




# CONSTITUTION OF SWIMMING NEW ZEALAND INCORPORATED

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 Swimming Manawatu Inc  
 Swimming Waikato  
 Swimming Otago

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# CONSTITUTION OF SWIMMING NEW ZEALAND INCORPORATED

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## Section One: Core Provisions

### 1. Name

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- 1.1 The name of the organisation is Swimming New Zealand Incorporated (**SNZ**).

### 2. Definitions and interpretation

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- 2.1 In this constitution:

**Act** means the Incorporated Societies Act 2022;

**AGM** means annual general meeting;

**Amount** means any fee, subscription, levy, fine or similar monetary imposition;

**Appointed Board Member** is defined in rule 12;

**Appointment Panel or AP** means the panel in rule 11 which selects persons eligible for the Board;

**Aquatics NZ** means Aquatics New Zealand Incorporated (1753175);

**Board** means the board of SNZ;

**Board Charter** documents the roles, responsibilities, powers, and procedures of the Board;

**Board Meeting** means a meeting of the Board;

**Casual Vacancy** is a vacancy which arises on the Board when a Board member does not serve their full term of office, or when insufficient candidates are elected or appointed under rules 12.5 or 12.6 to fill all available positions on the Board;

**CEO** means the chief executive officer of SNZ;

**Contact Person** means a person holding the position of contact person for SNZ being the person whom the Registrar of Incorporated Societies can contact when needed;

**Chair** means chairperson of the Board;

**Database** means SNZ's register of Members in accordance with s79 of the Act;

**Elected Board Member** is defined in rule 12;

**Financial Year** means the financial year of SNZ;

**GM** means a general meeting;

**HP** means high performance;

**KPIs** means key performance indicators;

**Life Member** means a person awarded at any time life membership of SNZ or a Regional Association and **SNZ Life Member** and **Regional Association Life Member** shall have the corresponding meaning (Life Member definition specifically excludes Club Life Members);

**Member** means a member of SNZ in rule 6.1;

**Member Club** is defined in rule 9;

**Ordinary Resolution** means a resolution requiring a majority of the votes cast;

**President** means the president of SNZ;

**Previous Constitution** means the SNZ constitution which was in place immediately prior to adoption of this constitution;

**Purposes** means the purposes of SNZ;

**Region** means a geographic area within New Zealand determined to be a SNZ region by Regional Associations under this constitution;

**Regional Association** is defined in rule 8;

**SCTNZ** means Swim Coaches and Teachers of New Zealand Incorporated (223367) also known as NZSCTA;

**SGM** means a special general meeting;

**Special Resolution** means a resolution requiring a two thirds majority of the votes cast;

**Sport** means competitive and recreational swimming;

**Sports Tribunal** means the Sports Tribunal of New Zealand;

**Strategic Plan** means SNZ's strategic plan (or equivalent) for the Sport as approved by the Board from time to time;

**Voting Representative** means the individual notified by a Regional Association to SNZ as the person authorised to exercise the votes of a Regional Association at a GM and in the election of Elected Board Members; and

**World Aquatics** means the world governing body of swimming.

2.2 In this constitution:

- a. the singular includes the plural and vice versa;
- b. any reference to any act, regulation, by-law, policy, deed, charter, procedure or document includes any amendment to it and any replacement passed in substitution for it;
- c. references to a person includes incorporated bodies and unincorporated groups;
- d. headings are for reference only and do not assist interpretation;
- e. derivatives of any term defined in this constitution have a corresponding meaning; and
- f. any approval, decision, requirement or action by SNZ or the Board may be undertaken by the Board or by such person to whom the Board has given authority.

### 3. Status

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3.1 SNZ is:

- a. an incorporated society established under the Act;
- b. the controlling body in New Zealand for competitive swimming;
- c. a member of Aquatics NZ and must observe the rules and decisions of Aquatics NZ; and
- d. bound by and must observe the rules and decisions of World Aquatics.

