

Associations Incorporation Act 2009 (  
NSW) Act

**CONSTITUTION OF**

**Sharks International Water Polo Academy**

## TABLE OF CONTENTS

1. NAME OF ASSOCIATION .....	4
2. DEFINITIONS AND INTERPRETATION .....	4
3. PURPOSE AND OBJECTIVES OF THE ASSOCIATION .....	5
4. POWERS OF THE ASSOCIATION .....	7
5. MEMBERS .....	7
6. MEMBERSHIP APPLICATION .....	8
7. REGISTER OF MEMBERS .....	9
8. EFFECT OF MEMBERSHIP .....	10
9. CESSATION OF MEMBERSHIP .....	11
10. DISCIPLINE AGAINST MEMBERS .....	12
11. DETERMINATION OF SUBSCRIPTIONS AND FEES .....	12
12. EXISTING OFFICE BEARERS PRIOR TO THE CONSTITUTION.....	12
13. POWERS OF THE BOARD.....	12
14. COMPOSITION OF THE BOARD OF DIRECTORS.....	13
15.....	
TERMINATION OF OFFICE AS DIRECTOR.....	14
16. MEETINGS OF THE BOARD.....	15
17. DELEGATIONS .....	17
18. ANNUAL GENERAL MEETING.....	18
19. SPECIAL GENERAL MEETINGS.....	18
20. NOTICE OF GENERAL MEETING .....	18
21. BUSINESS.....	19
22. NOTICES OF MOTION.....	19
23. PROCEEDINGS AT GENERAL MEETINGS .....	19
24. VOTING AT GENERAL MEETINGS .....	20
25. GRIEVANCE PROCEDURE .....	21
26. RECORDS AND ACCOUNTS.....	21
27. AUDITOR.....	22
28. INCOME.....	22

**29. WINDING UP** **23**

**30. DISTRIBUTION OF PROPERTY ON WINDING UP** .....**23**

**31. ALTERATION OF CONSTITUTION**.....**23**

**32. BY LAWS AND REGULATIONS** .....**23**

**33. NOTICE**.....**24**

**34. INDEMNITY**.....**24**

# ASSOCIATIONS INCORPORATION ACT 2009 (NSW)

## CONSTITUTION

### 1. NAME

The name of the Association is **SHARKS INTERNATIONAL WATER POLO ACADEMY**

### 2. DEFINITIONS AND INTERPRETATION

#### 2.1 Definitions

In this Constitution unless the contrary intention appears:

“**Act**” means the *Associations Incorporation Act 2009 (NSW)*.

“**Association**” means **Sharks International Water Polo Academy**

“**Board**” means the body managing the Association and consisting of the directors.

“**By Laws**” means the by laws determined from time to time by the Board for the administration and conduct of the Association.

“**Constitution**” means this Constitution of the Association.

“**Director**” means a member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this Constitution but does not include the Executive Director.

“**General Meeting**” means the annual or any special general meeting of the Association.

“**Intellectual Property**” means all rights subsisting in copyright, business names, names, trade marks (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 .

“**Member**” means a member of the Association for the time being under **clause 5**.

“**Objectives**” means the objectives of the Association in **clause 3**.

“**Public Officer**” means the person appointed to be the public officer of the Association in accordance with the Act.

“**Register**” means a register of Members kept and maintained in accordance with **clause 7**.

“**Secretary**” means the person holding office under this Constitution as the secretary of the Association

“**Special Resolution**” means a Special Resolution as defined in the Act

## 2.2 Interpretation

In this Constitution:

- (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 this Constitution.

## 2.4 The Act

Except where the contrary intention appears, in this Constitution, 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 this Constitution.

# 3. PURPOSE AND OBJECTIVES OF THE ASSOCIATION

## 3.1 Purpose

The purpose of the Association is to develop, promote, and enable personal development, health and physical education ("PDHPE") through sport, particularly water polo, and broad based community participation in sport, learning and education.

