



# **Constitution**

Of

# **Goolwa Aquatic Club Incorporated**

*ASSOCIATIONS INCORPORATION ACT 1985 (SA)*

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® Regulations – refer to Club Regulations to support good governance of the Association in addition to the Constitution.

# ASSOCIATIONS INCORPORATION ACT 1985 (SA)

## CONSTITUTION

of

### GOOLWA AQUATIC CLUB INCORPORATED

#### 1. NAME OF ASSOCIATION

The name of the association is 'Goolwa Aquatic Club Incorporated'; ('**Association**').

#### 2. DEFINITIONS AND INTERPRETATION

##### 2.1 Definitions

In this Constitution, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 1985 (SA)*.

**Affiliate Club** means a Club that is admitted to the Association as an Affiliate Club under **clause 5.2 (a)**.

**Association** means 'Goolwa Aquatic Club Incorporated'.

**Annual General Meeting** means a meeting of the kind described in **clause 7.1 (a)**.

**Club Activity Group** means an Aquatic Activity Group of the Association.

**Committee** means the body consisting of the Committee Members of the Association.

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

**Constituent Documents** means Member's governing documents, including but not limited to constitution and regulations and any other governing documents.

**Constitution** means this constitution of the Association.

**Delegate** means the person nominated and elected at an Annual General Meeting to act for and on behalf of an Affiliate Club or Club Activity Group and to represent the Affiliate Club or Club Activity Group at General Meetings.

**Financial year** means the financial year will close at 30th June in each year after which financial accounts of that financial year shall be prepared.

**General Meeting** means Committee of Committee Members meeting.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment (including computer software), images (including photographs, videos or films) or service marks

relating to the Association or any activity of or conducted, promoted or administered by the Association in the region.

**Meeting** means an Annual General Meeting, Special General Meeting or General Meeting.

**Member** means a registered, financial member of the club who is at least 18 years of age;

**Junior Member** means a registered, financial member of the club who is younger than 18 years of age.

**Life Member** means a Member appointed as a life member of the Association under **clause 5.3**.

**Membership year** means 1 September through to 31 August.

**MOU** means Memorandum of Understanding.

**Objects** means the objects of the Association in **clause 3**.

**Regulations** means any regulations made by the Committee under **clause 10.4**.

**Seal** means the common seal of the Association.

**Special Resolution** means a special resolution defined in the Act.

**Sport** means water sports and aquatic activities including but not limited to sailing, paddling, boating (speed and cruising).

## 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 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);

- (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; and
- (i) any doubt arising as to the application or meaning of any clause or wording therein shall be decided by a vote at a General Meeting, which decision shall be final and conclusive.

### **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. OBJECTS OF THE ASSOCIATION**

The objects of the Association are;

- (a) To promote interest, the participation in and enjoyment of water sports;
- (b) To promote and protect good fellowship among those persons interested in water sports;
- (c) To educate, train, coach water sports and encourage members of the Association;
- (d) To promote the recreation, accommodation and comfort of members of the Association and in particular to provide social amenities and facilities for the members of the Association and provide accommodation for them in such premises as the Association may from time to time occupy;
- (e) To develop and instil principles of good sportsmanship amongst members of the Association in water sports;
- (f) To promote the economic and community service success, strength and stability of the Association and its Members.

#### 4. POWERS OF THE ASSOCIATION

The Association business, affairs and all of its funds and property shall be under the management and control of the Committee.

Solely for furthering the Objects, the Association has the rights, powers and privileges conferred on it under section 25 of the Act, namely to:

- (a) acquire, hold, deal with, and dispose of, any real or personal property;
- (b) administer any property on trust;
- (c) invest its monies —
  - (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 the Association;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (f) appoint agents to transact any business of the Association on its behalf; and
- (g) enter into any other contract it considers necessary or desirable.

#### 5. MEMBERSHIP ®

##### 5.1 Categories of Members

The Members of the Association shall consist of:

- (a) **Members**, who subject to this Constitution, shall have the right to receive notice of Meetings and to be present, to debate and to vote at Meetings, but shall have no voting rights at General Meetings unless elected as a Committee Member;
- (b) **Junior Members**, who subject to this constitution, shall have no right to receive notice of Meetings and no right to be present or debate or vote at Meetings;
- (c) **Life Members**, who subject to this Constitution, shall have the right to receive notice of Meetings and to be present and to debate at Meetings, but shall have no voting rights at General Meetings;
- (d) such new categories of Members as may be created by the Committee. Any new category of Member created by the Committee cannot be granted voting rights without the approval of the Association at an Annual General Meeting.