## 4. Purposes

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- 4.1 The primary Purpose of SNZ is to act as the principal authority responsible for governing, promoting, and developing the Sport in New Zealand/Aotearoa.
- 4.2 To support its primary Purpose, SNZ has the additional Purposes to collaborate with Regional Associations, Member Clubs and others (as appropriate) to:
- a. Develop and grow the Sport**
    - i. Foster participation in, and increase accessibility to, the Sport;
    - ii. Support the development of athletes, team managers, coaches, officials and volunteers;
    - iii. Oversee competitions and provide pathways for talent identification and Member development.
  - b. Provide governance and regulation**
    - i. Set and enforce rules and standards for the Sport;
    - ii. Oversee disciplinary issues and uphold the integrity of the Sport;
    - iii. Fulfil the Sport's obligations to the Sport Integrity Commission regarding doping controls and prohibited substances;
    - iv. Oversee the implementation of the Strategic Plan;
    - v. Maintain affiliation with Aquatics NZ and compliance with applicable regulations and laws.
  - c. Promote and advocate for the Sport**
    - i. Act as the national voice for the Sport in dealings with the government, media, sponsors, and other national or international sporting bodies;
    - ii. Enhance the Sport's visibility and popularity through community engagement;
    - iii. Advocate for the importance of the Sport for health, wellbeing, and social connection;
    - iv. Collaborate with Regional Associations, Member Clubs and other bodies, as appropriate, for the benefit of the Sport.
  - d. Support high performance and elite success**
    - i. Provide support, resources, and funding for high-performance athletes and teams;
    - ii. Aim for international success and representation at global competitions.
  - e. Promote inclusive participation and community wellbeing**
    - i. Promote participation among under-represented groups such as Māori, Pacific peoples and individuals with disabilities;
    - ii. Encourage the use of the Sport as a tool for rehabilitation and community engagement;
    - iii. Advocate for the safety and cleanliness of swimming pools and waterways in which our Members may swim.
- 4.3 The Purposes of SNZ are exclusively charitable and include the promotion of amateur sport for the pursuit of physical fitness and other purposes beneficial to the community and including the training, education and development of all those involved in the Sport. To the extent that any of the Purposes are found to be non-charitable they are ancillary and secondary to the charitable Purposes. Rules 4.1 and 4.2 are subject to this rule.

## 5. Powers

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- 5.1 SNZ has both within and outside New Zealand/Aotearoa, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law.

## **Section Two: Members**

### **6. Members and database**

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- 6.1 The categories of membership of SNZ (the “Membership”) are:
- a. members of a Member Club;
  - b. members of a Regional Association;
  - c. SNZ Life Members;
  - d. Regional Associations;
  - e. Member Clubs
  - f. SCTNZ; and
  - g. any other categories of member as the Board determines, each of whom have accepted membership of SNZ.
- 6.2 Member application and consent: A person seeking Membership:
- a. must consent to becoming a Member by completing and submitting an application form as required by SNZ; and
  - b. may be declined by SNZ in its sole discretion on any reasonable grounds.
- 6.3 Life Membership of SNZ may be awarded to a person who has made an outstanding contribution to SNZ. Nominations for Life Membership of SNZ may be made by any Regional Association or Member Club and must be made and then assessed in accordance with any policy adopted by the Board. The award of Life Membership of SNZ must be by unanimous decision of the Board and if approved is announced at the AGM or other appropriate forum as determined by the Board. A SNZ Life Member is not required to pay any annual Amount.
- 6.4 A swimmer may be a Member in one or more categories but may not be a current Member of more than one Member Club or a Member of more than one Regional Association.
- 6.5 SNZ must determine actual Membership at least annually including whether a person continues to satisfy the requirements to be a Member and any transfer issues and any dispute about Membership.
- 6.6 SNZ must maintain the Database of Members and:
- a. which as a minimum must include each Member’s name, contact details and the date each person became a member;
  - b. may use information on the Database to further its Purposes, and for administrative, communication, funding and sponsorship purposes;
  - c. may communicate directly with any person on the Database;
  - d. must update the Database as soon as practicable after it has been made aware of any changes required to the information recorded on the Database; and
  - e. will comply with the Privacy Act 2020.

### **7. Rights and obligations of Members**

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- 7.1 A Member is bound by this constitution and:
- a. by all rules, policies, charters, procedures and decisions of SNZ and where applicable those of World Aquatics, Aquatics NZ, their Member Club and/or Regional Association;
  - b. must pay all Amounts imposed on them by their Member Club, Regional Association and SNZ;
  - c. must ensure that their details on the Database are up to date.