## 3.2 General Objectives

The general Objectives of the Association are to:

- (a) conduct, encourage, promote, advance, manage and administer sport, water polo in particular, and education throughout the local area;
- (b) act, at all times, on behalf of and in the interest of the Members in achieving the Objectives and purposes;
- (c) affiliate and otherwise liaise with any other entity of which the Association is a member or affiliate and adopt their rules and policy frameworks to further these Objectives;
- (d) advance the operations and activities of the Association throughout the local area;
- (e) have regard to the public and community interest in its operations; and
- (f) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

### **3.3 Specific Objectives**

The specific Objectives of the Association include:

- (a) develop sporting and educational facilities and services within the Sutherland Shire for the benefit of the community;
- (b) plan, construct and manage a world class water polo pool, gym and services (the "facilities") at Cronulla or such other site within the Sutherland Shire;
- (c) promote the development of PDHPE within the community;
- (d) promote and develop water polo and sport generally within the community and the Sutherland Shire;
- (e) construct facilities and manage programs to effect the purposes and Objectives;
- (f) provide facilities and education to it's Members;
- (g) raise funds for the purpose and Objectives of the Association;
- (h) sponsor and support events, individuals, other clubs, teams, competitions and fund raising activities.

## 4. POWERS OF THE ASSOCIATION

Solely for furthering the Objectives, the Association has, in addition to the rights, powers and privileges conferred on it under section 25 of the Act, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

## 5. MEMBERS

### 5.1 Members

The Members of the Association shall consist of:

- (a) Life Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present at but not vote at General Meetings;
- (b) Founding Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present at, to debate and to vote at General Meetings;
- (c) General Members, who subject to this Constitution, shall have the right to use any of the facilities of the Association, receive notice of General Meetings and to be present at General Meetings but no right to debate or vote at General Meetings;
- (d) Corporate Members, who subject to this Constitution, shall have the rights to the use of the facilities of the Association and such other rights as the Board may from time to time determine, and the right to receive notice of General Meetings and right to be present but no right to debate or vote at General Meetings
- (e) Associate Members, who subject to this Constitution and the approval of the Board, shall include without limiting the same:
  - (i) Not for profit organisations;
  - (ii) Government agencies and bodies;
  - (iii) Visiting sporting bodies, teams and officials; and
  - (iv) Any other community based organisation.

### 5.2 Life Members

- (a) The Board may recommend to the annual general meeting that any natural person who has rendered distinguished service to the Association be appointed as a Life Member.
- (b) A resolution of the annual general meeting to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Board 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.

### **5.3 Founding Members**

- (a) The Founding Members shall comprise :
  - (i) Cronulla Sutherland Water Polo Club Incorporated (“CSWP”);
  - (ii) Others by invitation and acceptance - TBA
- (b) Founding Members shall be entitled to receive notice of all general meetings of the Association and attend, debate and vote at all meetings of the Association.

### **5.4 Associate Members**

- (a) Associate Members have no right to receive notices of general meetings of the Association unless the Board determines to the contrary,
- (b) Associate Members have no right to attend, debate or vote at general meetings of the Association;
- (c) Associate Members shall be entitled to use the facilities of the Association on such terms as the Board may from time to time determine.

## **6. MEMBERSHIP APPLICATION**

### **6.1 Application for Membership**

An application for membership must:

- (a) be in writing on the form set out in Schedule 1 to this Constitution or as prescribed from time to time by the Board , from the applicant or its nominated representative and lodged with the Secretary of the Association;
- (b) state the requested category of membership; and
- (c) be accompanied by the appropriate fee (if any).



## **6.2 Referral of Application to the Board**

- (a) As soon as practicable after receiving an application for membership the Secretary must refer the application to the Board to determine whether to accept or reject the application.
- (b) The Board may refer or delegate the authority to determine any membership applications to such person or committee as it may determine.
- (c) The Board or its nominee under clause 6.2(b) may accept or reject an application whether the applicant has complied with the requirements in **clause 6.1** or not. The Association shall not be required or compelled to provide any reason for such acceptance or rejection.
- (d) Where the Board accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Board. The Register shall be amended accordingly as soon as practicable.
- (e) Where the Board rejects an application, it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Association.

## **6.3 Notice to Nominee**

As soon as practicable after the Board or its nominee makes its determination the Secretary must notify the applicant in writing whether the Board has approved or rejected the application for membership.

## **6.4 Renewal**

Members (other than Life Members) must renew their membership annually in accordance with the procedures set down by the Association in regulations or by laws from time to time.