## 5.2 Affiliate Clubs

- (a) A Club may apply to the Committee for admission to the Association as an Affiliate Club;
- (b) To be, or remain eligible for affiliation, a Club must be incorporated in South Australia as detailed in the Regulations;
- (c) Once accepted, an Affiliate Club has the right to receive notice of Meetings and to have a nominated delegate elected at an Annual General Meeting to be present, and to debate and vote on behalf of their Club at Meetings;
- (d) Each Affiliate Club is taken, by virtue of being accepted to the Association, to have agreed:
  - (i) that the Affiliate Club's Constituent Documents must follow the Regulations and the policies of the Association;
  - (ii) that it will submit an up-to-date copy of its Constituent Documents to the Committee as and when requested by the Committee or required by the Regulations;
  - (iii) that it will enter into a MOU with the Association in accordance with the procedures set down by the Association in Regulations;
  - (iv) that it will have a delegate conscientiously attend Meetings and provide support to the Association;

## 5.3 Life Members

- (a) Life membership is the highest honour that can be bestowed by the Association for longstanding and valued service to the Association.
- (b) Any Member may recommend a person for Life Membership by notice in writing to the Committee as detailed in the Regulations.
- (c) A person may be appointed a Life Member only by Special Resolution put to an Annual General Meeting by the Committee.
- (d) A Life Member has the right to receive notice of Meetings and to be present and to debate but not to vote at General Meetings.
- (e) A Life Member cannot be required to pay fees or subscriptions to the Association (other than fees that are required to be paid by a participant in the Sport in his or her capacity as a participant in the Sport).

## 5.4 Application for Membership

- (a) Subject to this **clause 5**, an applicant for membership must apply to the Committee in writing.

- (b) The application must:
  - (i) be in a form approved by the Committee;
  - (ii) contain full particulars of the name, address and contact details of the applicant;
  - (iii) identify the category of membership for which the applicant is applying; and
  - (iv) contain any other information prescribed by Regulation for an application for membership in that category.

### **5.5 Discretion to Accept or Reject Application**

- (a) The Association may accept or reject an application for membership whether or not the applicant has complied with the requirements in this **clause 5**. The Association shall not be required or compelled to provide a reason for accepting or rejecting the Application.
- (b) Where the Association accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon payment of membership fee and acceptance of the application by the Association. The Secretary shall amend the register accordingly as soon as practicable.
- (c) Where the Association rejects an application, any fees forwarded with the application will be refunded and the application shall be deemed rejected.

### **5.6 Renewal**

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

### **5.7 Deemed Membership**

- (a) All Members of the Association prior to the operation of this Constitution shall be deemed Members from the time of the operation of this Constitution.
- (b) Affiliate Clubs of the Association prior to the operation of this Constitution shall be deemed Affiliate Clubs from the time of the operation of this Constitution.



## 5.8 Obligations of Members

Each Member must:

- (a) treat all staff, contractors and representatives of the Association all those involved with the Association with respect, decency and courtesy at all times;
- (b) maintain and enhance the standards, quality and reputation of the Association;
- (c) not act in a manner:
  - (i) unbecoming of a Member or prejudicial to the Objects or the interests or reputation of the Association; or
  - (ii) that is likely to bring the Association into disrepute or which might adversely affect or derogate from the standards, quality and reputation of the Association its maintenance and development; and
- (d) in the case of an Affiliate Club or Club Activity Group:
  - (i) take reasonable steps to prevent any of its own members or any of its participants from acting in a manner:
    - (A) unbecoming or prejudicial to the Objects of the interests or reputation of the Association; or
    - (B) that is likely to bring the Association into disrepute or which might adversely affect or derogate from the standards, quality and reputation of the Association and its maintenance and development; and
  - (ii) take reasonable steps to discipline appropriately any of its own members or participants if that member or participant acts in such a way;
  - (iii) remain incorporated in South Australia;
  - (iv) nominate an appropriate Delegate to be elected at the Annual General Meeting and represent the Affiliate Club or Club Activity Group at General Meetings;
  - (v) have regard to the Objects and adopt and implement such policies as may be developed by the Association;

## **5.9 Association to Keep Register**

Subject to the Act, confidentiality considerations and privacy laws:

- (a) the Association must keep and maintain a register of Members, which shall contain, at least;
  - (i) the full name, address and contact details, category of membership and date of entry to membership of each Member; and
  - (ii) where applicable, the date of termination of membership of each Member.
- (b) the Register may contain such other information as the Committee considers appropriate;
- (c) Members must provide the Association with the details required by the Association to keep the register complete and up to date; and
- (d) Members shall provide notice of any change and required details to the Association within one month of such change.