- 7.2 A Member ceases to be a Member:
- by written agreement with, or written resignation delivered to, SNZ;
  - if not an individual, by liquidation or dissolution;
  - upon expulsion from Membership; or
  - if no longer eligible to be a Member under rule 6.
- 7.3 If a Member is, or may be, in breach under clause 7.1, and the Board believes it is in the best interests of SNZ to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any such suspension, the Member must be given notice of the suspension.
- 7.4 Unless otherwise determined by the Board, while a Member is suspended the Member is:
- not entitled to attend, speak or vote at a General Meeting;
  - not entitled to any other rights or entitlements as a Member;
  - in the case of an individual Member, not entitled to continue to hold office in any position within SNZ; and
  - not entitled to any rights or entitlements to which the Member would otherwise be entitled from the Member's Member Club or Regional Association, if applicable,
- until such time as the alleged breach under clause 7.1 is resolved or determined.

## **8. Regions and Regional Associations**

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- 8.1 The Purposes are supported and implemented regionally through Regions each operated by a Regional Association.
- 8.2 Regional Associations may set the geographic boundaries of their Regions and may change them by agreement with bordering Regional Associations provided that:
- such boundaries may not overlap;
  - all of New Zealand must have Regional coverage;
  - in setting the boundaries Regional Associations must always act in the best interests of the Sport; and
  - any changes to the boundaries must be notified to SNZ and are subject to the approval of SNZ.
- 8.3 A Regional Association is an entity governing a Region which is approved as a Member by SNZ and:
- is incorporated under the Act;
  - has had its Regional Association constitution approved by SNZ;
  - conducts its activities in compliance with its Regional Association's constitution and this constitution; and
  - is self-funding and financially independent of SNZ.
- 8.4 The objects/purposes of a Regional Association must support the Purposes of SNZ and support the operation of Member Clubs.
- 8.5 Each Regional Association must work with SNZ and other Regional Associations for the benefit of the Sport.
- 8.6 A Regional Association:
- is represented at a GM by its Voting Representative;
  - has and may exercise the voting rights in rule 17;
  - may participate in the nomination and election of two Appointment Panel members and the election of Elected Board Members and the President; and
  - may impose Regional Amounts on the Members in its Region.

## 9. Member Clubs

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- 9.1 A Member Club is a club operating within a Region which:
- b. attracts, develops and retains members by growing and helping its membership and by delivering swimming experiences;
  - c. satisfies all minimum defined criteria set by SNZ and/or by its Regional Association including participation in the Database and maintains a minimum of 15 members that qualify as Members of SNZ under rule 6.1;
  - d. has rules providing for:
    - i. membership of the Regional Association in the Region in which it is located and of which it is a member;
    - ii. observance of the rules of its Regional Association and SNZ;
    - iii. payment of Amounts (including annual Amounts based on number of Members) imposed by SNZ and its Regional Association;
    - iv. collection and provision of up to date details of club members for its own records and as required for the Database; and
    - v. in the event of its being wound up, any surplus assets of the Member Club after providing for the payment of its liabilities and expenses, to be transferred to and become the property of its Regional Association unless those assets are specified in the Member Club's constitution to become vested elsewhere.
  - e. is self-funding and financially independent of Regional Associations and SNZ;
  - f. is approved as a Member Club by the Regional Association in the Region in which the club is located; and
  - g. acts consistently with the policies and standards determined by SNZ and the Regional Association of which it is a member.
- 9.2 A Member Club must work with SNZ and its Regional Association for the benefit of the Sport.
- 9.3 A Member Club is responsible for:
- a. ensuring all Database information is provided as required by SNZ;
  - b. collection of, and payment to, SNZ of any Amounts imposed;
  - c. collection of, and payment to, its Regional Associations of any Amounts imposed; and
  - d. collection of any Amounts imposed by the Member Club.

## Section Three: Transition

### 10. Transition

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- 10.1 This section helps SNZ move from its old constitution to the new one. If anything in this section conflicts with other parts of the new constitution, this section takes priority.
- 10.2 Until 30 June 2026, subject to the Act, the Board may change deadlines or requirements in the new constitution to help with the transition. This is only to make things smoother and fix any issues caused by wording differences.
- 10.3 Any person or group listed as a Member in SNZ's database right before this new constitution starts will remain a Member until 30 June 2026 in the event they no longer meet the Membership rules in the new constitution.
- 10.4 All SNZ policies and rules that were in place before this new constitution started will continue to apply until the Board decides to change or remove them. If any of those policies or regulations don't match the new constitution, the Board will decide how to handle the conflict.