## **6.5 Deemed Membership**

- (a) All persons who are, prior to the approval of this Constitution under the Act, Members of the Association shall be deemed Members from the time of approval of this Constitution under the Act.
- (b) Any Members of the Association, prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.5(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

# **7. REGISTER OF MEMBERS**

## **7.1 Association to Keep Register**

The Association shall keep and maintain a Register in which shall be entered (as a minimum):

- (a) the full name, address and date of entry of each Member; and

- (b) where applicable, the date of termination of membership of any Member.

Members shall provide notice of any change and required details to the Association within one month of such change.

## **7.2 Inspection of Register**

Having regard to the Act, confidentiality considerations and privacy laws, an extract of the Register, excluding the address or other direct contact details of any Member, shall be available for inspection (but not copying) by Members, upon reasonable request.

## **7.3 Use of Register**

Subject to the Act, confidentiality considerations and privacy laws, the Register may be used to further the Objectives, in such manner as the Board considers appropriate.

## **7.4 Intellectual Property Rights**

The Association shall retain all intellectual property rights in the membership details and all other data bases established by or developed on behalf of the Association.

# **8. EFFECT OF MEMBERSHIP**

## **8.1 The Members acknowledge and agree that:**

- (a) this Constitution forms a contract between each of them and the Association and that they are bound by this Constitution and any by laws or regulations formulated by the Association.
- (b) they shall comply with and observe this Constitution and the by laws and regulations and any determination, resolution or policy which may be made or passed by the Board or other entity with delegated authority;
- (c) by submitting to this Constitution and by laws or regulations they are subject to the jurisdiction of the Association and the Act.
- (d) the Constitution, by laws and regulations are necessary and reasonable for promoting the Objectives and particularly the advancement and protection of the sport of water polo and other sports and education generally: and
- (e) they are entitled to all benefits, advantages, privileges and services of Association membership.

## **8.2 Membership Entitlements Not Transferable**

A right, privilege or obligation which a person or other entity has by reason of being a Member of the Association:

- (a) is not capable of being transferred or transmitted to another person or entity; and
- (b) terminates on cessation of the person or entity's membership

## **9.1 Notice of Resignation**

- (a) A Member who has paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving one month's notice in writing to the Association.

## 9. CESSATION OF MEMBERSHIP

- (b) Once the Association receives a notice of resignation of membership given under **clause 9.1(a)**, it must make an entry in the Register that records the date on which the Member ceased to be a Member.

### 9.2 Cessation for Breach

- (a) Membership of the Association may be discontinued by the Board upon breach of any clause of this Constitution or the by laws or regulations, including, but not limited to, the failure to pay any monies owed to the Association, failure to comply with the by laws or regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **clause 9.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view, to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.2(a)** by the Association giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.
- (d) Where any membership is discontinued or cancelled under clause 9.2 the Member shall not be entitled to any refund or re-imburement of membership fees paid.

### 9.3 Member to Re-Apply

A Member whose membership has been discontinued under **clauses 9.1 or 9.2**:

- (a) may seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board.

### 9.4 Forfeiture of Rights

A Member who ceases to be a Member, 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 Member shall be returned to the Association immediately.

### 9.5 Membership may be Reinstated

Membership which has been discontinued under this **clause 9** may be reinstated at the discretion of the Board, with such conditions as it deems appropriate.

- (a) The Board may commence or cause to be commenced disciplinary proceedings against a Member who has allegedly:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the by laws or regulations or any resolution or determination of the Board or any duly authorised committee
  - (ii) acted in a manner unbecoming of a Member, or prejudicial to the Objectives purposes and interests of the Association ; or
  - (iii) brought the Association, any other Member or the sport of water polo

## **10. DISCIPLINE AGAINST MEMBERS**

generally into disrepute.

- (b) That Member will be subject to and will submit unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Association set out in the by laws or Regulations.
- (c) The Board may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the bylaws or regulations but is subject always to the Act.

## **11. DETERMINATION OF SUBSCRIPTIONS AND FEES**

The annual membership subscription (if any) and any fees or other levies payable by Members to the Association and the time for and manner of payment shall be as determined by the Board.