## **5.10 Inspection of Register**

Subject 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 who make a reasonable request for a proper purpose.

## **5.11 Use of Register**

Subject to the Act, confidentiality considerations and privacy laws, the register may be used to further the Objects, in such manner as the Committee considers appropriate.

## **5.12 Effect of Membership**

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 the Regulations and policies of the Association;
- (b) they shall comply with and observe this Constitution and the Regulations and policies of the Association and also any determination, resolution or decision, which may be made or passed by the Committee or other entity with delegated authority on behalf of the Association;
- (c) by submitting to this Constitution and the Regulations and policies of the Association, they are subject to the jurisdiction of the Association;
- (d) the Constitution and the Regulations and policies of the Association are necessary and reasonable for promoting the Objects.

### **5.13 Resignation of Membership**

- (a) A Member may resign or withdraw from membership of the Association by giving notice in writing to the Association;
- (b) Once the Association receives notice of resignation of membership given under this **clause 5.13**, it must make an entry in the register that records the date on which the Member who or which gave notice ceased to be a Member.

### **5.14 Discontinuance of Membership for Breach**

- (a) Membership of the Association may be discontinued by the Committee upon breach of any clause of this Constitution or the Regulations or the policies of the Association. This includes, but is not limited to, the failure to pay any monies owed to the Association, disciplinary matters, and the failure to comply with the Regulations or any resolutions or determinations made or passed by the Committee or any duly authorised committee.
- (b) Membership shall not be discontinued by the Committee under **clause 5.14(a)** without the Committee first giving the relevant Member sufficient opportunity to explain the breach and/or remedy the breach.
- (c) A Member may not be expelled unless the Member has been afforded natural justice in accordance with the Act and procedural fairness generally.
- (d) Where a Member fails, in the Committee's view, to adequately explain or remedy the breach, that Member's membership shall be discontinued under **clause 5.14(a)**. The Association shall give written notice of the discontinuance to the Member. The register shall be amended to reflect any discontinuance of membership under this **clause 5.14** as soon as practicable.

### **5.15 Member to Re-Apply for Membership**

A Member whose membership has been discontinued under **clauses 5.13 or 5.14**:

- (a) may re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted as a Member at the discretion of the Committee.

### **5.16 Forfeiture of Rights**

- (a) A Member who or which 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.
- (b) Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately.

### **5.17 Delegate Position Lapses**

The position of Delegate shall lapse immediately on cessation of membership.

### **5.18 Subscriptions and Fees**

- (a) The Committee will:
  - (i) fix annual membership subscriptions;
  - (ii) fix such other fees or levies as the Committee considers prudent for the effective and sustainable management of the affairs of the Association; and
  - (iii) determine the time for and manner of payment of the subscriptions, fees and levies by Members to the Association.
- (b) The Committee may fix subscriptions, fees or levies at different rates for different categories of membership and may determine that no subscriptions are payable by one or more of the categories for any year.
- (c) The Committee may also authorise payment of subscriptions, fees or levies by instalments for some or all of the categories of membership and it may prescribe different terms of instalments for different categories of membership.
- (d) On admission to membership, a new Member must pay the current full year's subscription unless the Committee agrees to accept payment in instalments.
- (e) The Committee may waive all or part of a Member's subscriptions, fees or levies and may agree terms of payment for a Member different from those applicable to other Members of the same category if the Committee is satisfied that there are special reasons to do so.