## Section Four: Governance

### 11. Appointment Panel

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- 11.1 Following establishment of an AP by the Board under rule 11.4 the role of the AP is to:
- oversee the process for Appointed Board Members and Elected Board Members;
  - call for and vet applicants for membership of the Board;
  - determine from the applicants those to be put forward for election as Elected Board Members;
  - appoint Appointed Board Members; and
  - decide, subject to rule 12 the term of office for Board members.
- 11.2 The AP comprises five members:
- two persons, one of whom will chair the AP, who must both be experienced in governance relevant to a sporting organisation, and who both must be appointed by the Institute of Directors in New Zealand (Inc) or by Sport NZ or other organisation recognised for its experience in governance in each case as decided by the Board;
  - the Chair of SNZ, or if the Chair is standing for election or appointment to the Board, the Board's nominee chosen from other members of the Board; and
  - two persons from within the Sport elected under rule by the Regional Associations.<sup>17</sup>
- 11.3 A person standing for election or appointment to the Board is not eligible to be a member of the AP.
- 11.4 The AP disbands after it has undertaken its role and a new AP is established as needed. AP members may be re-appointed.

### 12. Board composition and Appointment Panel process

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- 12.1 The Board comprises seven persons, of which a majority must be members:
- four Elected Board Members elected by the Regional Associations; and
  - three Appointed Board Members appointed by the AP.
- 12.2 The following persons are not eligible to be a Board member:
- an employee of SNZ;
  - a person who has any role in the governance of a Regional Association or Member Club;
  - a person who holds any other role in the Sport which creates a conflict of interest; and
  - a person who is not approved by the AP, subject to rule 12.11 (Casual Vacancies), provided that the AP, whose decision under this rule is final, may confer eligibility if the applicant undertakes to and does resign from the conflicting role on or before becoming a Board member.
- 12.3 The AP identifies applicants through an advertising and search process and by any other means it decides. Applicants must agree to be considered for the Board and to undergo such police, insolvency and reference checks as may be required by the AP. The AP undertakes an initial review and prepares a shortlist of applicants who are then interviewed by the AP.
- 12.4 AP decisions must be supported by not less than four of the AP members. The AP may determine its own process for assessment, but it must consider any applicant's:
- prior governance experience and competence;
  - knowledge of and experience of competitive swimming or other sport;

- c. knowledge of community-based programmes and work with central and local government agencies and commercial sponsors;
  - d. occupational skills, abilities and experience;
  - e. awareness of conflicts of interest to be managed and minimised;
  - f. knowledge and ability in relevant sectors for example in commerce, finance, marketing, communications, information technology, relationship management and business; and
  - g. overall capability to fill areas of Board competency and to add value to SNZ.
- 12.5 The process for election of Elected Board Members is:
- a. the AP may put forward for election any or all applicants appearing to possess appropriate experience and ability ("Candidates"), and are not limited by the number of vacancies;
  - b. Regional Associations vote through their Voting Representatives to elect from the candidates put forward by the AP;
  - c. each Regional Association will be entitled to cast one (1) vote per vacancy to be voted upon;
  - d. a Regional Association may apply their vote(s) to the Candidates standing for election, up to the total number of vacancies to be filled. A Regional Association may not allocate more than one vote to any single Candidate;
  - e. the AP oversees the election by email or electronic voting or at a SGM if required under rule 12.11c;
  - f. those Candidate(s) who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
  - g. if two or more Candidates receive an equal number of votes and, as a result, would otherwise qualify to be elected, a further vote will be held between the tied Candidates;
  - h. if the number of Candidates equals the number of vacant positions, each Candidate must receive at least 50% of the votes cast in order to be elected;
  - i. once the election process is completed, the AP notifies SNZ and announces the result.
- 12.6 After the process in rule 12.5 is completed, the appointment process for Appointed Board Members is undertaken:
- a. the AP selects the Appointed Board Members from its shortlist;
  - b. the number of persons selected by the AP must not exceed the number of vacancies;
  - c. the AP notifies SNZ of the appointments; and
  - d. the Appointed Board Members are announced by the AP prior to or at the GM.
- 12.7 The AP may decide not to select the number of candidates required to fill the available vacancies provided that if the processes in rules 12.5 and 12.6 do not result in sufficient Board members who, with any continuing Board members, can provide a quorum for a Board meeting, the AP must repeat its process until it does provide a quorum for the Board. Any remaining vacancies for Appointed Board Member and Elected Board Member after a quorum is provided are dealt with as casual vacancies in rule 12.11.
- 12.8 In relation to the term of office of a Board member and the AP's allocation of such terms:
- a. one term is for a maximum of three years;
  - b. a Board member may not serve more than nine years in total on the Board;
  - c. at least one Elected Board Member and one Appointed Board Member must retire each year. The persons to retire shall be those whose term is expiring, and if there are insufficient retirees, then the persons to retire are determined voluntarily, and failing that as determined by the AP;
  - d. a Board member may stand again for the Board but is subject to this rule 12.8;
  - e. except where a term of office otherwise ends, it expires at the conclusion of the

relevant AGM;

