committee of the association

36. Change of name, objects and constitution

An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

37. Custody of books etc

Except as otherwise provided by this constitution, the treasurer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

38. Service of notices

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
 - (a) by delivering it to the person personally, or
 - (b) by sending it by pre-paid post to the address of the person, or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
 - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and

- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

39. Financial year

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 31 August, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 September and ending on the following 31 August.

40. Public Officer

The public officer is responsible for:

- a) notifying NSW Fair Trading of any change in the association's official address within 28 days;
- b) collecting all association documents from former committee members and delivering the documents to the new committee member/s;
- c) returning all association documents to a committee member within 14 days, upon vacating office;
- d) acting as the official contact for the association, including taking delivery of documents served on the association and bringing them to the attention of the committee as soon as possible; and
- e) custody of any document as required by the constitution.

Note: Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.