## **12. EXISTING OFFICE BEARERS PRIOR TO THIS CONSTITUTION**

The Members of the administrative or governing body (if any and by whatever name called) of the Association in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next annual general meeting following such adoption of this Constitution. After this General Meeting the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

## **13. POWERS OF THE BOARD**

### **13.1 Power of the Association is Exercised by the Board**

Subject to the Act and this Constitution, the business of the Association shall be managed and the powers of the Association shall be exercised by the Board. . In particular, the Board shall act in accordance with the Objectives and shall operate for the benefit of the Members and the community throughout the local area.

### **13.2 Power of the Board**

The Board:

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

### **13.3 Secretary and Treasurer**

The Board must appoint as soon as practicable a secretary and treasurer of the Association

## **14. COMPOSITION OF THE BOARD OF DIRECTORS**

### **14.1 Composition of the Board**

The Board shall comprise five ( 5 ) nominated directors who shall be appointed as follows:

- (a) One ( 1 ) from each of the Founding Members; and
- (b) Two ( 2 ) to be nominated by CSWP with the approval of the other two Founding Members.

If any dispute shall arise as to the appointment of the two additional directors referred to in clause 14.1(b) then CSWP shall be entitled to nominate and appoint such additional directors

### **14.2 Appointment of Additional Directors**

The number of Directors may at any time be increased by any additional permanent or casual appointments to the Board with the consent of all three Founding Members and upon such terms and conditions as may determined by the Board.

### **14.3 Portfolios**

The Board may allocate portfolios to directors on such terms and conditions as they may deem fit..

### **14.4 Form of Nomination**

Nominations for appointment as directors must be:

- (a) in writing;
- (b) on the prescribed form (if any) provided for that purpose;
- (c) signed by one Founding Member; and

## 14.5 Term of Appointment for Directors

- (a) Directors appointed under **clause 14.1(a) and (b)** shall subject to early retirement or removal, be elected for a term of two ( 2 ) years.
- (b) If any Director appointed under **clause 14.1 (a)** shall retire or die prior to the expiration of the two ( 2 ) year term then the relevant Founding Member shall be entitled to appoint a replacement director for the remaining balance of the current two (2) year term.
- (c) If any Director appointed under **clause 14.1 (b)** shall retire or die prior to the expiration of the two ( 2 ) year term then a replacement director may be appointed under **clause 14.1 (b)** for the remaining balance of the current two (2) year term.
- (d) Any replacement Director under **clauses 14.5 (a) or (b)** must be made within one month of such retirement or replacement.

## 14.6 Qualifications for Appointed Directors

The appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition. They do not need to be Members in their own individual capacity.

## 15 TERMINATION OF OFFICE AS DIRECTOR

### 15.1 Grounds for Termination of Director

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 his 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 his office in writing to the Association;
- (e) is absent without the consent of the Board from meetings of the Board held during a period of six months;
- (f) holds any office of employment with the Association without the approval of the Board;
- (g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of that interest;
- (h) in the opinion of the Board (but subject always to this Constitution):
  - (i) has acted in a manner unbecoming or prejudicial to the Objectives and interests of the Association;
  - (i) has brought the Association into disrepute
- (i) is removed by Special Resolution; or
- (j) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth.)*.

## 15.2 Board May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act pursuant to the provisions in **clause 14.1**. However, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Director to a number sufficient to constitute a quorum.

## 16. MEETINGS OF THE BOARD

### 16.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it may adjourn and otherwise regulate its meetings as it thinks fit. A director may at any time convene a meeting of the Board within reasonable time.

### 16.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board 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 Board. All directors shall have one 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.

### 16.3 Resolutions Not in Meeting

- (a) A resolution in writing that has been signed or assented to by telegram, cablegram, radiogram, facsimile, telex or other form of visible or other electronic communication by all the directors for the time being present in Australia 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 or more of the directors.
- (b) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Board may be held where one 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 form 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 Board or this Constitution. The notice will specify that directors are not required to be present in person.
  - (iii) If a failure in communications prevents **clause 16.3(b)(i)** from being satisfied by the number of directors which constitutes a quorum, and none of such directors are 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 **clause 16.3(b)(i)** is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption, the meeting shall be deemed to have been terminated or adjourned.
  - (iv) Any meeting held where one 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. 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.