- f. a term is able to be varied by the AP after considering relevant factors such as Board continuity, rotation, vacancies arising and the best interests of SNZ but this is still subject to rule 12.8b; and
- g. in exceptional circumstances in the best interests of SNZ as determined by the AP (for example, to extend a term for a Board member who has a key role with World Aquatics where cessation of the Board position may forfeit the World Aquatics role) rule 12.8b does not apply.

12.9 A Board member is deemed to have vacated the Board upon:

- a. being adjudicated bankrupt;
- b. being declared of unsound mind or being the subject of a property order under the Protection of Personal and Property Rights Act 1988;
- c. resigning or retiring or their term of appointment expiring;
- d. being convicted of a criminal offence or being sentenced to imprisonment;
- e. being medically incapacitated; or
- f. a motion for removal being approved under rule 12.10 (removal of Board member).

12.10 The process for removal of a Board member and the consequences of removal are:

- a. where a Board member has in the opinion of the other Board members failed to comply properly with their responsibilities as a Board member (by way of example but not limited to: bad behaviour, breach of Board confidentiality, lack of preparation for or attendance at Board meetings, failure to disclose a conflict of interest), that Board member may be removed from the Board if, by majority the other Board members vote in favour of a motion for removal of the Board member from the Board;
- b. a person so removed may subsequently apply to be a Board member;
- c. a Board member removed under rule 12.10a is not eligible for the Board unless they are again approved in the AP process.

12.11 If there is one or more Casual Vacancies on the Board and the Board maintains a quorum, the remaining Board members may:

- a. refer the appointment to the AP to fill under rules 12.5 or 12.6 with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable;
- b. appoint a person of their choice to fill the Casual Vacancy; or
- c. leave the Casual Vacancy unfilled until the next AGM.

12.12 If the Board lacks enough members to form a quorum due to a Casual Vacancy, the remaining Board members:

- a. may fill any Casual Vacancies under rule 12.11 to keep the Board functioning; and
- b. If the Casual Vacancy that resulted in the insufficient quorum arose prior to 30 June:
  - i. for Elected Board Member vacancies, the Board must promptly call an SGM to elect the new Board member(s). The AP process outlined in rules 11 and 12 should be followed, unless the AP determines there isn't enough time before the SGM to complete the applicant assessment and/or conduct the voting on any Elected Board Members via email or electronic voting. In such instances, any voting on Elected Board Members may occur at the SGM;
  - ii. for Appointed Board Member vacancies, and the AP process outlined in rules 11 and 12 should be followed. The appointment of Appointed Board Members by the AP should be finalised as soon as practicable;
  - iii. The number of Casual Vacancies filled under rule 12.12(b) must be at least enough

to form a quorum to keep the Board functioning.

- 12.13 Any person appointed to fill a Casual Vacancy under rule 12.11 continues until the next AGM. Any person appointed to fill a Casual Vacancy under rule 12.12 continues until the conclusion of the SGM called to vote in Elected Board Members (if any) or the AGM.
- 12.14 The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total time served on the Board.
- 12.15 Any person appointed to fill a Casual Vacancy may later stand for election or appointment to the Board, but is subject to the AP process.
- 12.16 A person who fills a Casual Vacancy cannot fill a Casual Vacancy again.
- 12.17 If the Board as a whole has been removed, or resigns en masse, and is unable to appoint the AP, Sport New Zealand Ihi Aotearoa will make the appointment.

## **13. Board procedure**

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### **Functions and powers**

- 13.1 Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution:
  - a. the Board must manage, direct or supervise the operation and affairs of SNZ; and
  - b. the Board has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of SNZ. Such powers may also be delegated by the Board to persons as the Board determines.
- 13.2 Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.
- 13.3 The Board is required to act in the best interests of, and to provide good governance to, SNZ. The Board Charter, available on SNZ's website, outlines the Board's roles and responsibilities.
- 13.4 The Board is required to establish and maintain a member protection policy and code of conduct for the Sport in accordance with best practice, which is binding on all Members.
- 13.5 The Board must establish an awards committee with functions, processes and protocols as determined by the Board.