## 6. DISCIPLINE AND DISPUTE RESOLUTION ®

### 6.1 Regulations

- (a) The Committee may make Regulations governing the hearing and determination of disputes, protests or complaints made by or against Members or participants or the Association or disciplinary matters generally or any other matter involving the enforcement of this Constitution or the Regulations or policies of the Association.
- (b) A Regulation made under this **clause 6.1** may:
  - (i) provide for one or more judiciary committees or tribunals to hear and resolve cases falling under this **clause 6.1**
  - (ii) prescribe penalties for breaches of this Constitution or the Regulations or policies of the Association;
  - (iii) invest a judiciary committee or tribunal with power to impose penalties; and
  - (iv) otherwise prescribe the procedures for dealing with cases falling under this **clause 6.1**.
- (c) Despite any Regulation made under this **clause 6.1**, and unless otherwise specified, the Committee may itself deal with any disciplinary matter referred to it or appoint a judiciary committee or tribunal to do so.

### 6.2 Natural Justice and Procedural Fairness

All proceedings relating to matters falling under **clause 6.1** must be conducted according to the rules of natural justice in accordance with the Act and procedural fairness generally.

### 6.3 Process

- (a) The dispute resolution procedure set out in this clause applies to disputes between a Member and another Member or the Association.
- (b) In this clause 'Member' includes any former Member who was a Member not more than six months before the dispute occurred and who is involved in the dispute.
- (c) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.
- (d) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten (10) days after the scheduled meeting, refer the dispute to the Association or the State Sport Dispute Centre (if applicable to the Association) to resolve the dispute in accordance with **clause 6.1**.
- (e) The Association may prescribe additional grievance procedures in Regulations under **clause 6.1**.

## 7. MEETINGS ®

### 7.1 Types

The Meetings that can be convened where Members have the opportunity to attend and vote on various matters are:

- (a) **Annual General Meetings:** Annual General Meetings of the Association must be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Committee; and
- (b) **General Meetings:** General Meetings of the Association mean Committee of Committee Members meetings and shall be held on a regular basis where only Committee Members are entitled to vote;
- (c) **Special General Meetings:** Special General Meetings of the Association are special meetings that are convened by Members to discuss extraordinary issues.

### 7.2 Attendance

- (a) Unless this Constitution expressly provides otherwise, Members are entitled to attend Meetings and to vote at Meetings but only Committee Members are entitled to vote at General meetings.
- (b) Delegates represent the Affiliate Clubs and Club Activity Groups at General Meetings.
- (c) Committee Members may attend a General Meeting by telephone or other electronic means by which he or she can hear and be heard.

### 7.3 Business

- (a) The ordinary business to be discussed at the Annual General Meeting includes, but is not limited to, the consideration and approval of financial and other accounts and the reports of the Committee (and those of any auditors), the election of Committee Members and any amendments to this Constitution.
- (b) All business that is discussed at a Special General Meeting or an Annual General Meeting, other than those matters referred to in **clause 7.3(a)**, is special business.
- (c) No business other than that stated on the notice for an Annual General Meeting or Special General Meeting may be discussed at those meetings.
- (d) Special or other business can be tabled without notice at a General Meeting.

#### **7.4 Chairperson to Preside**

- (a) The Commodore of the Association will, subject to this Constitution, preside as chairperson of the Committee at every Meeting except:
  - (i) in relation to any election for which the chairperson of the Committee is a nominee; or
  - (ii) where the chairperson of the Committee has a conflict of interest.
- (b) If the chairperson of the Committee is not present or is unwilling or unable to preside, the Members present must appoint another Committee Member to preside as chair for that Meeting only.

#### **7.5 Notice**

- (a) Notice of Meetings must be given to Members by the means authorised in **clause 10.5**.
- (b) A notice of a Meeting must specify the place, day and hour of the Meeting and state the nature and order of the business to be transacted at the Meeting.
- (c) At least twenty-one (21) days' notice of an Annual General Meeting or Special General Meeting must 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) At least seven (7) days' notice of a General Meeting must be given to those Members entitled to receive notice, together with the agenda for the Meeting.

#### **7.6 Quorum**

- (a) Annual General Meeting; No business may be discussed or transacted at an Annual General Meeting unless a quorum is present at the time when the Annual General Meeting proceeds to business. A quorum for Annual General Meetings is 20% of Members who are entitled to vote.
- (b) General Meeting; No business may be discussed or transacted at a General Meeting unless a quorum is present at the time when the General Meeting proceeds to business. A quorum for General Meetings is 50% of Committee Members plus 1.
- (c) Special General Meeting; No business may be discussed or transacted at a Special General Meeting unless a quorum is present at the time when the Special General Meeting proceeds to business. A quorum for Special General Meetings is 20% of Members who are entitled to vote.