### 16.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is four (4).

## **16.5 Notice of Board 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 fourteen (14) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than four (4) days prior to such meeting.

## **16.6 Chairperson**

The Board shall appoint a chairperson from among its number. The chairperson shall be the nominal head of the Association and will act as chair of any Board meeting or General Meeting at which he is present. If the chairperson is not present, or is unwilling or unable to preside at a Board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only.

## **16.7 Conflict of Interest**

A Director shall declare his interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise. He shall, unless otherwise determined by the Board, absent himself from discussions of such matters and shall not be entitled to vote in respect of such matters. If the director casts a vote, 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 Board. If this is not possible, the matter shall be adjourned or deferred.

## **16.8 Disclosure of Interests**

- (a) The nature of the interest of a director must be declared at the meeting of the Board at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Board at the next meeting of the Board. If a director becomes interested in a matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Board held after the director becomes interested.
- (b) All disclosed interests must also be disclosed to each annual general meeting in accordance with the Act.

## **16.9 General Disclosure**

A general notice stating that a director is a Member of any specified firm or company and that he is 'interested' in all transactions with that firm or company is sufficient declaration under **clause 16.8**. After the distribution of the general notice, it is not necessary for the director to give a special notice regarding any particular transaction with that firm or company.

## **16.10 Recording Disclosures**

Any declaration made, any disclosure or any general notice given by a director in accordance with **clauses 16.7,16.8** and/or **16.9** must be recorded in the minutes of the relevant meeting.

## **17. DELEGATIONS**

### **17.1 Board May Delegate Functions**

The Board may, by instrument in writing, create, establish or appoint special committees, sub committees, individual officers and consultants to carry out specific duties and functions.



The Board will determine what powers these committees are given. In exercising its power under this clause, the Board must take into account broad stakeholder involvement.

## **17.2 Delegation by Instrument**

In the establishing instrument, the Board may delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board or the executive officer by the Act, any other law, this Constitution, or by resolution of the Association in a General Meeting.

## **17.3 Delegated Function Exercised in Accordance with Terms**

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

## **17.4 Procedure of Delegated Entity**

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **clause 16**. The entity exercising delegated powers shall make decisions in accordance with the Objectives, and it shall promptly provide the Board with details of all material decisions. The entity shall also provide any other reports, minutes and information required by the Board.

## **17.5 Delegation May Be Conditional**

A delegation under this clause may be made subject to certain conditions or limitations regarding the exercise of any function. These may be specified in the delegation.

## **17.6 Revocation of Delegation**

At any time the Board may, by instrument in writing, revoke wholly or in part any delegation made under this clause. It may amend or repeal any decision made by a body or person under this clause.

## **18. ANNUAL GENERAL MEETING**

- (a) The Association's annual general meeting shall be held in accordance with the Act and this Constitution. It should be held on a date and at a venue determined by the Board.
- (b) All General Meetings other than the annual general meeting shall be special General Meetings and shall be held in accordance with this Constitution.

## **19. SPECIAL GENERAL MEETINGS**

### **19.1 Special General Meetings May be Held**

The Board may, whenever it thinks fit, convene a special general meeting. When, but for this clause, more than fifteen months elapses between annual general meetings, the Board shall convene a special general meeting before the expiration of that period.

### **19.2 Requisition of Special General Meetings**

- (a) The Secretary will convene a special general meeting when ten per cent of Members (no less) and at least one ( 1 ) Founding Member submit a requisition in writing.
- (b) The requisition for a special general meeting shall state the object(s) of the meeting, be signed by the Members making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisition.
- (c) If the Board does not cause a special general meeting to be held one month after the date in which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a special general meeting to be held no later than three months after that date.
- (d) A special general meeting convened by Members under this Constitution shall be convened in the same manner, or as close as possible, as those convened by the Board.

## **20. NOTICE OF GENERAL MEETING**

- (a) Notice of every General Meeting shall be given to every Life Member, Founding Member, General Member, Corporate Member and Associate Member entitled to receive notice. Notices shall be sent to the addresses appearing in the Association's Register. The auditor and Directors shall also be entitled to receive notice of every General Meeting. This will be sent to the auditor's last known address. No other person shall be entitled, as of right, to receive notices of General Meetings.
- (b) A notice of a General Meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.