### **Chair**

- 13.6 The Board must annually, following the AGM, elect from among the Board members:
  - a. the Chair being the person that the Board considers to be the best person to fill that role; and
  - b. the deputy Chair who is to undertake the role of the Chair in the absence of the Chair.

### **Board meetings**

- 13.7 Board Meetings may be called at any time by the Chair or by written request of four Board members, but generally the Board meets at least five times per year.

### **Quorum**

- 13.8 The quorum for a Board meeting is four Board members.
- 13.9 Any Board member may be counted for the purposes of a quorum, participate in any Board Meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Board Meetings by audio or audio-visual link or other electronic communication, provided that all persons participating in the Board Meeting can hear each other effectively and simultaneously.

## **Voting**

- 13.10 Each Board member has one vote, and in the event of a tie, the Chair has a casting vote.
- 13.11 Voting is by voice or, on request of any Board member, by a show of hands, or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted.
- 13.12 The President receives all Board papers, may attend any Board Meeting, and may speak at any Board Meeting, but has no voting rights.

## **Resolution in writing**

- 13.13 A resolution in writing signed or consented to by email or other electronic means by the required majority of Board members is valid as if it had been passed at a Board Meeting. Any resolution may consist of several documents in the same form each signed by one or more Board members.

## **14. President**

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- 14.1 The President:
- a. represents SNZ at official occasions, and performs such other functions as set out in any Board policy;
  - b. is the sole nomination by the Board for consideration for election by Regional Associations at the AGM;
  - c. must be approved by a Special Resolution at an AGM to become President unless filling a casual vacancy;
  - d. may be appointed for a term of up to three years, and may serve up to three years in total as President;
  - e. commences office at the conclusion of the AGM at which he or she is announced to be elected to office;
  - f. must be and remain a Member during their term;
  - g. is subject to rule 13.12 (right to receive Board papers and attend and speak at Board Meetings); and
  - h. must adhere to the same standards and behaviours required of Board members.
- 14.2 The President is deemed to have vacated office in the same circumstances as apply to Board members under rule 12.9, except that rule 12.9f does not apply.
- 14.3 Any Casual Vacancy in the position of President which occurs either between AGMs or is not filled at the AGM because the Board's nomination was not approved at the AGM, may be filled by the Board appointing a replacement (who must not be a person who has ever been nominated for President by the Board and not approved at an AGM) after consulting with Life Members but the Board is not required to fill the vacancy. Any replacement retires at the next AGM, but such a replacement does not count as a term of office.

## Section Five: Meetings, elections and voting

### 15. General Meetings

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- 15.1 A GM of SNZ is either an AGM or a SGM. Subject to rules 15.4g and 15.4h all Members are eligible to attend a GM which shall be held at such location, date, and time, or in the case of rules 15.4g or 15.4h by such process as determined by the Board.
- 15.2 The AGM must be held once every year, no later than three months after the end of the Financial Year to consider:
- a. the Board's annual report;
  - b. the CEO's annual report, including an annual financial report;
  - c. the audited statement of accounts;
  - d. announcement of any new Elected Board Members and Appointed Board Members;
  - e. election of the President;
  - f. appointment of the auditor; and
  - g. any other business that is notified as an item of business under rule 15.3.
- 15.3 An item of business must be considered at an AGM if notified to SNZ by the Board or by not less than one third of Regional Associations within seven days of notice of an AGM being given.
- 15.4 A SGM:
- a. may be called by the Board at any time;
  - b. must be called by the Board within 21 days of SNZ receiving a written request setting out the reasons for the SGM from Regional Associations holding not less than one third of the total number of votes held by Regional Associations as determined in rule 17.1;
  - c. can only be convened on a matter of major importance to justify a SGM. Whether a matter is of major importance is, for rule 15.4a, determined by the Board, and is, for rule 15.4b determined by those Regional Associations requesting the SGM after consulting with the President and the Board;
  - d. can only consider the items of business for which the SGM has been called;
  - e. can only pass a resolution by Special Resolution;
  - f. Special Resolution binds the Board to comply with such resolution;
  - g. if determined to be appropriate by the Board, may be held electronically with , email or electronic voting; and
  - h. if the Board determines that a SGM is undesirable because of content, time and/or expense the Board may conduct the business of the SGM entirely by email or electronic voting but this rule does not apply to a SGM requisitioned by not less than half of the number of Regional Associations.
- 15.5 A quorum for a GM is formed if the Voting Representatives present hold in total not less than 50% of the total votes as determined in rule 17.1 or, if email or electronic voting applies, at least 50% of the total votes are cast. If a quorum is not achieved within half an hour, or where email or electronic voting applies, less than 50% of the total votes are cast, then a SGM fails for lack of quorum but the AGM is adjourned to another day, time and place to be notified to all persons who are to be given notice under rule 16. The Voting Representatives present at a re-convened AGM are deemed to constitute a valid quorum.
- 15.6 GMs are chaired by the President or if absent, by a Board member. Matters not provided for that occur at or in relation to a GM are decided by such chairperson.
- 15.7 All Members may attend and speak at a GM but must comply with any Board policy relating to speaking at a GM.