## **7.7 Adjournment**

- (a) If within half an hour from the time appointed for the Meeting, a quorum is not present, the Meeting must be adjourned until the same day in the next week at the same time and place or to such other day, time and place as the chairperson determines.
- (b) If at the adjourned Meeting a quorum is not present within half an hour from the time appointed for the adjourned Meeting:
- (c) The chairperson may, with the consent of any Meeting at which a quorum is present, and must, if directed by the Meeting, adjourn the Meeting from time to time and from place to place but no business may be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.
- (d) When a Meeting is adjourned for thirty (30) days or more, notice of the adjourned Meeting must be given as in the case of an original Meeting.

## **7.8 Voting Procedure**

- (a) At any Meeting a resolution put to the vote of the Meeting will be decided on a show of hands unless a poll is (before the show of hands) demanded by:
  - (i) the chairperson; or
  - (ii) a simple majority of Members present at the General Meeting.
- (b) Each Member is entitled to one (1) vote at Meetings.
- (c) The chairperson may exercise a casting vote at Meetings.

## **7.9 Proxy Voting**

Proxy Voting is not permitted at Meetings.

## **7.10 Recording of Determinations**

A declaration by the chairperson that a resolution has, on a show of hands, been carried (either unanimously or by a particular majority) or lost and an entry to that effect in the minutes of the proceedings of the Association is conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.



## **7.11 Special General Meetings**

- (a) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association.
- (b) On the requisition in writing of twenty (20) percent of the total number of Members, the Committee must, within one month after the receipt of the requisition (and provided notice is given in accordance with clauses 7.5 and 10.5), convene a Special General Meeting for the purpose specified in the requisition.
- (c) Every requisition for a Special General Meeting must be signed by requisitioning Members, state the purpose of the meeting 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 requisitions.
- (d) If the Committee does not cause a Special General Meeting to be held within one month after the receipt of the requisition, the Members making the requisition may convene a Special General Meeting to be held not later than three (3) months after the receipt of the requisition.
- (e) A Special General Meeting convened by the Members under this Constitution must be convened in the same manner, or as nearly as practical to the same manner, as a meeting convened by the Committee and for this purpose the Committee must ensure that the Members making the requisition are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Association.

## **8. MANAGEMENT ®**

The Committee constitutes the Committee for the purposes of the Act.

### **8.1 General Powers of the Committee**

- (a) Subject to the Act and this Constitution, the business and affairs of the Association must be managed by the Committee, which may exercise the powers of the Association for that purpose.
- (b) The Committee must perform its functions in the pursuit of the Objects and in the interests of the Association as a whole;

### **8.2 Composition of the Committee**

The Committee will comprise of:

- (a) up to nine (9) Committee Members elected under **clause 8.6**; and
- (b) one delegate for each Affiliate Club and Club Activity Group.
- (c) all Committee Members and Delegates must be financial members of the Association.

### **8.3 Portfolios**

The Committee may allocate portfolios to Committee Members.

- (a) The Committee must call for nominations for Committee Members including the portfolios of Commodore, Vice Commodore, Treasurer and Secretary at least forty (40) days prior to the Annual General Meeting.
- (b) The Committee may, when it calls for nominations, indicate which portfolios on the Committee it wishes to fill, the job descriptions for those portfolios and the qualifications or experience it considers desirable for those portfolios.

### **8.4 Chairperson**

The chairperson meaning the Commodore shall be the nominal head of the Association and will act as chair of any Committee meeting at which they are present. If the chairperson is not present or is unwilling or unable to preside at a Committee meeting, the remaining Committee Members shall appoint another Committee Member to preside as chair for that meeting only.

### **8.5 Nominations must:**

- (a) be in writing;
- (b) be in the prescribed form (if any) provided for that purpose;
- (c) be signed by the nominee;
- (d) disclose any position the nominee holds in the Association;
- (e) be delivered to the Association not less than twenty-eight (28) days before the date fixed for the Annual General Meeting.

## 8.6 Elections

- (a) If the number of nominations received for the Committee is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Committee, then those nominated shall be declared elected only if approved by the majority of Members entitled to vote at the Annual General Meeting.
- (b) If the number of nominations exceeds the number of vacancies to be filled, an election must be conducted at the Annual General Meeting.
- (c) Voting shall be conducted in such a manner and by such a method as determined by the Committee from time to time.
- (d) If at the close of the Annual General Meeting, vacancies on the Committee remain unfilled, the vacant position(s) will be deemed casual vacancies under **clause 8.8**.
- (e) If a person nominated at the Annual General Meeting is not approved by the majority of Members under **clause 8.6(a)**, he or she will not be entitled to take office until approved by the Members at an Annual General Meeting.