- (c) At least twenty-one (21) days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:
  - (i) the agenda for the meeting: and
  - (ii) any notice of motion received from Members entitled to vote.
- (d) Notice of every general meeting shall be given in the manner authorised in **clause 20..**

## **21. BUSINESS**

- (a) The business to be transacted at the annual general meeting includes the consideration of accounts and the reports of the Board and auditors, the nomination and appointment of directors under this Constitution and the appointment of the auditors.
- (b) All business that is transacted at a general meeting and at an annual general meeting, with the exception of those matters set down in **clause 21(a)**, shall be special business.
- (c) No business other than that stated on the notice for a general meeting shall be transacted at that meeting.

## **22. NOTICES OF MOTION**

Members entitled to vote may submit notices of motion for inclusion as special business at a general meeting. All notices of motion must be submitted in writing to the Association no less than thirty-five days (excluding receiving date and meeting date) prior to the general meeting.

## **23. PROCEEDINGS AT GENERAL MEETINGS**

### **23.1 Quorum**

No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Association shall be at least two (2) Founding Members and at least one representative from each of the Life Member, General Member and Corporate Member categories. .

### **23.2 Chairperson to Preside**

The chairperson of the Board shall, subject to this Constitution, preside as chair at every general 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.

### **23.3 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 a date, time or place determined by the chairperson. 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. 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 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **clause 23.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### **23.4 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 the Founding Members.

#### **23.5 Recording of Determinations**

Unless a poll is demanded under **clause 23.4**, the chairperson's declaration shall be conclusive evidence of the result of a resolution decided by a show of hands. The declaration does not need to record the number of votes in favour of or against the resolution; the result of the resolution must be recorded in the Association's book of proceedings.

#### **23.6 Where Poll Demanded**

If a poll is duly demanded under **clause 23.4** it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll shall be the resolution of the meeting.

### **24. VOTING AT GENERAL MEETINGS**

#### **24.1 Members Entitled to Vote**

Each Founding Member shall be entitled to one vote at General Meetings. No other Member shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in **clause 5..**

#### **24.2 Chairperson May Exercise Casting Vote**

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

#### **24.3 Proxy Voting**

Proxy voting shall not be permitted at all General Meetings.

#### **24.4 Postal Voting**

No motion shall be determined by a postal ballot unless determined by the Board. If the Board so determines, the postal ballot shall be conducted under the procedures set by the

Board from time to time.

## **25. GRIEVANCE PROCEDURE**

- (a) The grievance procedure set out in this rule applies to disputes under these rules between a Member and:
  - (i) another Member; or
  - (ii) the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all parties.
- (c) 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 mediator appointed by the Secretary.
- (d) The Board may prescribe additional grievance procedures in the by laws and regulations.

## **26. RECORDS AND ACCOUNTS**

### **26.1 Records**

The Association shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the Association and the Board). It shall produce these as appropriate at each Board or general meeting.

### **26.2 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 Secretary.

### **26.3 Board to Submit Accounts**

The Board shall submit the Association's statements of account to the Members at the annual general meeting in accordance with this Constitution and the Act.

### **26.4 Accounts Conclusive**

The statements of account, when approved or adopted by an annual general meeting, shall be conclusive except when errors have been discovered within three months after such approval or adoption.

### **26.5 Accounts to be Sent to Members**

The Secretary shall cause to be sent to all persons entitled to receive notice of annual general meetings in accordance with this Constitution, a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

### **26.6 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 duly authorised directors or in such other manner as the Board determines.

## **27. AUDITOR**

- (a) A properly qualified auditor or auditors shall be appointed by the Association in a general meeting. The auditor's duties shall be regulated in accordance with the Act. If no relevant provisions exist under the Act the duties shall be regulated in accordance with the *Corporations Act 2001 (Cth.)* and generally accepted principles and/or any applicable code of conduct. The auditor may be removed by the Association in a general meeting.
- (b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each financial year.