- 15.8 Minutes must be kept of each GM.
- 15.9 Any irregularity, error or omission in notices, agendas and papers for the GM or omission to give notices within a timeframe or omission to give notice to all persons entitled to receive notice, and any other error in the organisation of the GM does not invalidate nor prevent the GM from proceeding provided that:
- a. the chairperson in his or her discretion determines that it is still appropriate for the GM to proceed despite the irregularity, error or omission; and
  - b. a motion to proceed is put to the GM and such motion is passed by Special Resolution.
- 15.10 Any change to the constitution or the name of SNZ shall not come into effect unless and until they are submitted to the board of Aquatics NZ.

## **16. Notices for General Meetings**

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- 16.1 Notices and other documents referred to in this rule in relation to a GM must be given by SNZ to all Members, and, may be given to any other persons as determined by the Board.
- 16.2 Notice of the date, time and place (or process in the case of rule 15.4g above or 15.4h) of a GM must be given by SNZ not less than 30 days prior to the date of the GM.
- 16.3 Notice of the agenda and the documents relating to items of business for the GM must be given by SNZ not less than 14 days prior to the date of the GM.
- 16.4 Any notice to be given by SNZ in relation to a GM may be given by any method (for example but not limited to email or other electronic means) as determined by the Board.

## **17. Elections and voting**

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- 17.1 Each Regional Association shall be entitled to one (1) vote. A Regional Association's voting rights may be suspended if so determined by the Board under rule 8.5j.
- 17.2 At GMs:
- a. a Regional Association's Voting Representative who is present is entitled to vote;
  - b. proxy votes are not permitted;
  - c. voting is by voices or by show of hands as determined by the chairperson of the GM, except in the case of rules 15.4g and 15.4h where email or electronic voting applies. Any matter including election of President may be by a secret ballot if it is called for by a Regional Association or by the chairperson of the GM; and
  - d. motions are passed by Ordinary Resolution unless required by this constitution to be passed by Special Resolution.

## **Section Six: Other**

### **18. Finance**

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- 18.1 The Financial Year is 1 July to 30 June unless otherwise determined by the Board.
- 18.2 The Board must ensure that proper financial records are kept, the annual statements of account are audited; and it has appropriate policies for management of SNZ finances.
- 18.3 SNZ's funds may be invested in such manner as determined by the Board.
- 18.4 At each AGM an independent and suitably qualified member of the Chartered Accountants Australia and New Zealand must be appointed as auditor.

### **19. Common seal and contractual relations**

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- 19.1 SNZ may have a common seal. The Board determines when and by whom the common seal may be used and where it is to be kept.
- 19.2 Otherwise, SNZ may enter into contractual relations:
  - a. Where the obligation would, if entered into by a natural person, be entered into by way of a deed, by two or more Board members of SNZ or one Board member whose signature is witnessed; or
  - b. Where the obligation would, if entered into by a natural person, be entered into in writing or orally, by a person acting under the Board's express or implied authority.

### **20. Alteration to rules**

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- 20.1 Subject to rule 20.2 this constitution can only be changed by Special Resolution at a GM for which such change has been notified in accordance with rule 15.
- 20.2 No addition to or alteration of the Purposes, Personal Benefit clause or the Winding Up clause shall be made which affect the tax-exempt status. The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.