## 8.7 Term of Appointment for Elected Committee Members

- (a) Committee Members elected under **clause 8** shall be elected for a term of two (2) years. Subject to provisions in this Constitution relating to early retirement or removal of Committee Members, Committee Members shall remain in office from the conclusion of the Annual General Meeting at which their relevant election occurred until the conclusion of the second Annual General Meeting following.
- (b) At least half of the Committee Members shall retire in each even year and the balance of the Committee Members shall retire in each odd year until, after two (2) years the original elected Committee Members have all retired.
- (c) The sequence of retirements under **clause 8.7(b)**, which is designed to ensure rotational and staggered terms, shall be determined by the Committee.
- (d) The Committee Member portfolios of Commodore and Secretary shall retire in odd years and the Committee Member portfolios of Vice Commodore and Treasurer shall retire in the even years.

## 8.8 Casual Vacancies

Subject to **clause 8.6** any casual vacancy occurring in the position of Committee Member may be filled by the remaining Committee Members from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Committee Member's term under this Constitution.

## **8.9 Duties of Committee Members**

In accordance with Division 3A of the Act, Committee Members must:

- (a) not, in the exercise of their powers or the discharge of their duties, commit an act with intent to deceive or defraud the Association, Members or creditors of the Association or creditors of any other person or for any fraudulent purpose;
- (b) not make improper use of information acquired by virtue of their position in the Association so as to gain, directly or indirectly, any pecuniary benefit or material advantage themselves or any other person, or so as to cause a detriment to the Association;
- (c) not make improper use of their position as such an officer or employee so as to gain, directly or indirectly, any pecuniary benefit or material advantage for themselves any other person, or so as to cause a detriment to the Association; and
- (d) at all times act with reasonable care and diligence in the exercise of their powers and the discharge of the duties of their office.

## **8.10 Grounds for Termination of Committee Member**

- (a) The office of a Committee Member becomes vacant if the Committee Member:
  - (i) dies;
  - (ii) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
  - (iii) suffers from mental or physical incapacity;
  - (iv) cannot obtain or retain office under section 30 of the Act;
  - (v) resigns his or her office by notice in writing to the Association;
  - (vi) is absent without the consent of the Committee from meetings of the Committee held during a period of six (6) months;
  - (vii) holds any office of employment with the Association;
  - (viii) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his or her interest (and which amounts to a conflict of interest);
  - (ix) is removed by the Members in General Meeting; or
  - (x) would otherwise be prohibited from being a Committee Member of a corporation under the *Corporations Act 2001 (Cth)*.

## **8.11 Committee May Act**

If there are any vacancies on 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 of the Committee, they may act only for the purpose of increasing the number of Committee Members to a number sufficient to constitute a quorum.

#### **8.12 Committee to Meet**

Any Committee Member may at any time convene a meeting of the Committee on reasonable notice to the other Committee Members.

#### **8.13 Decisions of Committee**

Subject to this Constitution, questions arising at any meeting of the Committee may be decided by resolution of the Committee Members. Each Committee Member has one (1) vote on any question. The chair may have a casting vote.

#### **8.14 Circulatory Resolutions**

- (a) A resolution in writing, signed or assented to by email, facsimile or other form of visible or other electronic communication by all the Committee Members for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Committee Members duly convened and held. Any such resolution may consist of several documents in like form each signed or assented to by one (1) or more of the Committee Members.
- (b) A resolution may not be passed under **clause 8.14(a)** if, before it is circulated for voting under **clause 8.14(a)** the Committee resolves that it can only be put at a meeting of the Committee.
- (c) A resolution passed under this clause must be recorded in the minute book.