## **28. INCOME**

- 28.1** Income and property of the Association shall be derived from such sources as the Board determines from time to time.
- 28.2** The income and property of the Association shall be applied solely towards the promotion of the Objectives.
- 28.3** Except as prescribed in this Constitution or the Act:
  - (a) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member
  - (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.
- 28.4** Payment in good faith of or to any Member can be made for:
  - (a) any services actually rendered to the Association whether as an employee, director or otherwise;
  - (b) pursuant to the specific Objectives of the Association;
  - (c) goods supplied to the Association in the ordinary and usual course of operation;
  - (d) interest on money borrowed from any Member;
  - (e) rent for premises demised or let by any Member to the Association; or

- (f) any out-of-pocket expenses incurred by a Member on behalf of the Association.

Nothing in **clauses 28.2 or 0** preclude such payments provided they do not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **29. WINDING UP**

- (a) Subject to this Constitution the Association may be wound up in accordance with the Act.
- (b) The liability of the Members of the Association is limited.
- (c) Every Member undertakes to contribute to the assets of the Association in the event of it being wound up while a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of the Association contracted before the time at which they ceased to be a Member and towards the costs, charges and expenses of winding up the Association, such an amount not exceeding one dollar (\$1.00).

## **30. DISTRIBUTION OF PROPERTY ON WINDING UP**

If upon winding up or dissolution of the Association there remains, after satisfaction of all its debts and liabilities, any assets or property, they shall not be paid to or distributed among the Members. Instead, the assets or property shall be given or transferred to another organisation(s) that has Objectives similar to those of the Association. The organisation(s) must prohibit the distribution of its income and property among its Members to an extent at least as great as that imposed on the Association by this Constitution. The organisation(s) is to be determined by the Founding Members in a general meeting at or before the time of dissolution. If this does not occur, the decision is to be made by a judge of the Supreme Court of New South Wales or other court as may have or acquire jurisdiction in the matter.

## **31. ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution.

## **32. BY LAWS AND REGULATIONS**

### **32.1 Board to Formulate By Laws and Regulations**

The Board may formulate, issue, adopt, interpret and amend by laws and/or regulations for the proper advancement, management and administration of the Association and the advancement of the purposes and Objectives of the Association in the local area. Such by laws or regulations must be consistent with the Constitution and any policy directives of the Board.

### **32.2 Regulations Binding**

All by laws and regulations are binding on the Association and all Members.

### **32.3 Regulations Deemed Applicable**

All clauses, rules, by-laws and regulations of the Association in force at the date of the approval of this Constitution (as long as such clauses, rules, by-laws and regulations are not inconsistent with or have been replaced by, this Constitution) shall be deemed to be by laws and shall continue to apply.

### **32.4 Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to by laws and/or regulations shall be advised to Members by means of bulletins approved by the Board and prepared and issued by the Association. The Association shall take reasonable steps to distribute information in the bulletins to Members. The matters in the bulletins are binding on all Members.

## **33. NOTICE**

- (a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice. The notice can be sent by pre-paid post or facsimile transmission or, where available, by electronic mail to the Member's registered address or facsimile number or electronic mail address. In the case of a delegate, the notice can be sent to the last recorded 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 days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) 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.

## **34. INDEMNITY**

- (a) Every director and employee of the Association will 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, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected 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 wilful misconduct:
  - (ii) in the case of a director, performed or made while acting on behalf of and with the authority, express or implied, of the Association; or
  - (iii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Association.



## Appendix 1

### Application for membership of association

(Clause 6 (1))

APPLICATION FOR MEMBERSHIP OF ASSOCIATION

**Sharks International Water Polo Academy**

[name of association]

v.

Incorporated (incorporated under the *Associations Incorporation Act 2009*)

I, .....

[full name of applicant]

of .....

[address]

.....

[occupation]

hereby apply to become a member of the abovenamed incorporated association. In the event of my admission as a member, I agree to be bound by the constitution of the association for the time being in force.

*Signature of applicant*

Date

I, .....

[full name]

a member of the association, nominate the applicant for membership of the association.

.....

*Signature of proposer*

Date

I, .....

[full name]

a member of the association, second the nomination of the applicant for membership of the association.

.....

*Signature of seconder*

Date