### **21. Disputes and appeals**

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- 21.1 The Board shall ensure that it adopts and maintains a Complaints and Discipline Policy which requires adherence by Members to processes that it considers will assist with the fair, efficient and timely:
  - a. resolution of disputes between Members involving any activity or responsibility of SNZ which the Board considers is of such importance or is causing such a level of disruption to Members or to the activities of SNZ that it must be addressed;
  - b. investigation and resolution of complaints by a Member against another Member including where the Board initiates an investigation of its own motion for breach by a Member of the rules of SNZ or World Aquatics; and
  - c. resolution of appeals by a person against a decision made by a Member Club or Regional Association involving suspension, expulsion, penalty or some other material detriment relating to their membership of that Member Club or Regional Association.
- 21.2 The Complaints and Discipline Policy shall comply with the rules of natural justice.
- 21.3 The Board may request the President or any other person to act as a mediator in disputes involving Members.
- 21.4 The Board may in its sole discretion decide to allow a right to appeal disciplinary decisions to another body such as the Sports Tribunal (subject to the applicable Member's consent if required).



- 21.5 In relation to doping:
- a. the rules of SNZ for anti-doping are the World Aquatics Doping Control Rules and the Sports Anti-Doping Rules managed by the Sports Integrity Commission. Every Member agrees as a condition of Membership to observe, be subject to and be bound by such rules as if set out here in full;
  - b. nothing in the Sports Anti-Doping Rules is intended to replace or supersede any applicable rule of World Aquatics which may apply with respect to anti-doping matters, provided the World Aquatics rule is consistent with the World Anti-Doping Code;
  - c. to the extent of any inconsistency between the Sports Anti-Doping Rules and any rule of SNZ, the Sports Anti-Doping Rules apply; and
  - d. it is a requirement of all activities organised, held, convened or authorised by SNZ or any of its Members regardless of whether the participant is a Member that all participants must agree to comply with the Sports Anti-Doping Rules as a condition of participation.
- 21.6 SNZ recognises the Sports Tribunal may be the appropriate forum to resolve certain sports-related disputes as set out in the rules of the Sports Tribunal. The Board may decide in its discretion on a case-by-case basis that a sports related dispute to which SNZ is a party is agreed to be referred to the Sports Tribunal.
- 21.7 Decisions and awards of the Sports Tribunal are binding on SNZ and its Members.

## **22. Liquidation**

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- 22.1 The Board must give notice at least 20 Working Days to all Members of a proposed motion:
- a. to appoint a liquidator;
  - b. to remove SNZ from the Register of Incorporated Societies; or
  - c. for the distribution of SNZ's surplus assets, if any.
- 22.2 The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.
- 22.3 Any resolution for a motion set out in clauses 22.1a-c must be passed by Special Resolution of Members.
- 22.4 Any surplus assets of SNZ, after the payment of all costs, debts and liabilities, must be disposed of to any other not-for-profit entity that shares similar purposes to SNZ.

## **23. Prohibition of personal benefit**

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- 23.1 All income, benefit or advantage must be applied to the Purpose.
- 23.2 No Member or Board member or any person associated with a Member or Board member shall participate in or materially influence any decision made by SNZ in respect of the payment to or on behalf of that Member or Board member or associated person of any income, benefit or advantage whatsoever.
- 23.3 Any payments made must be for goods or services that advance the Purposes and must be reasonable and relative to payments that would be made between unrelated parties.
- 23.4 The provision and effect of this rule must not be removed from this constitution and must be included and implied into any document replacing this constitution.

## **24. Limitation of liability and indemnity**

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- 24.1 No current or former member of the Board or the AP has any liability to SNZ or the Members for any act or omission in their capacity as a member of the Board or AP except in the case of their own fraud, dishonesty, breach of fiduciary duty or the commission of any act known by them to be a breach of duties owed by them at law.
- 24.2 Each current or former member of the Board or the AP is indemnified by and out of the assets of SNZ against:
- a. any liability arising out of any act or omission in their capacity as a member of the Board or the AP excluding criminal liability arising out of their fraud, dishonesty, breach of fiduciary duty, a failure to act in good faith and in what the officer, member or employee believes to be the best interests of SNZ when acting in their capacity as an officer, member or employee, or the commission of any act known by them to be a breach of duties owed by them at law; and
  - b. costs incurred by them in any proceeding relating to such liability.
- 24.3 SNZ may effect insurance for any officer, Member, or employee of SNZ for liabilities and costs where such insurance is permitted in accordance with s97 of the Act.
- 24.4 This rule is intended to be enforceable by each current or former member of the Board or the AP.

## **25. Matters not provided for**

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- 25.1 If any matter arises that is not provided for in this Constitution, or if any dispute arises out of the interpretation of this Constitution, the matter or dispute will be determined by the Board.

## **26. Contact Person**

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- 26.1 The Contact Person shall be the CEO or, where no CEO has been appointed, the next highest-ranking employee of SNZ.