#### **8.15 Resolutions not in Meeting**

- (a) Without limiting the power of the Committee to regulate its meetings as it thinks fit, and subject to **clause 7.6**, a meeting of the Committee may be held where one or more of the Committee Members 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 Committee Members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Committee or this Constitution. The notice will specify that Committee Members are not required to be present in person;
  - (iii) if a failure in communications prevents **clause 8.15(a)(i)** from being satisfied by the number of Committee Members which constitutes a quorum (**clause 7.6**), and none of such Committee Members 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 8.15(a)(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 and

- (iv) any meeting held where one or more of the Committee Members is not physically present shall be deemed to be held at the place specified in the notice of the meeting, provided a Committee Member is there in person. If no Committee Member is there in person, the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

#### **8.16 Conflict of Interest**

- (a) The Committee Members must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a Committee Member has an interest.
- (b) A Committee Member shall declare his or her interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Committee, absent themselves from discussions of such matters and shall not be entitled to vote in respect of such matters. If the Committee Member casts a vote, the vote shall not be counted.
- (c) In the event of any uncertainty as to whether it is necessary for a Committee Member to absent themselves from discussions and refrain from voting, the issue should be immediately determined by vote of the Committee. If this is not possible, the matter shall be adjourned or deferred.

#### **8.17 Disclosure of Interests**

- (a) The nature of the interest of a Committee Member must be declared at the meeting of the Committee 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 Committee at the next meeting of the Committee. If a Committee Member 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 Committee held after the Committee Member becomes interested.
- (b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

#### **8.18 General Disclosure**

A general notice stating that a Committee Member is a member of, or associated with, any entity and that he or she is 'interested' in all transactions with that entity is sufficient declaration under **clause 8.17**. After the distribution of the general notice, it is not necessary for the Committee Member to give a special notice regarding any particular transaction with that firm or company.

#### **8.19 Recording Disclosures**

Any declaration made, any disclosure or any general notice given by a Committee Member must be recorded in the minutes of the relevant Meeting.

## **8.20 Delegations**

### **(a) Committee May Delegate Functions**

The Committee may, by instrument in writing, create or establish or appoint special committees, individual officers and consultants to carry out such duties and functions. The Committee will also determine what powers these entities are given.

### **(b) Delegation by Instrument**

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

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

### **(c) Delegation May be Conditional**

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

### **(d) Revocation of Delegation**

By instrument in writing, the Committee may at any time revoke wholly or in part any delegation made under this clause. It may amend or repeal any decision made by such body or person under this clause.

## **8.21 Seal**

- (a) The Association will have a Seal on which its corporate name appears in legible characters.
- (b) The Seal may not be used without the express authorisation of the Committee and every use of the Seal must be recorded in the minute books of the Association. The affixing of the Seal must be witnessed by two (2) Committee Members or by one Committee Member and another person authorised by the Committee for that purpose.

## **8.22 Appointment of Secretary**

- (a) There must be at least one Secretary elected for the Association.
- (b) The Committee Members may suspend or remove a Secretary from that office.
- (c) A Secretary holds office on the terms and conditions and with the powers, duties and authorities, delegated to them by the Committee Members.
- (d) The Secretary may assume the role of the Public Officer of the Association and will need to administer and manage the Association in accordance with the Act and the Constitution.

## **9. RECORDS AND ACCOUNTS ®**

### **9.1 Accounts to be Kept and Distributed**

- (a) There must be at least one Treasurer elected for the Association.
- (b) The Association must keep such accounting records as to correctly record and explain the transactions and financial position of the Association.
- (c) All financial transactions must be recorded in the financial management system of the Association.
- (d) The Committee Members will cause proper accounting and other records to be audited where necessary and distributed in accordance with Division 2 of the Act, including all documents required to be distributed to the Members for the purpose of the Annual General Meeting.
- (e) The Association must lodge with the Corporate Affairs Commission such periodic returns, containing accounts and other information relevant to the affairs of the Association, as the Act and associated regulations (Associations Incorporation Regulations 2008) may require.

### **9.2 Transaction Accounts**

- (a) The Association and Club Activity Groups shall open and keep at least one transaction account as the Committee may from time to time determine, and all monies belonging to the Association shall, as soon as practicable after the same shall be received, be paid and deposited to the credit of those account(s) of the Association.
- (b) No withdrawal shall be made from, and no cheques shall be drawn on, any transaction account in the name of the Association unless the withdrawal form, cheques or electronic transfer is signed or password-activated, as appropriate, by any two of the persons appointed by the Committee for such purposes. All extraordinary and capital expenditure must be unequivocally ratified by the Committee.

### **9.3 Annual Financial Report**

The Association shall prepare and make available to the Members an annual financial report comprising; an annual profit and loss statement, a balance sheet, a statement of cash flows and a Committee Members' report.

### **9.4 Application of Income**

- (a) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (b) Except as prescribed in this Constitution or the Act:
  - (i) 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; and
  - (ii) 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.



- (c) Nothing in **clauses 9.4(a)** or **9.4(b)** shall prevent payment to any Member for:
- (i) any services actually rendered to the Association whether as an employee, Committee Member or otherwise; or
  - (ii) goods supplied to the Association in the ordinary and usual course of operation;
  - (iii) interest on money borrowed from any Member;
  - (iv) rent for premises demised or let by any Member to the Association; or
  - (v) any out-of-pocket expenses incurred by the Member on behalf of the Association.

provided that any such payments shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction and there is no conflict of interest in making the payment.

## **10. ADMINISTRATION ®**

### **10.1 Winding Up**

The Association may be wound up in accordance with the Act.

### **10.2 Distribution of Assets and Property on Winding Up**

- (a) If upon winding up or dissolution of the Association, there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed to its Members, but instead, those assets or property must be given or transferred to another organisation(s) that has objects similar to the Objects of the Club.
- (b) Those organisation(s) must prohibit the distribution of income and property among its members to an extent at least as great as that imposed on the Association by this Constitution.
- (c) The organisation(s) is to be determined by the Members in a Meeting at or before the time of dissolution. If this does not occur, the decision will be made by a judge of the Supreme Court of South Australia or other court as may have or acquire jurisdiction in the matter.

### **10.3 Amendment of Constitution**

This Constitution shall not be amended except by Special Resolution.

## 10.4 Regulations

### (a) **Committee to Formulate Regulations**

The Committee may formulate, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association as it thinks necessary or desirable. Such regulations must be consistent with the Constitution any policy directives of the Committee.

### (b) **Regulations Binding**

All Regulations are binding on the Association and all Members.

### (c) **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 Regulations and shall continue to apply.

### (d) **Bulletins Binding on Members**

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins approved and issued by the Committee. Affiliate Clubs shall take reasonable steps to distribute information in the bulletins to their Individual Members. The matters in the bulletins are binding on all Members.

## 10.5 Notice

(a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice. Notices will be sent to Members by electronic mail (email) or pre-paid post to the Member's registered address.

(b) Where a notice is sent by email, service of the notice shall be deemed to be effected the next business day after it was sent.

(c) 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 six (6) days after posting.

(d) Notices given to the Association are subject to **clauses 10.5(a), (b), (c) and (d)**.

## **10.6 Patrons**

At a General Meeting, the Committee may annually appoint a chief patron and the number of patrons, as it considers necessary. This is subject to approval of that person or persons.

## **10.7 Indemnity**

- (a) Every Committee Member of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Committee Member in defending any proceedings, whether civil or criminal.
- (b) The Association shall indemnify its Committee Members against all damages and losses (including legal costs) for which any such Committee Member may be or become liable to any third party in consequence of any act or omission except wilful misconduct performed or made while acting on behalf of and with the authority, express or implied, of the Association.

## **10.8 Authority to Trade**

The Association is authorised to trade in accordance with the Act.

## **10.9 Colours of The Association**

The colours of the Association are blue, red and white.

## **10.10 Transitional Provisions**

### **(a) Committee Members**

For the purpose of determining when the term ends for each Committee Member in office on the day on which this Constitution is adopted, time served in the Committee Member's current term will be counted as if this Constitution had been in place at the commencement of that term.

### **(b) Regulations deemed applicable**

All rules, by-laws, policies and Regulations of the Association in force at the date of the adoption of this Constitution are to be deemed to be Regulations and continue to apply unless they are inconsistent with, or have been replaced by this Constitution.

## Constitution Version Control

<b>Date</b>	<b>Clauses amended</b>	<b>Description of change</b>	<b>General Meeting Date</b>	<b>AGM Meeting Date</b>
01/06/2023	Entire Constitution	Draft	12/07/2023	
12/07/2023	Entire Constitution	Endorsed by Committee for presentation at the AGM	02/08/2023	
27/08/2023	Entire Constitution	Adopted by GAC Members		27/08/2023
13/12/2024	8.2 (a)	Increase of members on Committee from 7 to 9  <b>New rule</b>  Up to nine (9) Committee Members elected under Clause 8.6		SGM 13/12/2024